

Crimes Act 1914

No. 12, 1914

**Compilation No. 29A**

**Compilation date:** 1 July 1991

**Includes amendments:** Act No. 99, 1991

**About this compilation**

This is a compilation of the *Crimes Act 1914* that shows the text of the law as amended and in force on 1 July 1991 (the ***compilation date***).

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

**Uncommenced amendments**

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

**Application, saving and transitional provisions for provisions and amendments**

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

**Editorial changes**

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

**Presentational changes**

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

**Modifications**

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

**Self‑repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act relating to offences against the Commonwealth

Part I—Preliminary

1 Short title

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

3 Interpretation

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

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

(a) an officer or employee within the meaning of the *Public Service Act 1922*;

(aa) a person permanently or temporarily employed in the Public Service of a Territory or in, or in connection with, the Defence Force, or in the Service of a public authority under the Commonwealth;

(b) a member, staff member or special member of the Australian Federal Police;

(c) for the purposes of sections 70, 72, 73, 74 and 75, a person who, although not holding office under, or employed by, the Commonwealth, a Territory or a public authority under the Commonwealth, performs services for or on behalf of the Commonwealth, a Territory or a public authority under the Commonwealth; and

(d) for the purposes of sections 70, 72, 73, 74, 75 and 76:

(i) a person who is an employee of the Australian Postal Corporation, the Australian Telecommunications Corporation, AUSSAT Pty Ltd or OTC Limited;

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

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

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

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

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

***public authority under the Commonwealth*** means any authority or body constituted by or under a law of the Commonwealth or of a Territory;

***Queen’s dominions*** includes a British protectorate and a British protected State;

***State*** includes the Northern Territory;

***Territory*** does not include the Northern Territory.

(2) In this Act, a reference to a fine includes a reference:

(a) to a pecuniary penalty other than a pecuniary penalty imposed:

(i) under Division 3 of Part XIII of the Customs Act 1901; or

(ii) by a pecuniary penalty order made under the Proceeds of Crime Act 1987; or

(iii) by a superannuation order made under the Australian Federal Police Act 1979; or

(iv) by a superannuation order made under the Crimes (Superannuation Benefits) Act 1989; or

(b) to costs or other amounts ordered to be paid by offenders.

3A Operation of Act

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

3B Arrangements with States, Australian Capital Territory, Northern Territory and Norfolk Island

(1) The Governor‑General may make arrangements with the Governor of a State, the Australian Capital Territory Executive, the Administrator of the Northern Territory or the Administrator of Norfolk Island for the exercise of powers and the performance of functions by officers of the State or Territory, and for the making available of facilities of the State or Territory, for and in relation to the carrying out of sentences passed, and orders made, under this Act.

(2) In sections 18A and 20AB:

(a) a reference to a participating State is a reference to a State in relation to which an arrangement is in force under subsection (1) of this section; and

(b) a reference to a participating Territory:

(i) is a reference to a Territory other than the Australian Capital Territory, the Northern Territory or Norfolk Island; and

(ii) if an arrangement is in force under subsection (1) of this section in relation to the Australian Capital Territory—includes a reference to the Australian Capital Territory; and

(iii) if an arrangement is in force under subsection (1) of this section in relation to the Northern Territory— includes a reference to the Northern Territory; and

(iv) if an arrangement is in force under subsection (1) of this section in relation to Norfolk Island—includes a reference to Norfolk Island.

(3) In this section:

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

Part IA—General

4 Application of common law

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

4A Meaning of certain words

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

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

***indictment*** includes an information and a presentment.

4B Pecuniary penalties—natural persons and bodies corporate

(1) A provision of a law of the Commonwealth relating to indictable offences or summary offences shall, unless the contrary intention appears, be deemed to refer to bodies corporate as well as to natural persons.

(2) Where a natural person is convicted of an offence against a law of the Commonwealth punishable by imprisonment only, the court may, if the contrary intention does not appear and the court thinks it appropriate in all the circumstances of the case, impose, instead of, or in addition to, a penalty of imprisonment, a pecuniary penalty not exceeding an amount calculated using the formula:

Start formula start fraction Term of Imprisonment over 6 end fraction times $3000 end formula

where:

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

(2A) Where a natural person is convicted of an offence against a law of the Commonwealth in respect of which a court may impose a penalty of imprisonment for life, the court may, if the contrary intention does not appear and the court thinks it appropriate in all the circumstances of the case, impose, instead of, or in addition to, a penalty of imprisonment, a pecuniary penalty not exceeding $200,000.

(3) Where a body corporate is convicted of an offence against a law of the Commonwealth, the court may, if the contrary intention does not appear and the court thinks fit, impose a pecuniary penalty not exceeding an amount equal to 5 times the amount of the maximum pecuniary penalty that could be imposed by the court on a natural person convicted of the same offence.

(3A) Where an Act (whether enacted before or after the commencement of this subsection) confers power to make an instrument (including rules, regulations or by‑laws but not including a law of a Territory) and specifies the maximum pecuniary penalty that can be imposed for offences created by such an instrument, then:

(a) unless the contrary intention appears, the specified penalty is taken to be the maximum penalty that the instrument can prescribe for such offences by natural persons; and

(b) where a body corporate is convicted of such an offence—the specifying of that penalty is not to be treated as an indication of a contrary intention for the purposes of applying subsection (3).

(4) Where under a law of the Commonwealth any forfeiture, penalty or reparation is paid to a person aggrieved, it is payable to a body corporate where the body corporate is the person aggrieved.

4C Offences under 2 or more laws

(1) Where an act or omission constitutes an offence:

(a) under 2 or more laws of the Commonwealth; or

(b) both under a law of the Commonwealth and at common law;

the offender shall, unless the contrary intention appears, be liable to be prosecuted and punished under either or any of those laws of the Commonwealth or at common law, but shall not be liable to be punished twice for the same act or omission.

(2) Where an act or omission constitutes an offence under both:

(a) a law of the Commonwealth and a law of a State; or

(b) a law of the Commonwealth and a law of a Territory;

and the offender has been punished for that offence under the law of the State or the law of the Territory, as the case may be, the offender shall not be liable to be punished for the offence under the law of the Commonwealth.

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

4D Penalties

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

(a) at the foot of any section of an Act; or

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

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

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

4E Pecuniary penalties

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

4F Effect of alterations in penalties

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

(2) Where a provision of a law of the Commonwealth reduces the penalty or maximum penalty for an offence, the penalty or maximum penalty as reduced extends to offences committed before the commencement of that provision, but the reduction does not affect any penalty imposed before that commencement.

4G Indictable offences

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

4H Summary offences

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

(a) are punishable by imprisonment for a period not exceeding 12 months; or

(b) are not punishable by imprisonment;

are summary offences, unless the contrary intention appears.

4J Certain indictable offences may be dealt with summarily

(1) Subject to subsection (2), an indictable offence (other than an offence referred to in subsection (4)) against a law of the Commonwealth, being an offence punishable by imprisonment for a period not exceeding 10 years, may, unless the contrary intention appears, be heard and determined, with the consent of the prosecutor and the defendant, by a court of summary jurisdiction.

(2) Subsection (1) does not apply in relation to an indictable offence where, under a law of the Commonwealth other than this Act, that offence may be heard and determined by a court of summary jurisdiction.

(3) Subject to subsection (6), where an offence is dealt with by a court of summary jurisdiction under subsection (1), the court may impose:

(a) where the offence is punishable by imprisonment for a period not exceeding 5 years—a sentence of imprisonment for a period not exceeding 12 months or a fine not exceeding $6,000, or both; or

(b) where the offence is punishable by imprisonment for a period exceeding 5 years but not exceeding 10 years—a sentence of imprisonment for a period not exceeding 2 years or a fine not exceeding $12,000, or both.

(4) A court of summary jurisdiction may, if it thinks fit, upon the request of the prosecutor, hear and determine any proceeding in respect of an indictable offence against a law of the Commonwealth if the offence relates to property whose value does not exceed $500.

(5) Subject to subsection (6), where an offence is dealt with by a court of summary jurisdiction under subsection (4), the court may impose a sentence of imprisonment for a period not exceeding 12 months or a fine not exceeding $6,000, or both.

(6) A court of summary jurisdiction shall not impose under subsection (3) or (5):

(a) a sentence of imprisonment for a period exceeding the maximum period that could have been imposed had the offence been tried on indictment;

(b) a fine exceeding the maximum fine that could have been imposed had the offence been so tried; or

(c) both a sentence of imprisonment and a fine if the offence is punishable on trial on indictment by a sentence of imprisonment or a fine, but not both.

(7) This section does not apply in relation to an offence against section 24, 24AA, 24AB or 78 or subsection 79(2) or (5).

4K Continuing and multiple offences

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

(2) Where a refusal or failure to comply with a requirement referred to in subsection (1) is an offence against a law of the Commonwealth, a person is guilty of an offence in respect of each day during which the person refuses or fails to comply with that requirement, including the day of a conviction for any such offence or any later day.

(3) Charges against the same person for any number of offences against the same provision of a law of the Commonwealth may be joined in the same information, complaint or summons if those charges are founded on the same facts, or form, or are part of, a series of offences of the same or a similar character.

(4) If a person is convicted of 2 or more offences referred to in subsection (3), the court may impose one penalty in respect of both or all of those offences, but that penalty shall not exceed the sum of the maximum penalties that could be imposed if a separate penalty were imposed in respect of each offence.

4L Specified defences not to preclude other defences

Where a provision of a law of the Commonwealth provides a defence to a particular offence, the provision does not, unless the contrary intention appears, prevent the use of any defence that is otherwise available.

5 Aiders and abettors

(1) Any person who aids, abets, counsels, or procures, or by act or omission is in any way directly or indirectly knowingly concerned in, or party to, the commission of any offence against any law of the Commonwealth, whether passed before or after the commencement of this Act, shall be deemed to have committed that offence and shall be punishable accordingly.

(2) Any act or omission that constitutes an offence against section 73 of the *Defence Act 1903* does not constitute an offence by virtue of subsection (1) of this section.

6 Accessory after the fact

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

Penalty: Imprisonment for 2 years.

7 Attempts

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

7A Inciting to or urging the commission of offences

If any person:

(a) incites to, urges, aids or encourages; or

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

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

Penalty: Imprisonment for 12 months.

8 Power of arrest without warrant

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

8A Arrest without warrant for suspected offences

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

(a) that the person has committed an offence against a law of the Commonwealth; and

(b) that proceedings against the person by summons would not be effective.

9 Seizure and condemnation of forfeitable goods

(1) Any constable may, without warrant, seize any articles which are forfeited or which he has reasonable ground to believe are forfeited under any law of the Commonwealth, and take them before a court of summary jurisdiction.

(2) Where articles are taken before a court of summary jurisdiction under subsection (1), the court shall inquire into the matter and:

(a) if the court is satisfied that the articles are forfeited—shall order that the articles be condemned; or

(b) if the court is not so satisfied—shall order that the articles be delivered to such person as the court is satisfied is entitled to the articles.

(2A) A court of summary jurisdiction may, before inquiring into a matter under subsection (2), require notice of the inquiry to be given to such persons as the court thinks fit.

(3) Where any prosecution is pending, an order for the condemnation or the delivery to any person of any articles relating thereto shall not be made until the prosecution is determined.

(4) All articles which are condemned as forfeited shall be dealt with as directed by the Attorney‑General, and pending his direction may be detained in such custody as the court directs.

10 Search warrants

(1) If a Magistrate or Justice of the Peace is satisfied by information on oath that there is reasonable ground for suspecting that there is in or upon any premises, aircraft, vehicle, vessel or place:

(a) anything with respect to which any offence against any law of the Commonwealth or of a Territory has been, or is suspected on reasonable grounds to have been, committed;

(b) anything as to which there are reasonable grounds for believing that it will afford evidence as to the commission of any such offence; or

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

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

(1A) A constable named in a warrant may, where it is necessary and reasonable to do so for the purposes of executing the warrant, break open such doors and receptacles as are in or upon the premises, aircraft, vehicle, vessel or place named or described in the warrant and may do so with such assistance, and by such force, as is necessary and reasonable.

(2) Subsection (1) is not intended, and shall be deemed never to have been intended, to limit or exclude the operation of a law of a Territory relating to the search of premises, aircraft, vehicles, vessels, places or persons in connection with offences against any law of that Territory.

13 Institution of proceedings in respect of offences

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

(a) institute proceedings for the commitment for trial of any person in respect of any indictable offence against the law of the Commonwealth; or

(b) institute proceedings for the summary conviction of any person in respect of any offence against the law of the Commonwealth punishable on summary conviction.

14 Proof of exceptions etc.

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

15 Remand of defendant

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

(a) by warrant from time to time remand the defendant to some gaol, lock‑up, or other place of custody for such period as the court shall deem necessary to be there kept until the time appointed for continuing, the hearing; or

(b) order the discharge of the defendant upon his entering into, a recognizance conditioned for his appearance at the time and place appointed for continuing the hearing.

15A Enforcement of fines etc.

(1) The laws of a State or Territory with respect to the enforcement and recovery of fines ordered to be paid by offenders, including laws making provision for or in relation to:

(a) the awarding of imprisonment, or, in the case of a participating State or a participating Territory, the passing or making, by a court or by any parole officer of that State or Territory, of any other sentence or order (including a sentence or order known as a community service order, a work order or a sentence of weekend detention, or a similar sentence or order), in default of the payment of fines;

(b) the allowance of time, or further time, for payment of fines;

(c) the payment of fines by instalments; or

(d) the giving of security for the payment of fines;

shall, so far as those laws are applicable and are not inconsistent with the laws of the Commonwealth, apply and be applied to persons who are convicted in that State or Territory of federal offences.

(1A) Where there is a law of a State or Territory with respect to the enforcement or recovery of fines ordered to be paid by offenders (including a law making provision for or in relation to a matter mentioned in paragraph (1)(a), (b), (c) or (d)) that applies in relation to fines ordered to be paid by offenders convicted by courts of summary jurisdiction:

(a) subsection (1) operates to require that law to apply and be applied to persons who are convicted of federal offences by the Federal Court of Australia in the same manner as that law would apply and be applied if that Court were a court of summary jurisdiction; and

(b) that subsection does not operate in relation to any law of that State or Territory that applies in relation to fines ordered to be paid by offenders convicted by superior courts.

(2) Without limiting the generality of subsection (1), in the application to federal offenders of any State or Territory laws with respect to the enforcement or recovery of fines, a requirement that the amount of a fine be paid to a State or Territory office or officer is to be treated as a requirement that the amount of the fine be paid in accordance with the law of the Commonwealth.

(3) Where a court imposes a sentence or sentences of imprisonment on a person in respect of a failure to pay a fine or fines imposed for a federal offence or offences, the court must direct that the sentence, or all the sentences, commence to be served from the earliest practicable day despite the fact that the person may, on that day, already be serving another sentence of imprisonment for a federal, State or Territory offence.

(4) Despite subsection (3), a court may, where it is of the opinion that, in all the circumstances of the case, it is more appropriate to do so, direct that a period of imprisonment imposed on a person in respect of a failure to pay a fine imposed in respect of a federal offence commence to be served during, or at the end of, a period of imprisonment imposed for a similar failure in respect of another federal offence.

15B Time for commencement of prosecutions

(1) A prosecution in respect of an offence against any law of the Commonwealth may be commenced as follows:

(a) where the maximum term of imprisonment in respect of the offence in the case of a first conviction exceeds 6 months—at any time after the commission of the offence;

(b) where the maximum term of imprisonment in respect of the offence in the case of a first conviction does not exceed 6 months—at any time within one year after the commission of the offence; and

(c) where the punishment provided in respect of the offence is a pecuniary penalty and no term of imprisonment is mentioned—at any time within one year after the commission of the offence.

(2) Notwithstanding any provision in any law of the Commonwealth passed before the commencement of this Act and providing any shorter time for the commencement of the prosecution, any prosecution for an offence against the law may be commenced at any time within one year after the commission of the offence.

(3) Where by any law of the Commonwealth any longer time than the time provided by this section is provided for the commencement of a prosecution in respect of an offence against that law, a prosecution in respect of the offence may be commenced at any time within that longer time.

15C Form of indictments, information and summonses

(1) If at the hearing of any indictment, information or summons any objection is taken for an alleged defect therein in substance or in form, or if objection is taken to any variance between the indictment, information or summons and the evidence adduced at the hearing in support thereof, the court may make such amendment in the indictment, information or summons as appears to it to be desirable or to be necessary to enable the real question in dispute to be determined.

(2) If in any such case the court considers that the defendant has been misled by the form in which the indictment, information or summons has been made out, it may adjourn the hearing of the case for such period as it thinks fit and may make such order as to the costs of the adjournment as it thinks proper.

(3) The power of the court under subsection (1) shall not be exercised in cases where the court considers that the required amendments cannot be made without injustice to the defendant.

15D Burden of proof of lawful authority

Where under any law of the Commonwealth any act, if done without lawful authority, or without lawful authority or excuse, or without permission, is an offence against that law, the burden of proving that the act was done with lawful authority, or with lawful authority or excuse, or with permission (as the case may be), shall be on the person accused.

15E Privilege of Parliament not affected

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

15F Civil rights not affected

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

Part IB—Sentencing, imprisonment and release of federal offenders

Division 1—Interpretation

16 Interpretation

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

***federal court*** means the High Court or a court created by the Parliament, other than a court of a Territory;

***federal offenc****e* means an offence against the law of the Commonwealth;

***federal offender*** means a person convicted of a federal offence;

***federal sentence*** means a sentence imposed for a federal offence;

***fit to be tried*** includes fit to plead;

***law***, in relation to the Commonwealth, a State or a Territory, includes the common law, and any Imperial Act or order, that comprises a part of that law;

***licence*** means a licence granted under section 19AP;

***licence period***, in relation to a person who is released on licence, means:

(a) where the person has not been given a federal life sentence— the period commencing on the day of release on licence and ending:

(i) if the last day of any federal sentence that is, on the day of the release, being served or to be served, after deducting any remission or reduction that is applicable, occurs earlier than 5 years after the day of release on licence—at the end of that last day; or

(ii) in any other case—at the end of the day that occurs 5 years after the day of release on licence; and

(b) where the person has been given a federal life sentence—the period commencing on the day of release on licence and ending at the end of the day specified in the licence as the day on which the licence period ends;

***maximum penalty***, in relation to an offence at common law, means imprisonment for life;

***non‑parole period***, in relation to a sentence or sentences of imprisonment, means that part of the period of imprisonment for that sentence or those sentences during which the person is not to be released on parole, whether that part of the period is fixed or recommended by a court or fixed by operation of law;

***offence*** means a federal offence, a State offence or a Territory offence;

***offender*** means a federal offender, a State offender or a Territory offender;

***parole*** includes probation;

***parole officer*** means:

(a) an officer of a State, the Australian Capital Territory, the Northern Territory or Norfolk Island in respect of whom there applies:

(i) an arrangement in force under paragraph 21F(1)(b); or

(ii) an arrangement having a substantially similar effect in force under section 3B; or

(b) an officer of the Australian Public Service in respect of whom an appointment under subsection 21F(3) is in force;

***parole order*** means an order under subsection 19AL(1) or (2);

***parole period***, in relation to a person who is released on parole under section 19AL, means:

(a) where the person has not been given a federal life sentence— the period commencing on the day of release on parole and ending:

(i) if the last day of any federal sentence that is, on the day of the release, being served or to be served, after deducting any remission or reduction that is applicable, occurs earlier than 5 years after the day of release on parole—at the end of that last day; or

(ii) in any other case—at the end of the day that occurs 5 years after the day of release on parole; and

(b) where the person has been given a federal life sentence—the period commencing on the day of release on parole and ending at the end of the day specified in the parole order as the day on which the parole period ends;

***pre‑release period***, in relation to a recognizance release order made in respect of a federal sentence or sentences, means the period of imprisonment specified in that order as the period of imprisonment in respect of that sentence or those sentences after service of which the offender may be released on the giving of security in accordance with that order;

***prescribed authority*** means:

(a) a person who holds office as a Magistrate of a State, the Australian Capital Territory, the Northern Territory or Norfolk Island and in respect of whom an arrangement in force under paragraph 21F(1)(a) is applicable; or

(b) a person who holds office as a Magistrate of a Territory (other than the Australian Capital Territory, the Northern Territory or Norfolk Island); or

(c) unless an arrangement has been entered into under paragraph 21F(1)(a) in respect of persons holding office as Magistrates of the Australian Capital Territory—a person who holds office as a Magistrate of the Australian Capital Territory;

***prison*** includes gaol, lock‑up or other place of detention;

***recognizance release order*** means an order made under paragraph 20(1)(b);

***released on licence*** means released from prison under section 19AP;

***released on parole*** means released from prison under section 19AL;

***sentence***, in sections 16B to 19AZD, means a sentence of imprisonment;

***State*** includes the Australian Capital Territory and the Northern Territory;

***State offence*** means an offence against the law of a State;

***State offender*** means a person convicted of a State offence;

***State sentence*** means a sentence imposed for a State offence;

***supervision period***, in relation to a person who is released on parole or on licence, means:

(a) where the person has not been given a federal life sentence— the period commencing on the day of release on parole or licence and ending at the end of a day specified in the parole order or licence as the day on which the supervision period ends, being a day not later than:

(i) if the last day of any federal sentence of imprisonment that is, on the day of the release, being served or to be served, after deducting any remission or reduction that is applicable, occurs earlier than 3 years after the day of release on parole or licence—that last day; or

(ii) in any other case—the day that occurs 3 years after the day of release on parole or licence; and

(b) where the person has been given a federal life sentence—the period commencing on the day of release on parole or licence and ending at the end of the day specified in the parole order or licence as the day on which the supervision ends, being a day not later than the day on which the parole period or licence period ends;

***Territory*** does not include the Australian Capital Territory or the Northern Territory;

***Territory offence*** means an offence against the law of a Territory;

***Territory offender*** means a person convicted of a Territory offence;

***Territory sentence*** means a sentence imposed for a Territory offence;

***unfit to be tried*** includes unfit to plead.

(2) In this Part, expressions in the plural do not imply that expressions in the singular do not include the plural.

Division 2—General Sentencing Principles

16A Matters to which court to have regard when passing sentence etc.

(1) In determining the sentence to be passed, or the order to be made, in respect of any person for a federal offence, a court must impose a sentence or make an order that is of a severity appropriate in all the circumstances of the offence.

(2) In addition to any other matters, the court must take into account such of the following matters as are relevant and known to the court:

(a) the nature and circumstances of the offence;

(b) other offences (if any) that are required or permitted to be taken into account;

(c) if the offence forms part of a course of conduct consisting of a series of criminal acts of the same or a similar character—that course of conduct;

(d) the personal circumstances of any victim of the offence;

(e) any injury, loss or damage resulting from the offence;

(f) the degree to which the person has shown contrition for the offence;

(i) by taking action to make reparation for any injury, loss or damage resulting from the offence; or

(ii) in any other manner;

(g) if the person has pleaded guilty to the charge in respect of the offence—that fact;

(h) the degree to which the person has co‑operated with law enforcement agencies in the investigation of the offence or of other offences;

(j) the deterrent effect that any sentence or order under consideration may have on the person;

(k) the need to ensure that the person is adequately punished for the offence;

(m) the character, antecedents, age, means and physical or mental condition of the person;

(n) the prospect of rehabilitation of the person;

(p) the probable effect that any sentence or order under consideration would have on any of the person’s family or dependants.

(3) Without limiting the generality of subsections (1) and (2), in determining whether a sentence or order under subsection 19B(1), 20(1) or 20AB(1) is the appropriate sentence or order to be passed or made in respect of a federal offence, the court must have regard to the nature and severity of the conditions that may be imposed on, or may apply to, the offender, under that sentence or order.

16B Court to have regard to other periods of imprisonment required to be served

In sentencing a person convicted of a federal offence, a court must have regard to:

(a) any sentence already imposed on the person by the court or another court for any other federal offence or for any State or Territory offence, being a sentence that the person has not served; and

(b) any sentence that the person is liable to serve because the revocation of a parole order made, or licence granted, under this Part or under a law of a State or Territory.

16BA Taking other offences into account

(1) Where a person is convicted of a federal offence or federal offences, and the court before which the person is convicted is satisfied that:

(a) there has been filed in the court a document in, or to the effect of, the form prescribed for the purposes of this section;

(b) the document contains a list of other federal offences, or offences against the law of an external Territory that is prescribed for the purposes of this section, which the person convicted is believed to have committed;

(c) the document has been signed:

(i) by the Director of Public Prosecutions;

(ii) for and on behalf of the Director of Public Prosecutions, by a person authorized by the Director of Public Prosecutions, by instrument in writing, to sign documents under this subsection; or

(iii) by a person appointed under section 69 of the *Judiciary Act 1903* to prosecute indictable federal offences;

and by the person convicted;

(d) a copy of the document has been given to the person; and

(e) in all the circumstances it is proper to do so;

the court may, with the consent of the prosecutor and before passing sentence on the person, ask him whether he admits his guilt in respect of all or any of the offences specified in the list and wishes them to be taken into account by the court in passing sentence on him for the offence or offences of which he has been convicted.

(2) Subject to subsection (3), if the person admits his guilt in respect of all or any of the offences specified in the list and wishes to have them taken into account by the court in passing sentence on him for the offence or offences of which he has been convicted, the court may, if it thinks fit, in passing sentence on him for the offence or offences of which he has been convicted, take into account all or any of the offences in respect of which the person has admitted his guilt.

(3) The court shall not take into account under this section any indictable offence that it would not have jurisdiction to try even if the defendant consented to the court hearing and determining proceedings for the offence or the prosecutor requested the court to hear and determine those proceedings.

(3A) Subsection (3) does not prevent a court from taking into account an indictable offence where the court has jurisdiction to sentence a person charged with that offence

(4) Where the court takes into account under this section all or any of the offences in respect of which the person has admitted his guilt, the sentence passed on him for any of the offences of which he has been convicted shall not exceed the maximum penalty that the court would have been empowered to impose on him for the offence if no offence had been so taken into account.

(5) Where an offence is taken into account under this section, the court may make such orders with respect to reparation, restitution, compensation, costs and forfeiture as it would have been empowered to make if the person had been convicted before the court of the offence, but shall not otherwise impose any separate punishment for the offence.

(6) Where the court makes an order under subsection (5) in respect of an offence taken into account under this section, there shall be such rights of appeal in respect of the order as there would have been if the order had been an order made upon the conviction of the person for that offence.

(7) An order made under subsection (5) in respect of an offence taken into account under this section lapses, by force of this subsection, if the conviction or each conviction, as the case may be, in respect of which the offence was taken into account is quashed or set aside.

(8) Where an offence is taken into account under this section, the court shall certify, upon the document filed in the court, the offence taken into account and the conviction or convictions in respect of which the offence was taken into account and thereafter no proceedings shall be taken or continued in respect of the offence unless the conviction or each conviction, as the case may be, in respect of which the offence has been taken into account has been quashed or set aside.

(9) An admission of guilt made under and for the purposes of this section is not admissible in evidence in any proceedings taken or continued in respect of the offence in respect of which the admission was made or in respect of any other offence specified in the list contained in the document filed in the court.

(10) An offence taken into account under this section shall not, by reason of its so being taken into account, be regarded for any purpose as an offence of which a person has been convicted.

(11) In or in relation to any criminal proceeding, reference may lawfully be made to, or evidence may lawfully be given of, the fact that an offence was taken into account under this section in passing sentence for an offence for which a person was convicted if, in or in relation to that proceeding:

(a) reference may lawfully be made to, or evidence may lawfully be given of, the fact that the person was convicted of the last‑mentioned offence; and

(b) had the person been convicted of the offence so taken into account, reference could lawfully have been made to, or evidence could lawfully have been given of, the fact that the person had been convicted of that offence.

(12) The fact that an offence was taken into account under this section may be proved in the same manner as the conviction or any of the convictions, as the case may be, in relation to which it was taken into account may be proved.

16C Fines

(1) Subject to subsection (2), before imposing a fine on a person for a federal offence, a court must take into account the financial circumstances of the person, in addition to any other matters that the court is required or permitted to take into account.

(2) Nothing in subsection (1) prevents a court from imposing a fine on a person because the financial circumstances of the offender cannot be ascertained by the court.

16D No corporal punishment

(1) A court must not impose any form of corporal punishment for a federal offence.

(2) A person serving a federal sentence must not be subjected to any form of corporal punishment.

Division 3—Sentences of imprisonment

16E Commencement of sentences

(1) Subject to subsections (2) and (3), the law of a State or Territory relating to the commencement of sentences and of non‑parole periods applies to a person who is sentenced in that State or Territory for a federal offence in the same way as it applies to a person who is sentenced in that State or Territory for a State or Territory offence.

(2) Where the law of a State or Territory has the effect that a sentence imposed on a person for an offence against the law of that State or Territory or a non‑parole period fixed in respect of that sentence:

(a) may be reduced by the period that the person has been in custody for the offence; or

(b) is to commence on the day on which the person was taken into custody for the offence;

the law applies in the same way to a federal sentence imposed on a person in that State or Territory or to a non‑parole period fixed in respect of that sentence.

(3) Where the law of a State or Territory does not have the effect mentioned in subsection (2), a court (including a federal court) in that State or Territory that imposes a federal sentence on a person or fixes a non‑parole period in respect of such a sentence must take into account any period that the person has spent in custody in relation to the offence concerned.

16F Court to explain sentence

(1) Where a court imposes a federal sentence on a person and fixes a non‑parole period in respect of the sentence, it must explain or cause to be explained to the person, in language likely to be readily understood by the person, the purpose and consequences of fixing that non‑parole period including, in particular, an explanation:

(a) that service of the sentence will entail a period of imprisonment of not less than the non‑parole period and, if a parole order is made, a period of service in the community, called the parole period, to complete service of the sentence; and

(b) that, if a parole order is made, the order will be subject to conditions; and

(c) that the parole order may be amended or revoked; and

(d) of the consequences that may follow if the person fails, without reasonable excuse, to fulfil those conditions.

(2) Where a court imposes a federal sentence on a person and makes a recognizance release order in respect of that sentence, it must explain or cause to be explained to the person, in language likely to be readily understood by the person, the purpose and consequences of making the recognizance release order including, in particular, an explanation:

(a) that service of the sentence will entail a period of imprisonment equal to the pre‑release period (if any) specified in the order and a period of service in the community equal to the balance of the sentence; and

(b) of the conditions to which the order is subject; and

(c) of the consequences that may follow if the person fails, without reasonable excuse, to fulfil those conditions; and

(d) that any recognizance given in accordance with the order may be discharged or varied under section 20AA.

16G Federal sentence to be adjusted if no State or Territory remission laws apply

If a federal sentence is to be served in a prison of a State or Territory where State or Territory sentences are not subject to remission or reduction, the court imposing the sentence must take that fact into account in determining the length of the sentence and must adjust the sentence accordingly.

17A Restriction on imposing sentences

(1) A court shall not pass a sentence of imprisonment on any person for a federal offence, or for an offence against the law of an external Territory that is prescribed for the purposes of this section, unless the court, after having considered all other available sentences, is satisfied that no other sentence is appropriate in all the circumstances of the case.

(1A) Where:

(a) a person is convicted of one or more federal offences relating to property, money or both, whose total value does not exceed $2,000; and

(b) the person has not previously been sentenced to imprisonment for any federal, State or Territory offence;

the court convicting the person must not, unless in the opinion of the court there are exceptional circumstances that warrant it, pass a sentence of imprisonment for that offence or any of those offences.

(1B) For the purpose only, under subsection (1A), of aggregating the value of property or money to which federal offences relate, a federal offence of which a person has not been convicted but which a court, with the consent of the person charged, has taken into account in passing sentence on the person for another federal offence, is to be treated as if it were a federal offence of which the person was convicted.

(2) Where a court passes a sentence of imprisonment on a person for a federal offence, or for an offence against the law of an external Territory that is prescribed for the purposes of this section, the court:

(a) shall state the reasons for its decision that no other sentence is appropriate; and

(b) shall cause those reasons to be entered in the records of the court.

(3) The failure of a court to comply with the provisions of this section does not invalidate any sentence.

(4) This section applies subject to any contrary intention in the law creating the offence.

18 Sentence of imprisonment

(1) Where imprisonment is imposed in respect of any offence against any law of the Commonwealth it may (unless the contrary intention appears in the law) be imposed either with or without hard labour.

(2) Where under the law of a State or Territory a convicted person may in particular cases be imprisoned in a particular kind or class of prison, a person convicted of an offence against the law of the Commonwealth may, in corresponding cases, be imprisoned in the kind or class of prison appropriate to the circumstances.

19 Cumulative, partly cumulative or concurrent sentences

(1) Where a person who is convicted of a federal offence or federal offences is at the time of that conviction or those convictions, serving, or subject to, one or more federal, State or Territory sentences, the court must, by order, direct when each federal sentence imposed by it for the first‑mentioned offence commences, but so that:

(a) each federal sentence does not commence later than the end of the sentences the commencement of which has already been fixed or the last to end of those sentences; and

(b) if a non‑parole period applies in respect of any State or Territory sentences—the first federal sentence to commence after the end of that non‑parole period commences immediately after the end of the period.

(2) Where:

(a) a person is convicted of 2 or more federal offences at the same sitting; and

(b) the person is sentenced to imprisonment for more than one of the offences;

the court must, by order, direct when each sentence commences, but so that no sentence commences later than the end of the sentences the commencement of which has already been fixed or of the last to end of those sentences.

(3) Where:

(a) a person is convicted of a federal offence or offences, and a State or Territory offence or offences, at the same sitting; and

(b) the person is sentenced to imprisonment for more than one of the offences;

the court must, by order, direct when each federal sentence commences but so that:

(c) each federal sentence does not commence later than the end of the sentences the commencement of which has already been fixed or the last to end of those sentences; and

(d) if a non‑parole period applies in respect of any State or Territory sentences—the first federal sentence to commence after the end of that non‑parole period commences immediately after the end of the period.

(4) For the purpose of fixing the commencement of a sentence under this section, a reference in this section to a sentence the commencement of which has already been fixed includes a reference to another sentence imposed at the same time as the first‑mentioned sentence.

19A Detention of person in State or Territory prisons

A federal offender who is ordered by a court or a prescribed authority to be detained in prison in a State or Territory, may be detained in any prison in that State or Territory and may be removed from one prison to another prison in that State or Territory as if the person were detained as a State offender or Territory offender.

19AA Remissions and reductions of sentences

(1) A law of a State or Territory that provides for the remission or reduction of State or Territory sentences (other than such part of the law as relates to the remission or reduction of non‑parole periods of imprisonment or of periods of imprisonment equivalent to pre‑release periods of imprisonment in respect of recognizance release orders) applies in the same way to the remission or reduction of a federal sentence in a prison of that State or Territory, being a sentence imposed after the commencement of this section.

(2) Where a law of a State or Territory provides that a person is to be taken to be serving a State or Territory sentence during the period from the time of release under a parole order or licence (however called) until the parole order or licence is, or is taken to be, revoked, the law:

(a) is, for the purposes of subsection (1), to be taken to be providing for the remission or reduction of sentences; and

(b) applies to any calculation of the part of a federal sentence remaining to be served at the time of a federal offender’s release under a federal parole order or licence as if the sentence were a State or Territory sentence.

(3) Where a federal offender who is released on parole or licence and whose parole order or licence has subsequently been revoked does not get the benefit of subsection (2) in calculating the part of any federal sentence of imprisonment remaining to be served at the time of release:

(a) a court fixing a new non‑parole period in respect of such a person under section 19AR; or

(b) a prescribed authority fixing a non‑parole period in respect of such a person under section 19AW;

must have regard to the period of time spent by the person on parole or licence before that parole order or licence is revoked or is to be taken to have been revoked.

(4) A law of a State or Territory that provides for the remission or reduction, by reason of industrial action taken by prison warders, of the non‑parole period of a State or Territory sentence applies in the same way to the remission or reduction:

(a) of a federal non‑parole period to be served in a prison in that State or Territory; and

(b) of a federal pre‑release period to be served in that State or Territory.

Division 4—The fixing of non‑parole periods and the making of recognizance release orders

19AB When court must fix a non‑parole period

(1) Where:

(a) a person is convicted of a federal offence or of 2 or more federal offences at the same sitting; and

(b) the court imposes on the person a life sentence, or a sentence or sentences exceeding, or exceeding in the aggregate, 3 years;

the court must fix a single non‑parole period in respect of the sentence or sentences unless it makes a recognizance release order.

(2) Where:

(a) while a person is in prison and is serving or subject to a federal sentence, a further federal sentence is imposed on the person; and

(b) the result is that the person is to serve or to complete a federal life sentence or federal sentences the unserved portion or portions of which exceeds, or exceed in the aggregate, 3 years;

the court imposing the further sentence must fix a single non‑parole period in respect of all federal sentences the person is to serve or complete unless it makes a recognizance release order.

(3) A single non‑parole period fixed under subsection (2) must not be such as to render the person eligible to be released earlier than would have been the case if the further sentence had not been imposed.

19AC Persons already subject to a non‑parole period or recognizance release order

(1) Where:

(a) a non‑parole period (in this section called the ***previous non‑parole period***) has been fixed in respect of a federal sentence or federal sentences; and

(b) while the offender is serving the non‑parole period, a court imposes a further federal sentence on the person;

the court must fix a new single non‑parole period in respect of all federal sentences the offender is to serve or complete and must not make a recognizance release order in respect of any of them.

(2) The new single non‑parole period fixed at the time of the imposition of the further sentence:

(a) is to be treated as having superseded the previous non‑parole period; and

(b) must not to be such as to allow the person to be released on parole earlier than would have been the case if the further sentence, had not been imposed.

(3) Where:

(a) a person is subject to a recognizance release order (in this section called the ***previous recognizance release order***) made in respect of a federal sentence or federal sentences; and

(b) before the person is released under that order, a court imposes a further federal sentence on the person;

the court must:

(c) make a new recognizance release order in respect of all federal sentences the person is to serve or complete; or

(d) if subsection 19AB(2) applies—fix a non‑parole period in respect of all such sentences.

(4) The new recognizance release order made, or non‑parole period fixed, at the time of the imposition of the further sentence:

(a) is to be treated as having superseded the previous recognizance release order; and

(b) must not be such as to allow the person to be released earlier than would have been the case if the further sentence had not been imposed.

19AD When court must make a recognizance release order

(1) Where:

(a) a person is convicted of a federal offence or of 2 or more federal offences at the same sitting; and

(b) the court imposes on the person a sentence that does not exceed, or sentences that, in the aggregate, do not exceed, 3 years;

the court must make a recognizance release order in respect of the sentence or those sentences and must not fix a non‑parole period.

(2) Where:

(a) while a person is in prison and is serving or subject to a federal sentence, a further federal sentence is imposed on the person; and

(b) the result is that the person is to serve or to complete federal sentences the unserved portions of which do not exceed, in the aggregate, 3 years;

the court must make a recognizance release order in respect of all federal sentences to be served or completed by the person and must not fix a non‑parole period.

(3) A recognizance release order made under subsection (2) shall not be such as to render the person eligible to be released earlier than would have been the case if the further sentence had not been imposed.

19AE Court may decline to fix non‑parole period or to make recognizance release order in certain cases

(1) Where:

(a) at a particular time, a court would be required by section 19AB, 19AC or 19AD to fix a non‑parole period, or make a recognizance release order, in relation to a person; and

(b) at that time, the person is not already subject to a federal non‑parole period;

the court is not required to fix a non‑parole period, or make a recognizance release order, if, having regard to the nature and circumstances of the offence or offences concerned and to the antecedents of the person, the court is satisfied that it is not appropriate to do so.

(2) Where a court decides, under this section, that it is inappropriate either to fix a non‑parole period, or to make a recognizance release order, the court:

(a) shall state its reasons for so deciding; and

(b) shall cause the reasons to be entered in the records of the court.

19AF Non‑parole period or pre‑release periods not to exceed remitted sentence

(1) Where a court is required to fix a non‑parole period or make a recognizance release order in respect of a federal sentence or sentences, the court must fix a non‑parole period that ends, or make a recognizance release order such that the pre‑release period ends, not later than the end of the sentence, or of the last to be served of the sentences, as reduced by any remissions or reductions under section 19AA.

(2) This section does not restrict the length of the non‑parole period or the pre‑release period in respect of a life sentence or sentences that include such a sentence.

19AG Non‑applicability of State or Territory remission or reduction laws to be taken into account

In calculating a non‑parole period or pre‑release period, in respect of a federal sentence, the court fixing that period:

(a) must take into account the fact that, under section 19AA, any non‑parole period, or pre‑release period specified in a recognizance release order made, in respect of the sentence will not be subject to remission or reduction other than a remission or reduction applying under subsection 19AA(4); and

(b) must adjust the period accordingly.

19AH Failure to fix non‑parole period or make recognizance release order

(1) Where a court fails to fix, or properly to fix, a non‑parole period, or to make, or properly to make, a recognizance release order, under this Act:

(a) that failure does not affect the validity of any sentence; and

(b) the court must, at any time, on application by the Attorney‑General, the Director of Public Prosecutions or the person, by order, set aside any non‑parole period or recognizance release order that was not properly fixed or made and fix a non‑parole period or make a recognizance release order under this Act.

(2) A court shall not, for the purposes of subsection (1), be taken to have failed to fix a non‑parole period in respect of a sentence or sentences in respect of which it has made a recognizance release order or to have failed to make a recognizance release order in respect of a sentence or sentences in respect of which it has fixed a non‑parole period.

(3) Application under subsection (1) to the court that has sentenced a person may be dealt with by that court whether or not it is constituted in the way in which it was constituted when the person was sentenced.

19AJ Court may only fix non‑parole periods or make recognizance release orders for federal sentences of imprisonment

This Division does not authorise a court to fix a single non‑parole period, or make a recognizance release order, in respect both of federal sentences of imprisonment and State or Territory sentences of imprisonment.

19AK Possible deportation no impediment to fixing non‑parole period

Where a person is convicted of a federal offence, a court is not precluded from fixing a non‑parole period in respect of the sentence imposed for that offence merely because the person is, or may be, liable to be deported from Australia.

Division 5—Conditional release on parole or licence

19AL Release on parole

(1) Subject to section 19AM, where there has been imposed on a person a federal sentence of, or federal sentences aggregating, more than 3 years but less than 10 years and a non‑parole period has been fixed in relation to the sentence or sentences, the Attorney‑General must, by order in writing, direct that the person be released from prison on parole:

(a) at the end of the non‑parole period; or

(b) if the Attorney‑General considers that in all the circumstances it would be appropriate to do so, on a specified day, not being earlier than 30 days before the end of the non‑parole period.

(2) Subject to section 19AM, where there has been imposed on a person a federal life sentence or a federal sentence of, or federal sentences aggregating, 10 years or more and a non‑parole period has been fixed in relation to the person in respect of the sentence or sentences, the Attorney‑ General must, by order in writing:

(a) direct that the person be released from prison on parole:

(i) at the end of the non‑parole period; or

(ii) if the Attorney‑General considers that in all the circumstances it would be appropriate to do so, on a specified day, not being earlier than 30 days before the end of the non‑parole period; or

(b) direct that the person is not to be released on parole at, or at any time before, the end of the non‑parole period.

(3) An order directing that a person not be released at, or at any time before, the end of the non‑parole period:

(a) must not be made later than 3 months before the end of the non‑parole period; and

(b) must include a statement of reasons why the order was made; and

(c) if the Attorney‑General proposes to reconsider, at a later time, the question of the release of the person on parole—must indicate when the Attorney‑General proposes to reconsider the question;

and a copy of the order must be given to the person within 14 days after it was made.

(4) A parole order in relation to a federal sentence:

(a) if the sentence is imprisonment for life in respect of that federal offence or any of those federal offences—must specify the day on which the parole period ends, being a day not earlier than 5 years after the person is released on parole; and

(b) if it is proposed that, for any part of the parole period, the person should be subject to supervision—must specify the day on which the supervision period ends, being a day fixed in accordance with the requirements of the definition of ***supervision period*** in subsection 16(1).

(5) A parole order directing that a person be released from prison is sufficient authority for the release if, and only if, the person indicates, in writing, his or her acceptance of the conditions to which the order is subject by certifying to that effect either on the original parole order or on a copy of that order.

19AM Person not to be released on parole if still serving State or Territory sentence

(1) Where:

(a) at the time when a federal non‑parole period (not being in respect of a life sentence) ends, the offender is serving, or is to serve, a State or Territory sentence (other than a life sentence for which a non‑parole period has not been fixed); and

(b) if a federal parole order were made at that time, the parole period would end while the offender would still be imprisoned in respect of the State or Territory offence;

the parole order must not be made.

(2) Where:

(a) at the time when a federal non‑parole period (not being in respect of a life sentence) ends, the offender is serving, or is to serve, a State or Territory sentence (other than a life sentence for which a non‑parole period has not been fixed); and

(b) if a federal parole order were made at that time, the parole period would end after the offender was released, or released on parole, in respect of the State or Territory offence;

the Attorney‑General must make the parole order, but it does not take effect before the offender is eligible to be so released.

(3) Where, at the time when a federal non‑parole period in respect of a life sentence, or sentences that include a life sentence, ends, the offender is serving, or is to serve, a State or Territory sentence (other than a life sentence for which a non‑parole period has not been fixed), the Attorney‑General must not make a parole order such that the parole period would end while the offender would still be imprisoned in respect of the State or Territory offence.

(4) Where, at the time when a federal non‑parole period ends, the offender is serving, or is to serve, a State or Territory life sentence for which a non‑parole period has not been fixed, a federal parole order must not be made.

19AN Parole order is subject to conditions

(1) A parole order under section 19AL:

(a) is subject to the condition that the offender must, during the parole period, be of good behaviour and not violate any law; and

(b) if, under subsection 19AL(4), the day on which a supervision period ends is fixed in the parole order—is subject to the condition that the offender must, during the supervision period, be subject to the supervision of a parole officer or other person specified in the order and obey all reasonable directions of that officer or other person; and

(c) is subject to such other conditions (if any) as the Attorney‑General specifies in the order.

(2) The Attorney‑General may, at any time before the end of the parole period, by order in writing, amend a parole order by varying or revoking a condition of the parole order or by imposing additional conditions in the parole order.

(3) An amendment of the parole order does not have effect until notice in writing of the amendment is given to the offender, being notice given before the end of the parole period.

19AP Release on licence

(1) Where a person is serving a federal sentence (whether or not a non‑parole period has been fixed, or a recognizance release order made, in relation to that sentence), the Attorney‑General may grant a licence under this subsection for the person to be released from prison.

(2) A person who is serving a federal sentence of imprisonment (whether or not a non‑parole period has been fixed, or a recognizance release order made, in relation to that sentence), or another person acting on that person’s behalf, may apply to the Attorney‑General for a licence under this subsection for the first‑mentioned person to be released from prison.

(3) An application under subsection (2) must:

(a) be in writing; and

(b) specify the exceptional circumstances relied on to justify the grant of the licence.

(4) The Attorney‑General must not grant a licence under this section unless he or she is satisfied that exceptional circumstances exist which justify the grant of the licence.

(5) The Attorney‑General is not required to consider an application under subsection (2) in respect of a person if an application has been made under that subsection in respect of that person within one year before the first‑mentioned application.

(6) A licence in relation to a person:

(a) if the person is subject to a federal life sentence—must specify the day on which the licence period ends, being a day not earlier than 5 years after the person is released on licence; and

(b) if it is proposed that, for any part of the licence period, the person should be subject to supervision—must specify the day on which the supervision period ends, being a day fixed in accordance with the requirements of the definition of ***supervision period*** in subsection 16(1).

(7) A licence:

(a) is subject to the condition that the offender must, during the licence period, be of good behaviour and not violate any law; and

(b) if, under subsection (6), the day on which a supervision period ends is fixed in the licence—is subject to the condition that the offender must, during the supervision period, be subject to the supervision of a person specified in the licence and obey all reasonable directions of that person; and

(c) is subject to such other conditions (if any) as the Attorney‑General specifies in the licence.

(8) The Attorney‑General may, at any time before the end of the licence period, by order in writing, amend a licence by varying or revoking a condition of a licence or by imposing additional conditions on a licence or by any or all of those means.

(9) An amendment of a licence does not have effect until notice of the amendment is given to the offender, being notice given before the end of the licence period.

(10) A licence directing that the offender be released from prison is sufficient authority for the release.

19AQ When parole order or licence automatically revoked

(1) Where a person to whom a parole order relates is sentenced to life imprisonment or to a sentence of, or sentences aggregating, more than 3 months in respect of a federal, State or Territory offence committed during the parole period, the parole order is to be taken to have been revoked upon the imposition of the sentence or sentences.

(2) If, at the time of imposition of the sentence or sentences, the federal parole period has already ended, the parole order is to be taken to have been revoked as from the time immediately before the end of the parole period.

(3) Where a person to whom a licence relates is sentenced to life imprisonment or to a sentence of, or sentences aggregating, more than 3 months in respect of a federal, State or Territory offence committed during the licence period, the licence is to be taken to have been revoked upon the imposition of the sentence or sentences.

(4) If, at the time of imposition of the sentence or sentences, the licence period has already ended, the licence is to be taken to have been revoked as from the time immediately before the end of the licence period.

(5) Where the parole order or licence relating to a person is revoked under subsection (1) or (3), the person becomes liable to serve that part of the sentence or each sentence for a federal offence that the person had not served at the time of his or her release under that order or licence, subject to the operation of subsection 19AA(2) and subject (except in the case of a life sentence) to any further remission or reduction of that sentence.

(6) This section does not apply where the sentence or each sentence referred to in subsection (1) or (3) is a suspended sentence.

19AR Fixing of non‑parole period etc. where parole or licence automatically revoked

(1) Where:

(a) a person who is serving or is to serve a federal sentence or federal sentences is released on parole or licence under this Act; and

(b) the person is later sentenced to life imprisonment or to a term of imprisonment of, or terms of imprisonment aggregating, more than 3 years in respect of a federal offence or federal offences committed during the parole period or licence period; and

(c) under section 19AQ, because of the imposition of the sentence or sentences referred to in paragraph (b) (in this subsection called the ***new sentence or sentences***):

(i) the parole order or licence is to be taken to have been revoked; and

(ii) the person becomes liable to serve that part of each of the sentences referred to in paragraph (a) (in this subsection called the ***outstanding sentence or sentences***) that the person had not served at the time of release;

the court imposing the new sentence or sentences must fix a single new non‑parole period in respect of the new sentence or sentences and the outstanding sentence or sentences having regard to the total period of imprisonment that the person is liable to serve.

(2) Where:

(a) a person who is serving or is to serve a federal sentence or federal sentences is released on parole or licence under this Act; and

(b) the person is later sentenced to a term of imprisonment of, or terms of imprisonment aggregating, 3 years or less in respect of a federal offence or federal offences committed during the parole period or licence period; and

(c) under section 19AQ, because of the imposition of the sentence or sentences referred to in paragraph (b) (in this subsection called the ***new sentence or sentences***):

(i) the parole order or licence is to be taken to have been revoked; and

(ii) the person becomes liable to serve that part of each of the sentences referred to in paragraph (a) (in this subsection called the ***outstanding sentence or sentences***) that the person had not served at the time of release;

then:

(d) if one of the outstanding sentences is a sentence of life imprisonment or the new sentence or sentences and the unserved part of the outstanding sentence or sentences aggregate more than 3 years—the court imposing the new sentence or sentences must fix a single new non‑parole period in respect of the new sentence or sentences and the outstanding sentence or sentences; and

(e) if the new sentence or sentences and the unserved part of the outstanding sentence or sentences aggregate 3 years or less—the court imposing the new sentence or sentences must not fix a non‑parole period but may make a recognizance release order in respect of the new sentence or sentences and the outstanding sentence or sentences;

and, in doing so, the court must have regard to the total period of imprisonment that the person is liable to serve.

(3) Where:

(a) a person who is serving or is to serve a federal sentence or federal sentences is released on parole or licence under this Act; and

(b) the person is later sentenced to a term or terms of imprisonment in respect of one or more State or Territory offences committed during the parole period or licence period; and

(c) under section 19AQ, because of the imposition of the sentence or sentences referred to in paragraph (b) (in this subsection called the ***new sentence or sentences***):

(i) the parole order or licence is to be taken to have been revoked; and

(ii) the person becomes liable to serve that part of each of the sentences referred to in paragraph (a) (in this subsection called the ***outstanding sentence or sentences***) that the person had not served at the time of release;

then:

(d) if one of the outstanding sentences is a life sentence or the unserved part of the outstanding sentence or sentences is or aggregates more than 3 years—the court imposing the new sentence or sentences must fix a single new non‑parole period in respect of the outstanding sentence or sentences; and

(e) if the unserved part of the outstanding sentence or sentences is or aggregates 3 years or less—the court imposing the new sentence or sentences must not fix a non‑parole period but may make a recognizance release order in respect of the outstanding sentence or sentences.

(4) Where, but for this subsection, the court would be required by subsection (1), (2) or (3) to fix a non‑parole period, the court is not required to do so if it is satisfied, having regard to the nature and circumstances of the offence or offences concerned and to the antecedents of the offender, that it is not appropriate to do so.

(5) Where a court decides, under this section, that it is inappropriate either to fix a non‑parole period, or to make a recognizance release order, the court:

(a) must state its reasons for so deciding; and

(b) must cause these reasons to be entered in the records of the court.

(6) Without limiting, by implication, the application of any other provision of Division 4, sections 19AF, 19AG, 19AJ and 19AK apply, according to their terms, in relation to the fixing of non‑parole periods or the making of recognizance release orders under this section in the same way as they apply to the fixing of such periods or the making of such orders under Division 4.

(7) Without limiting, by implication, the application of any other provision of Division 4, section 19AH applies, according to its terms, in relation to the failure to fix, or properly to fix, non‑parole periods or the failure to make, or properly to make, recognizance release orders under this section in the same way as it applies to such failures in relation to the fixing of such periods or the making of such orders under Division 4.

19AS Court to issue warrant of detention where person required to serve balance of sentence

(1) Where:

(a) a person who is serving or is to serve a federal sentence or federal sentences is released on parole or licence under this Act; and

(b) under section 19AQ, because of the imposition of one or more federal State or Territory sentences (in this subsection called the ***new sentence or sentences***):

(i) that parole order or licence is to be taken to have been revoked; and

(ii) the person becomes liable to serve that part of each of the sentences referred to in paragraph (a) (in this subsection called the ***outstanding sentence or sentences***) that he or she had not served at the time of release;

then:

(c) the court imposing the new sentence or sentences must issue a warrant authorising the person to be detained in prison to undergo imprisonment for the unserved part of the outstanding sentence or sentences; and

(d) the person must begin to serve the unserved part of the outstanding sentence or of the first to be served of the outstanding sentences on the day that the new sentence is, or the new sentences are, imposed; and

(e) the unserved part of the outstanding sentence or of each of the outstanding sentences must be served in the State or Territory where the new sentence is, or the new sentences are, imposed.

(2) Where the court fails to issue a warrant under paragraph (1)(c), the Director of Public Prosecutions may apply to that court for such a warrant.

19AT What happens when later conviction is quashed?

(1) Where:

(a) a person who is serving or is to serve a federal sentence or sentences of imprisonment is released on parole or licence under this Act; and

(b) under section 19AQ, because of the imposition of one or more federal, State or Territory sentences (in this subsection called the ***new sentence or sentences***):

(i) that parole order or licence is to be taken to have been revoked; and

(ii) the person becomes liable to serve that part of each of the sentences referred to in paragraph (a) (in this subsection called the ***outstanding sentence or sentences***) that he or she had not served at the time of release;

then:

(c) if the person appeals against the conviction or each conviction giving rise to a new sentence and is granted bail, pending the hearing of the appeal or appeals:

(i) this Act has effect, pending the hearing of that appeal or those appeals, as if the revoked order or licence had not been revoked and as if any warrant for the detention of the person issued under section 19AS were of no effect; and

(ii) the person must be released from prison on the day the person is granted bail; and

(d) if the appeal court sets aside the conviction or each of the convictions and the person concerned is granted bail or bail is extended pending a retrial of the offence or offences concerned:

(i) this Act has effect, or continues to have effect, pending the completion of the retrial, as if the revoked order or licence had not been revoked and as if any warrant for the detention of the person issued under section 19AS were of no effect; and

(ii) if the person had not already been released from prison under paragraph (c), the person is to be released on the day the person is granted bail or bail is extended; and

(e) if the conviction or each conviction appealed against is quashed on appeal or the person is found, on a retrial, not to be guilty of the offence or each of the offences:

(i) this Act has effect, or continues to have effect, as if the revoked order or licence had not been revoked and as if any warrant for the detention of the person issued under section 19AS were of no effect; and

(ii) if the person had not already been released from prison under paragraph (c) or (d), the person must be released from prison on the day the conviction or each conviction is quashed on appeal or the person is found, on a retrial not to be guilty of the offence or offences; and

(f) if paragraph (c), (d) or (e) applies—the unserved part of the outstanding sentence or sentences shall (except in the case of an outstanding sentence of life imprisonment) be reduced by the period spent in prison after the day the new sentence is or the new sentences are imposed and before the day of the person’s release on bail or, if the person is not so released, before the resolution of the appeal.

(2) If the appeal against the conviction or each conviction giving rise to a new sentence is unsuccessful, section 19AS applies, with effect from the day the appeal proceedings are completed, as if the new sentence or new sentences were imposed on that day by the court to which the appeal was made.

(3) Nothing in subsection (1) prevents a person from being detained in prison under any other law.

19AU Attorney‑General may revoke parole order or licence

(1) The Attorney‑General may, by instrument in writing, revoke a parole order or licence at any time before the end of the parole period or licence period:

(a) if the offender has, during that period, failed to comply with a condition of the order or licence; or

(b) if there are reasonable grounds for suspecting that the offender has, during that period, so failed to comply;

and the instrument of revocation must specify the condition that was breached or is suspected of having been breached.

(2) Before revoking a parole order or a licence, the Attorney‑General must, subject to subsection (3), by notice in the prescribed form, notify the person to whom the order or licence relates of:

(a) the condition of the order or licence alleged to have been breached; and

(b) the fact that the Attorney‑General proposes to revoke the order or licence at the end of 14 days after the day the notice is issued unless the person, within that period, gives the Attorney‑General written reasons why the order or licence should not be revoked and those reasons are accepted by the Attorney‑General.

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

(a) the person’s whereabouts are and remain, after reasonable inquiries on behalf of the Attorney‑General, unknown to the Attorney‑General; or

(b) there are circumstances of urgency that, in the opinion of the Attorney‑General, require the parole order or licence to be revoked without notice being given to the person; or

(c) the person has left Australia; or

(d) in the opinion of the Attorney‑General it is necessary, in the interests of the administration of justice, to revoke the parole order or licence without giving notice to the person.

19AV Arrest of person whose parole order or licence revoked by Attorney‑General

(1) A constable may, without warrant, arrest a person whose parole order or licence has been revoked by the Attorney‑General.

(2) The Attorney‑General or the Director of Public Prosecutions may, in relation to a person whose parole order or licence has been revoked by the Attorney‑General, apply to a prescribed authority for a warrant in the form prescribed for the purposes of this subsection for the arrest of the person.

(3) A person who is arrested under subsection (1) or (2), must, as soon as practicable after that arrest, be brought before a prescribed authority in the State or Territory in which the person is arrested.

19AW Where person on parole or licence notified of revocation

(1) Where a prescribed authority before whom a person is brought under section 19AV because of an order revoking a parole order or licence is satisfied:

(a) that the person is the person named in that revocation order; and

(b) that the person was notified by the Attorney‑General of the proposal to make the revocation order; and

(c) that the revocation order is still in force;

the prescribed authority must issue a warrant, in the prescribed form:

(d) authorising any constable to take the person to a specified prison in the State or Territory in which the person was arrested; and

(e) directing that the person be detained in prison in that State or Territory to undergo imprisonment for the unserved part of the sentence, or of each sentence, of imprisonment (in this section called the ***outstanding sentence or sentences***) that the person was serving or had yet to serve at the time of his or her release; and

(f) subject to subsection (3), fixing a non‑parole period in respect of the outstanding sentence or sentences.

(2) If the prescribed authority cannot complete the hearing under subsection (1) immediately, the prescribed authority may issue a warrant for the remand of the person in custody pending completion of the hearing.

(3) The prescribed authority is not required to fix a non‑parole period under paragraph (1)(f) if:

(a) the prescribed authority considers it inappropriate to do so because of the nature of the breach of the conditions of the order or licence that led to its revocation; or

(b) the unserved part of the outstanding sentence or sentences is, or aggregates, 3 months or less.

(4) Where a prescribed authority issues a warrant, the prescribed authority must specify in the warrant the particulars of the unserved part of each outstanding sentence and, if a non‑parole period is fixed, particulars of that period.

(5) A non‑parole period fixed under this section has effect as if it had been fixed by a court in respect of the outstanding sentence or sentences and section 19AL applies in relation to that non‑parole period according to its terms.

(6) Where a person brought before a prescribed authority under section 19AV is dealt with in accordance with this section, the unserved part of any outstanding sentence or sentences that the person was serving or had yet to serve at the time of his or her release, is to be reduced by any period of remand under subsection (2).

19AX Where person on parole or licence not notified of revocation

(1) Where a prescribed authority before whom a person is brought under section 19AV because of an order revoking a parole order or licence is satisfied that the person so brought is the person named in that revocation order but is not satisfied that the person was notified by the Attorney‑General of the proposal to make that revocation order, the prescribed authority must:

(a) immediately notify the Attorney‑General that the person has been brought before that prescribed authority; and

(b) order that the person be detained in custody until the Attorney‑General orders that the revocation order be rescinded or until the completion of proceedings under subsection 19AW(1) as applied by subsection (6) of this section.

(2) Where the Attorney‑General is notified that a person has been brought before a particular prescribed authority, the Attorney‑General must, as soon as practicable, notify the person, in writing, of the conditions of the parole order or licence alleged to have been breached and request that the person give him or her, within 14 days of notification of those reasons, a written submission stating why that parole order or licence should not have been revoked.

(3) If, within 14 days of a person receiving notification under subsection (2), the person fails to make a written submission to the Attorney‑General, the Attorney‑General must, as soon as practicable after the end of that period, notify the prescribed authority of a decision not to rescind the revocation order.

(4) If, within 14 days of notification under subsection (2), the person makes a written submission to the Attorney‑General, the Attorney‑General must decide, as soon as practicable after receiving that submission, and on the basis of that submission and any other material the Attorney‑General considers to be relevant, whether or not to rescind the revocation order and must, as soon as practicable after so deciding, inform the prescribed authority and the person, in writing, of the decision.

(5) If the prescribed authority is notified of a decision to rescind the revocation order, the prescribed authority must immediately order the person to be released from prison.

(6) If the prescribed authority is notified of a decision not to rescind the revocation order made in respect of the person, subsection 19AW(1) applies to the person so as to authorise the issue of a warrant as if the prescribed authority had been satisfied of the matters referred to in paragraphs 19AW(1)(a), (b) and (c) and subsections 19AW(3), (4), (5) and (6) apply to that person according to their terms.

19AY Appeals in respect of warrants issued under subsection 19AW(1) or that subsection as applied

(1) Where a prescribed authority issues a warrant in respect of a person under subsection 19AW(1), or under that subsection as applied by section 19AX, the person may appeal to the Supreme Court of the State or Territory in which the person was arrested against:

(a) the issue of the warrant; or

(b) the calculation, for the purposes of the warrant, of the unserved part of any outstanding sentence; or

(c) the fixing, for the purposes of the warrant, of a non‑parole period or the refusal to fix such a period.

(2) An appeal may be begun by lodging a notice of appeal with the court within 21 days after the day on which the warrant to which the appeal relates was issued.

(3) An appeal is to be by way of rehearing, but the court may have regard to any evidence given before the prescribed authority.

(4) The court may, on the application of the person making the appeal, order the release of the person from prison pending the disposal of the appeal, on such conditions as the court determines, and, upon the court’s so doing, the warrant appealed against shall not, unless the person breaks a condition of his or her release, be executed or further executed before the appeal is disposed of.

(5) The court must:

(a) if the appeal is against the issue of the warrant—either confirm or revoke the warrant; or

(b) if the appeal is against the calculation of the unserved part of any outstanding sentence—either confirm the warrant or vary the warrant, so far as it relates to that calculation, as specified in the order; or

(c) if the appeal is against the fixing of a non‑parole period or the refusal to fix such a period—either confirm the warrant or vary the warrant, if it fixes a non‑parole period, as specified in the order.

(6) Where a warrant is revoked under paragraph (5)(a), the person to whom the warrant relates, if the court has not already ordered the person’s release under subsection (4), is to be released from prison immediately.

(7) In this section:

***outstanding sentence*** has the same meaning as in section 19AW.

19AZ Evidence before prescribed authority

(1) A prescribed authority exercising any powers under this Division may take evidence on oath or affirmation and for that purpose may administer an oath or affirmation.

(2) A prescribed authority exercising any powers under this Division may summon a person to appear before the prescribed authority to give evidence and to produce such documents and articles (if any) as are referred to in the summons.

(3) A summons under this section shall be served in the same manner as a summons to a witness to appear before a court of summary jurisdiction in the State or Territory where the summons under this section is issued.

19AZA Disobedience of summons etc.

(1) A person who has been served with a summons to appear before a prescribed authority must not, without reasonable excuse, fail to appear in obedience to the summons.

(2) A person who has been served with a summons to produce a document or article to a prescribed authority shall not, without reasonable excuse, fail to produce the document or article.

(3) A person who appears before a prescribed authority shall not, without reasonable excuse, refuse to be sworn or make an affirmation or refuse to produce documents or articles, or to answer questions, that he or she is required by the prescribed authority to produce or answer.

Penalty: $1,000.

19AZB Can person be released on parole or licence if earlier parole order or licence revoked?

A parole order may be made or a licence granted, even if a previous parole order or licence has been revoked.

19AZC Effect of parole order and licence on sentence

(1) Where a parole order is made, or a licence is granted, in relation to a person:

(a) until the parole period or licence period ends without the parole order or licence being revoked, or until the person is otherwise discharged from imprisonment, the person is to be taken to be still under sentence and not to have served the part of any sentence that remained to be served at the beginning of the parole period or licence period; and

(b) if the parole period or licence period ends without the parole order or licence being revoked, the person is to be taken to have served the part of any sentence that remained to be served at the beginning of the parole period or licence period and to have been discharged from imprisonment.

(2) Where a parole order or licence in relation to a person is, under subsection 19AQ(2) or (4), to be taken to have been revoked as from the time immediately before the end of the parole period or licence period, subsection (1) has effect as if the parole period or the licence period had not ended without the parole order or the licence being revoked.

19AZD State and Territory laws providing for leave of absence, pre‑release etc. to apply to federal offenders

(1) A law of a State or Territory providing for a State or Territory offender to be granted leave of absence from prison, including leave of absence granted by order of a court, applies to a federal offender who is serving a sentence in that State or Territory as if the federal offender were a State or Territory offender serving an equivalent State or Territory sentence in that State or Territory.

(2) A law of a State or Territory providing for a State or Territory offender imprisoned in that State or Territory to be released:

(a) up to 24 hours before the time at which his or her sentence would otherwise have ended; or

(b) where the release day falls on a Saturday, a Sunday or a day which is a public holiday—on the last day before such a day which is not a Saturday, a Sunday or a public holiday;

applies to a federal offender who is serving a sentence in that State or Territory as if the federal offender were a State or Territory offender serving an equivalent State or Territory sentence in that State or Territory.

(3) A law of a State or Territory providing for a State or Territory offender to be released from prison under a pre‑release permit scheme (however called) that is prescribed for the purposes of this subsection, applies to a federal offender who is serving a sentence in that State or Territory, subject to any conditions relating to eligibility to participate that are specified in the regulations that prescribe that scheme, as if the federal offender were a State or Territory offender serving an equivalent State or Territory sentence in that State or Territory.

19B Discharge of offenders without proceeding to conviction

(1) Where:

(a) a person is charged before a court with an offence against the law of the Commonwealth; and

(b) the court is satisfied, in respect of that charge or more than one of those charges, that the charge is proved, but is of the opinion, having regard to:

(i) the character, antecedents, age, health or mental condition of the person;

(ii) the extent (if any) to which the offence is of a trivial nature; or

(iii) the extent (if any) to which the offence was committed under extenuating circumstances;

that it is inexpedient to inflict any punishment, or to inflict any punishment other than a nominal punishment, or that it is expedient to release the offender on probation;

the court may, by order:

(c) dismiss the charge or charges in respect of which the court is so satisfied; or

(d) discharge the person, without proceeding to conviction in respect of any charge referred to in paragraph (c), upon his giving security, with or without sureties, by recognizance or otherwise, to the satisfaction of the court, that he will comply with the following conditions:

(i) that he will be of good behaviour for such period, not exceeding 3 years, as the court specifies in the order;

(ii) that he will make such reparation or restitution, or pay such compensation, in respect of the offence or offences concerned (if any), or pay such costs in respect of his prosecution for the offence or offences concerned (if any), as the court specifies in the order (being reparation, restitution, compensation or costs that the court is empowered to require the person to make or pay):

(A) on or before a date specified in the order; or

(B) in the case of reparation or restitution by way of money payment or in the case of the payment of compensation or an amount of costs—by specified instalments as provided in the order; and

(iii) that he will, during a period, not exceeding 2 years, that is specified in the order in accordance with subparagraph (i), comply with such other conditions (if any) as the court thinks fit to specify in the order, which conditions may include the condition that the person will, during the period so specified, be subject to the supervision of a probation officer appointed in accordance with the order and obey all reasonable directions of a probation officer so appointed.

(2) Where a court proposes to discharge a person in pursuance of an order made under subsection (1), it shall, before making the order, explain or cause to be explained to the person, in language likely to be readily understood by him:

(a) the purpose and effect of the proposed order;

(b) the consequences that may follow if he fails, without reasonable cause or excuse, to comply with the conditions of the proposed order; and

(c) that any recognizance given in accordance with the order may be discharged or varied under section 20AA.

(2A) A person is not to be imprisoned for a failure to pay an amount required to be paid under an order made under this section.

(3) Where a charge or charges against a person is or are dismissed, or a person is discharged, in pursuance of an order made under subsection (1):

(a) the person shall have such rights of appeal on the ground that he was not guilty of the offence or offences concerned with which he was charged as he would have had if the court had convicted him of the offence or offences concerned; and

(b) there shall be such rights of appeal in respect of the manner in which the person is dealt with for the offence or offences concerned as there would have been if:

(i) the court had, immediately before so dealing with him, convicted him of the offence or offences concerned; and

(ii) the manner in which he is dealt with had been a sentence or sentences passed upon that conviction.

(4) Where a person is discharged in pursuance of an order made under subsection (1), the court shall, as soon as practicable, cause the order to be reduced to writing and a copy of the order to be given to, or served on, the person.

20 Conditional release of offenders after conviction

(1) Where a person is convicted of a federal offence or federal offences, the court before which he is convicted may, if it thinks fit:

(a) by order, release the person, without passing sentence on him, upon his giving security, with or without sureties, by recognizance or otherwise, to the satisfaction of the court, that he will comply with the following conditions:

(i) that he will be of good behaviour for such period, not exceeding 5 years, as the court specifies in the order;

(ii) that he will make such reparation or restitution, or pay such compensation, in respect of the offence or offences (if any), or pay such costs in respect of his prosecution for the offence or offences (if any), as the court specifies in the order (being reparation, restitution, compensation or costs that the court is empowered to require the person to make or pay):

(A) on or before a date specified in the order; or

(B) in the case of reparation or restitution by way of money payment or in the case of the payment of compensation or an amount of costs—by specified instalments as provided in the order;

(iii) that he will pay to the Commonwealth such pecuniary penalty (if any) as the court specifies in the order (being a penalty not exceeding the maximum amount of the penalty that, in accordance with subsection (5), the court may specify in respect of the offence or offences) on or before a date specified in the order or by specified instalments as provided in the order; and

(iv) that he will, during a period, not exceeding 2 years, that is specified in the order, comply with such other conditions (if any) as the court thinks fit to specify in the order, which conditions may include the condition that the person will, during the period so specified, be subject to the supervision of a probation officer appointed in accordance with the order and obey all reasonable directions of a probation officer so appointed; or

(b) sentence the person to imprisonment in respect of the offence or each offence but direct, by order, that the person be released, upon giving security of the kind referred to in paragraph (a) either forthwith or after he or she has served a specified period of imprisonment in respect of that offence or those offences that is calculated in accordance with subsection 19AF(1).

(2) Where a court proposes to release a person, by order made under paragraph (1)(a), it shall, before making the order, explain or cause to be explained to the person, in language likely to be readily understood by him:

(a) the purpose and effect of the proposed order;

(b) the consequences that may follow if he fails, without reasonable cause or excuse, to comply with the conditions of the proposed order; and

(c) that any recognizance given in accordance with the order may be discharged or varied under section 20AA.

(2A) A person is not to be imprisoned for a failure to pay an amount required to be paid under an order made under subparagraph (1)(a)(ii).

(3) Where a person is released in pursuance of an order made under subsection (1) without sentence being passed on him, there shall be such rights of appeal in respect of the manner in which the person is dealt with for the offence or each offence in respect of which the order is made as there would have been if the manner in which he is dealt with had been a sentence passed upon his conviction for that offence.

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

(5) The maximum amount of the penalty that a court may specify in respect of the offence or each offence in an order made under subsection (1) in relation to a person is:

(a) where the offence is punishable by a fine—the amount of the maximum fine that the court is empowered to impose on the person for the offence; or

(b) where the offence is not punishable by a fine:

(i) if the court is not a court of summary jurisdiction—$30,000; or

(ii) if the court is a court of summary jurisdiction—$6,000.

20A Failure to comply with condition of discharge or release

(1) Where a person has been discharged in pursuance of an order made under subsection 19B(1), or released in pursuance of an order made under subsection 20(1), and information is laid before a magistrate, before the end of the period specified in the order in accordance with subparagraph 19B(1)(d)(i) or 20(1)(a)(i) or before the completion of the sentence or last to be served of the sentences imposed under paragraph 20(1)(b), alleging that the person has, without reasonable cause or excuse, failed to comply with a condition of the order, the magistrate may:

(a) issue a summons directing the person to appear, on a date, at a time and at a place fixed in the summons, before the court by which the order was made; or

(b) if the information is laid on oath and the magistrate is of the opinion that proceedings against the person by summons might not be effective—issue a warrant for the apprehension of the person.

(2) Where:

(a) a person who is served with a summons issued under subsection (1) fails to attend before the court as required by the summons; or

(b) a person who has been admitted to bail under subsection (4) fails to attend before the court as required by the conditions of his bail;

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

(3) A warrant issued under subsection (1) or (2) shall authorize the apprehension of the person, the bringing of the person before the court as soon as practicable after his apprehension and the detention of the person in custody until he is released by order of the court or in accordance with subsection (4).

(4) Where a person is apprehended in pursuance of a warrant issued under subsection (1) or (2) and the court before which he is to be brought is not sitting at the time of his arrest, the person shall be brought before a magistrate, who may:

(a) admit the person to bail, on such recognizance (with or without sureties) as the magistrate thinks fit and on the condition that the person appears, on such date, at such time and at such place as the magistrate specifies, before that court; or

(b) direct that the person be kept in custody in accordance with the warrant.

(5) Where, in accordance with this section, a person who has been discharged in pursuance of an order made under subsection 19B(1), or released in pursuance of an order made under subsection 20(1), appears or is brought before the court by which the order was made, the court (whether or not constituted by the judge or magistrate who made the order), if it is satisfied that the person has, without reasonable cause or excuse, failed to comply with a condition of the order, may:

(a) in the case of a person who has been discharged in pursuance of an order made under subsection 19B(1):

(i) revoke the order, convict the person of the offence or offences in respect of which the order was made and, subject to subsection (6), deal with the person, for that offence or those offences, in any manner in which he could have been dealt with for that offence or those offences if the order had not been made; or

(ii) take no action; or

(b) in the case of a person who has been released in pursuance of an order made under paragraph 20(1)(a):

(i) without prejudice to the continuance of the order, impose a pecuniary penalty not exceeding $1,000 on the person;

(ii) revoke the order and, subject to subsection (6), deal with the person, for the offence or offences in respect of which the order was made, in any manner in which he could have been dealt with for that offence or those offences if the order had not been made and he was before the court for sentence in respect of the offence or offences; or

(iii) take no action; or

(c) in the case of a person who has been released by an order made under paragraph 20(1)(b):

(i) revoke the order and deal with the person for the offence or offences in respect of which the order was made by ordering that the person be imprisoned for that part of each sentence of imprisonment fixed under paragraph 20 (1)(b) that the person had not served at the time of his or her release; or

(ii) take no action.

(6) Where a person who has been discharged in pursuance of an order made under subsection 19B(1), or released in pursuance of an order made under subsection 20(1), is dealt with under subsection (5) for the offence or offences in respect of which the order was made, the court, in so dealing with the person, shall, in addition to any other matters that the court considers should be taken into account, take into account:

(a) the fact that the order was made;

(b) anything done under the order; and

(c) any other order made in respect of the offence or offences.

(7) Where a person who has been discharged in pursuance of an order made under subsection 19B(1), or released in pursuance of an order made under subsection 20(1), is dealt with under subsection (5) for the offence or offences in respect of which the order was made, the court may, in addition to dealing with him for that offence or those offences, order that any recognizance entered into by him, or by a surety for him, shall be estreated and any other security given by or in respect of him shall be enforced.

(8) Where a person who has been discharged in pursuance of an order made under subsection 19B(1), or released in pursuance of an order made under subsection 20(1), is dealt with under subsection (5) for the offence or offences in respect of which the order was made, there shall be such rights of appeal in respect of the manner in which the person is dealt with for that offence or those offences as there would have been if:

(a) in the case of a person who has been discharged in pursuance of an order made under subsection 19B(1)—the manner in which he is dealt with had been a sentence or sentences passed upon his conviction for the offence or offences; or

(b) in the case of a person who has been released in pursuance of an order made under subsection 20(1):

(i) the court had, immediately before so dealing with him, convicted him of the offence or offences; and

(ii) the manner in which he is dealt with had been a sentence or sentences passed upon that conviction.

(9) A pecuniary penalty imposed on a person by virtue of subparagraph (5)(b)(i) shall, for the purposes of the laws of the Commonwealth, and of the States and Territories, with respect to the enforcement and recovery of fines ordered to be paid by offenders, be deemed to be a fine imposed on the person upon his conviction for an offence against the law of the Commonwealth.

20AA Power to discharge or vary conditions of recognizance

(1) Where a person has entered into a recognizance in pursuance of an order made under subsection 19B(1) or 20(1), any of the following persons may apply to the court by which the order was made for the discharge of the recognizance or for a variation of its terms:

(a) an authorized person;

(b) the person who entered into the recognizance;

(c) a surety for the person who entered into the recognizance;

(d) a probation officer appointed in accordance with the order (in this section referred to as a ***probation officer***).

(2) Where an application is made under subsection (1) for the discharge of a recognizance, the court (whether or not constituted by the judge or magistrate who made the order in pursuance of which the recognizance was entered into) may, if it is satisfied that notice as required by subsection (5) or (6) has been given and that the conduct of the person who entered into the recognizance has been such as to make it unnecessary that he should remain bound by the recognizance, discharge the recognizance.

(3) Where an application is made under subsection (1) for a variation of the terms of a recognizance, the court (whether or not constituted by the judge or magistrate who made the order in pursuance of which the recognizance was entered into) may, if it is satisfied that notice as required by subsection (5) or (6) has been given and it thinks fit to do so, vary the terms of the recognizance in all or any of the following ways:

(a) by extending or reducing the duration of the recognizance;

(b) by altering the conditions of the recognizance;

(c) by inserting additional conditions in the recognizance;

(d) by reducing any liability to make reparation or restitution, by reducing any instalment of any reparation or restitution or by reducing the amount of, or of any instalment of, any costs, compensation or penalty; or

(e) by altering the manner in which any reparation, restitution, compensation, costs or penalty, or any instalment or any reparation, restitution, compensation, costs or penalty, is or are to be made or paid.

(4) The court shall not extend the duration of a recognizance beyond:

(a) in the case of a recognizance entered into in pursuance of an order made under subsection 19B(1)—the period of 3 years from the date on which the recognizance was entered into; or

(b) in the case of a recognizance entered into in pursuance of an order made under subsection 20(1)—the period of 5 years from the date on which the recognizance was entered into.

(5) Where an application is made under subsection (1) by an authorized person, the authorized person shall cause notice of the application and the date, time and place fixed for the hearing of the application, to be served on the person who entered into the recognizance in relation to which the application is made and:

(a) if that person has a surety in respect of the recognizance—on the surety; and

(b) if that person has a probation officer in respect of the recognizance—on the probation officer.

(6) Where an application is made under subsection (1) by a person other than an authorized person, the person making the application shall cause notice of the application, and of the date, time and place fixed for the hearing of the application, to be served on the Director of Public Prosecutions or, if the Director of Public Prosecutions has not established an office in the State or Territory in which the application is made, on the Director of Legal Services, in that State or Territory, in the Attorney‑General’s Department, and:

(a) if the application is made by the person who entered into the recognizance and that person has a surety—on the surety;

(b) if the application is made by a surety in respect of the recognizance—on the person who entered into the recognizance; or

(c) if the application is made by a probation officer in respect of the recognizance—on the person who entered into the recognizance and, if that person has a surety in respect of the recognizance, on the surety.

(7) Where notice of an application under subsection (1) is served on a surety, the surety is entitled to appear on the hearing of the application and seek to be released from his liability as a surety in respect of the recognizance.

(8) Subject to subsections (9) and (10), where under this section a court varies the terms of a recognizance, a person who is a surety in respect of the recognizance, and is not released by the court from his liability, continues to be liable as a surety in respect of the recognizance as so varied.

(9) Where under this section a court varies the terms of a recognizance in respect of which a person is a surety:

(a) if the recognizance is varied by extending its duration—the surety ceases to be liable after the expiration of the period for which he agreed to be liable when he became a surety;

(b) if the recognizance is varied by altering a condition—the surety is not liable in respect of non‑compliance with that condition as altered; and

(c) if the recognizance is altered by the addition of a condition—the surety is not liable in respect of non‑compliance with the additional condition;

unless he agrees to be liable in respect of the recognizance as so varied.

(10) Where under this section a court varies the terms of a recognizance in respect of which a person is a surety by altering a condition, the court shall give directions as to the extent (if any) to which the surety is to continue to be liable in respect of the condition as it existed before the alteration, and the surety continues to be liable in respect of the condition to that extent but not otherwise.

(11) Where under this section a court varies the terms of a recognizance:

(a) corresponding variations shall, by force of this subsection, be deemed to have been made to the conditions of the order in pursuance of which the recognizance was entered into; and

(b) section 20A applies to and in relation to the order, in respect of acts or things done or omitted to be done after the variation, as if references in that section to the conditions of the order were references to the conditions of the order as so deemed to be varied.

(12) In this section, ***authorized person*** means the Attorney‑General, the Director of Public Prosecutions or a person appointed under section 69 of the *Judiciary Act 1903* to prosecute indictable offences against the laws of the Commonwealth.

20AB Additional sentencing alternatives

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

(1A) Where the law of a participating State or a participating Territory requires that before passing a sentence, or making an order, of the kind referred to in subsection (1) a court must first pass another sentence or make another order (whether or not that other sentence or other order is suspended upon the making of the first‑mentioned sentence or order), then, a court is not required, before passing or making that first‑mentioned sentence or order in respect of a person convicted by that court for a federal offence, to pass that other sentence or make that other order.

(1B) A court is not precluded from passing a sentence, or making an order, under subsection (1) only because the court is empowered under section 20AC, in relation to a person who has failed to comply with such a sentence or order, to take action that is, or may be, inconsistent with action that, under the law of a participating State or participating Territory, a court of that State or Territory is empowered to take for such a failure by a State or Territory offender.

(2) Where a court proposes to pass a sentence, or make an order, under subsection (1), it shall, before passing the sentence or making the order, explain or cause to be explained to the person in respect of whom it is proposed to pass the sentence or make the order, in language likely to be readily understood by him:

(a) the purpose and effect of the proposed sentence or order;

(b) the consequences that may follow if he fails, without reasonable cause or excuse, to comply with the proposed sentence or order or with any requirements made in relation to the proposed sentence or order by or under the provisions of the laws of the relevant State or Territory that will apply in relation to the proposed sentence or order by virtue of subsection (3); and

(c) if the proposed sentence or order may be revoked or varied under those provisions—that the proposed sentence or order may be so revoked or varied.

(3) Where a sentence or order referred to in subsection (1) is passed or made under that subsection in respect of a person convicted in a State or Territory of a federal offence, the provisions of the laws of the State or Territory with respect to such a sentence or order that is passed or made under those laws shall, so far as those provisions are capable of application and are not inconsistent with the laws of the Commonwealth, apply, by virtue of this subsection, to and in relation to the sentence or order passed or made under subsection (1).

(4) Where a court passes a sentence, or makes an order, under subsection (1) in respect of a person convicted of an offence against the law of the Commonwealth, the court may also do all or any of the following:

(a) impose any fine or other pecuniary penalty that the court is empowered to impose on the person for the offence;

(b) make any order requiring the person to make reparation or restitution, or pay compensation, in respect of the offence that the court is empowered to make;

(c) make any other order that the court is empowered to make.

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

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

(1) In this section, ***the applied provisions***, in relation to a sentence passed or an order made under subsection 20AB(1), means the provisions of the laws of a State or Territory that apply to and in relation to the sentence or order by virtue of subsection 20AB(3).

(2) Where a sentence has been passed, or an order has been made, under subsection 20AB(1) in respect of a person and information is laid before a magistrate, whether before or after the expiration of the period for which the sentence or order is to operate or operated, alleging that the person has, without reasonable cause or excuse, failed to comply with the sentence or order or with any requirements made in relation to the sentence or order by or under the applied provisions, the magistrate may:

(a) issue a summons directing the person to appear, on a date, at a time and at a place fixed in the summons, before the court by which the sentence was passed or the order was made; or

(b) if the information is laid on oath and the magistrate is of the opinion that proceedings against the person by summons might not be effective—issue a warrant for the apprehension of the person.

(3) Where:

(a) a person who is served with a summons issued under subsection (2) fails to attend before the court as required by the summons; or

(b) a person who has been admitted to bail under subsection (5) fails to attend before the court as required by the condition of his bail;

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

(4) A warrant issued under subsection (2) or (3) shall authorize the apprehension of the person, the bringing of the person before the court as soon as practicable after his apprehension and the detention of the person in custody until he is released by order of the court or in accordance with subsection (5).

(5) Where a person is apprehended in pursuance of a warrant issued under subsection (2) or (3) and the court before which he is to be brought is not sitting at the time of his arrest, the person shall be brought before a magistrate, who may:

(a) admit the person to bail, on such recognizance (with or without sureties) as the magistrate thinks fit, on the condition that the person appears, on such date, at such time and at such place as the magistrate specifies, before that court; or

(b) direct that the person be kept in custody in accordance with the warrant.

(6) Where, in accordance with this section, a person in respect of whom a sentence has been passed, or an order has been made, under subsection 20AB(1) appears or is brought before the court by which the sentence was passed or the order was made, the court (whether or not constituted by the judge or magistrate who passed the sentence or made the order), if it is satisfied that the person has, without reasonable cause or excuse, failed to comply with the sentence or order or with any requirements made in relation to the sentence or order by or under the applied provisions, may:

(a) without prejudice to the continuance of the sentence or order, impose a pecuniary penalty not exceeding $1,000 on the person;

(b) revoke the sentence or order and, subject to subsection (7), deal with the person, for the offence in respect of which the sentence was passed or the order was made, in any manner in which he could have been dealt with for that offence if the sentence had not been passed or the order had not been made and he was before the court for sentence in respect of the offence; or

(c) take no action.

(7) Where a person in respect of whom a sentence has been passed, or an order has been made, under subsection 20AB(1) is dealt with under subsection (6) for the offence in respect of which the sentence was passed or the order was made, the court, in so dealing with the person, shall, in addition to any other matters that the court considers should be taken into account, take into account:

(a) the fact that the sentence was passed or the order was made;

(b) anything done under the sentence or order; and

(c) any fine or other pecuniary penalty imposed, and any other order made, for or in respect of the offence.

(8) Where a person in respect of whom a sentence has been passed, or an order has been made, under subsection 20AB(1) is dealt with under subsection (6) for the offence in respect of which the sentence was passed or the order was made, there shall be such rights of appeal in respect of the manner in which the person is dealt with for that offence as there would have been if:

(a) the court had, immediately before so dealing with him, convicted him of the offence; and

(b) the manner in which he is dealt with had been a sentence passed upon that conviction.

(9) Nothing in this section shall be taken to prevent a sentence passed, or an order made, under subsection 20AB(1) being revoked or varied under the applied provisions otherwise than for a failure to comply with the sentence or order or with any requirements made in relation to the sentence or order by or under the applied provisions.

(10) A pecuniary penalty imposed on a person by virtue of paragraph (6)(a) shall, for the purposes of the laws of the Commonwealth, and of the States and Territories, with respect to the enforcement and recovery of fines ordered to be paid by offenders, be deemed to be a fine imposed on the person upon his conviction for a federal offence.

Division 6—Unfitness to be tried

20B Consequences of preliminary finding that person unfit to be tried

(1) Where, in proceedings for the commitment of a person for trial of a federal offence on indictment, being proceedings begun after this section commences, the question of the person’s fitness to be tried in respect of the offence, is raised by the prosecution, the person or the person’s legal representative, the magistrate must refer the proceedings to the court to which the proceedings would have been referred had the person been committed for trial.

(2) If the court to which the proceedings have been referred finds the person charged to be fit to be tried, the court must remit the proceedings to the magistrate and proceedings for the commitment must be continued as soon as practicable.

(3) Where a court:

(a) to which proceedings have been referred under subsection (1); or

(b) before which a person appears in proceedings for trial of a federal offence on indictment, being proceedings begun after this section commences;

finds the person charged unfit to be tried, the court must determine whether there has been established a prima facie case that the person committed the offence concerned.

(4) Where a magistrate refers proceedings to a court under subsection (1), the magistrate may order the person charged to be detained in prison or in hospital for so long only as is reasonably necessary to allow the court to which the person is referred to determine whether it will make an order under subsection (2) remitting the person to the magistrate, an order under section 20BA dismissing the charge or an order under section 20BB detaining the person in prison or hospital or granting the person bail.

(5) Where a court finds a person, other than a person in respect of whom proceedings have been referred to it by a magistrate under subsection (1), to be unfit to be tried, the court may order the person to be detained in prison or hospital for so long only as is reasonably necessary to allow the court to determine whether it will make an order under section 20BA dismissing the charge or an order under section 20BB detaining the person in prison or hospital or granting the person bail.

(6) For the purposes of subsection (3), a prima facie case is established if there is evidence that would (except for the circumstances by reason of which the person is unfit to be tried) provide sufficient grounds to put the person on trial in relation to the offence.

(7) In proceedings to determine whether, for the purposes of subsection (3), a prima facie case has been established:

(a) the person may give evidence or make an unsworn statement; and

(b) the person may raise any defence that could properly be raised if the proceedings were a trial for that offence; and

(c) the court may seek such other evidence, whether oral or in writing, as it considers likely to assist in determining the matter.

20BA Upon determining *prima facie* case, court to dismiss charge or to determine fitness within 12 months

(1) Where the court determines that there has not been established a prima facie case that the person committed the offence, the court must, by order, dismiss the charge against the person and, if the person is in custody, order the release of the person from custody.

(2) Where the court determines that there has been established a prima facie case that the person committed the offence, but the court is of the opinion, having regard to:

(a) the character, antecedents, age, health or mental condition of the person; or

(b) the extent (if any) to which the offence is of a trivial nature; or

(c) the extent (if any) to which the offence was committed under extenuating circumstances;

that it is inappropriate to inflict any punishment, or to inflict any punishment other than a nominal punishment, the court must, by order, dismiss the charge and, if the person is in custody, order the release of the person from custody.

(3) Where the court orders that the person be released from custody, the person must be released accordingly.

(4) Where the court determines that there has been established a prima facie case that the person committed the offence, but the court does not dismiss the charge under subsection (2), the court must, as soon as practicable after making that first‑mentioned determination, determine whether, on the balance of probabilities, the person will become fit to be tried, within the period of 12 months after the day the person was found to be unfit to be tried.

(5) A court must not make a determination under subsection (4) unless the court has obtained, and considered, written or oral evidence from a duly qualified psychiatrist and one other duly qualified medical practitioner.

(6) Nothing in subsection (5) prevents a court from obtaining written or oral evidence from such other persons, bodies or organisations as the court considers appropriate.

20BB Persons found by a court to be likely to be fit within 12 months

(1) Where a court determines, under subsection 20BA(4), that a person charged with a federal offence who was found unfit to be tried will become fit to be tried within a period of 12 months after that finding, the court must, at the time of making that determination, also determine:

(a) whether the person is suffering from a mental illness, or a mental condition, for which treatment is available in a hospital; and

(b) if so—whether the person objects to being detained in a hospital.

(2) Where a court has made a determination under subsection (1), the court must:

(a) where the court has determined that the person is suffering from a mental illness, or a mental condition, for which treatment is available in a hospital and that the person does not object to being detained in a hospital—order that the person be taken to and detained in a hospital, or continue to be detained in a hospital, as the case requires; or

(b) otherwise:

(i) order that the person be taken to and detained in a place other than a hospital (including a prison); or

(ii) grant the person bail on condition that the person live at an address or in a place specified by the court;

for a period ending:

(c) when the person becomes fit to be tried; or

(d) when, as soon as practicable after the end of the 12 months referred to in subsection (1), the court makes an order under subsection 20BC(2) or (5) as applied under subsection (4);

whichever happens first.

(3) Where a court determines, under subsection 20BA(4), that a person charged with a federal offence who was found unfit to be tried will become fit to be tried within 12 months after that finding then, if the person becomes fit within that period:

(a) if the person had been indicted on the charge before being found unfit—the proceedings on the indictment must be continued as soon as practicable; and

(b) if proceedings for the commitment of the person had been referred to the court under section 20B—those proceedings must be continued as soon as practicable as if they had not been so referred.

(4) Where a court determines, under subsection 20BA(4), that a person who was found unfit to be tried will become fit to be tried, within 12 months after that finding but the person does not become fit within that period, then, at the end of that period, subsections 20BC(2) and (5) apply as if the court had originally determined, at that time, that the person would not become fit to be tried and had made, under subsection 20BC(1), a further determination of the kind that it made under subsection (1) of this section.

(5) Where subsections 20BC(2) and (5) apply in relation to a person in the circumstances set out in subsection (4), then:

(a) in an order under subsection 20BC(2) as so applied the court must, in fixing the period of detention, have regard to any period of detention already served under paragraph (2)(a) or (b) of this section; and

(b) in an order under subsection 20BC(5) as so applied the court must:

(i) in the case of a person already on bail––order, in lieu of the person’s release from custody, the continuance of the person’s release on bail; and

(ii) in fixing the period of the person’s release for which conditions apply, have regard to any period of detention already served under paragraph (2)(a) or (b) of this section.

(6) Where a court determines, under subsection 20BA(4), that a person who was found unfit to be tried will become fit to be tried within 12 months after that finding but the person does not become fit within that period, the finding that there is, on the balance of probabilities, a prima facie case for the commission of the offence charged acts as a stay against any proceedings, or any further proceedings, against the person in respect of the offence.

20BC Persons found by a court not to be likely to be fit within 12 months

(1) Where a court determines, under section 20BA, that a person who was found unfit to be tried will not become fit to be tried within 12 months after that finding, the court must, at the time of making that determination, also determine:

(a) whether the person is suffering from a mental illness, or a mental condition, for which treatment is available in a hospital; and

(b) if so—whether the person objects to being detained in a hospital.

(2) Where a court has made a determination under subsection (1), the court must:

(a) if the court has determined that the person is suffering from a mental illness, or a mental condition, for which treatment is available in a hospital and that the person does not object to being detained in a hospital—order that the person be taken to and detained in a hospital, or continue to be detained in a hospital, as the case requires; or

(b) otherwise—order that the person be detained in a place other than a hospital, including a prison;

for a period specified in the order, not exceeding the maximum period of imprisonment that could have been imposed if the person had been convicted of the offence charged.

(3) The Attorney‑General may, at any time, by order in writing, vary the hospital or other place of detention at which a person is detained under this section.

(4) Where, for urgent medical or security reasons, it becomes necessary to do so, an officer of the State or Territory in which a person is detained under this section may vary the hospital or other place of detention of that person but, where the officer does so, the officer must forthwith notify the Attorney‑General, in writing, of the variation and of the reasons for the variation.

(5) Despite subsection (2), the court may, if in the court’s opinion it is more appropriate to do so than to make an order under subsection (2), order the person’s release from custody either absolutely or subject to conditions to apply for such period as the court specifies in the order, not exceeding 3 years.

(6) The conditions may include:

(a) a condition that the person remain in the care of a responsible person nominated in the order; and

(b) a condition that the person attend upon a person nominated, or at a place specified, in the order for assessment of the person’s mental illness, mental condition or intellectual disability and, where appropriate, for treatment; and

(c) any other condition that the court thinks fit.

(7) Where a person has been released from custody subject to conditions, the person or the Director of Public Prosecutions may, at any time, apply to the court to vary those conditions.

(8) Where a court determines, under subsection 20BA(4), that a person who was found unfit to be tried will not become fit to be tried, within 12 months after the finding, the finding that there is, on the balance of probabilities, a prima facie case for the commission of the offence charged acts as a stay against any proceedings, or any further proceedings, against the person, in respect of the offence.

20BD Review by Attorney‑General

(1) Where a court makes an order under subsection 20BC(2), the Attorney‑General must, at least once in each period of 6 months after the day the person is detained under the order, consider whether or not the person should be released from detention.

(2) In considering whether the person should be released from detention the Attorney‑General:

(a) must obtain and consider:

(i) a report from a duly qualified psychiatrist or psychologist; and

(ii) a report from another duly qualified medical practitioner; and

(b) may obtain and consider such other reports as the Attorney‑General considers necessary; and

(c) must take into account any representations made to the Attorney‑General by the person or on the person’s behalf.

20BE Attorney‑General may order release

(1) The Attorney‑General may, after considering under subsection 20BD(1) whether or not the person should be released from detention, order that the person be released from detention.

(2) The Attorney‑General must not order a person’s release from detention unless the Attorney‑General is satisfied that the person is not a threat or danger either to himself or herself or to the community.

(3) An order:

(a) must be in writing; and

(b) remains in force for such period as is specified in the order (being a period equal to the balance of the period fixed by the court for detention under subsection 20BC(2)) or for a period of 5 years, whichever is the lesser; and

(c) is subject to such conditions (if any) as are specified in the order.

(4) Without limiting the generality of paragraph (3)(c), the conditions that may be specified in the order may include all or any of the following:

(a) a condition that the person reside at an address specified in the order;

(b) a condition that the person present himself or herself for such medical or psychiatric treatment as is specified in the order at such times as are specified in the order;

(c) a condition that the person undertake such medical or mental health therapy as is specified in the order;

(d) a condition that the person undertake such social, vocational or educational counselling as is specified in the order;

(e) a condition that the person participate in such programs relating to financial management, behaviour modification or inter‑personal relationships as are specified in the order.

20BF Release order may be revoked

(1) The Attorney‑General may, by instrument in writing, revoke an order made under subsection 20BE(1) (in this section called a ***release order***) at any time while that release order remains in force:

(a) if the person concerned has, during that period, failed, without reasonable excuse, to comply with a condition of the order; or

(b) if there are reasonable grounds for suspecting that the person has, during that period, failed, without reasonable excuse, so to comply;

and, where the Attorney‑General does so, the instrument of revocation must specify the condition of the order that the person has breached or is suspected of having breached.

(2) Before revoking a release order, the Attorney‑General must make all such enquiries and call for all such reports as are reasonably necessary for the purpose of determining whether the circumstances referred to in paragraph (1)(a) or (b) apply.

(3) Where a release order in relation to a person is revoked:

(a) a constable may arrest the person without warrant; or

(b) the Attorney‑General or the Director of Public Prosecutions may apply to a prescribed authority for a warrant for the arrest of the person.

(4) A person who is arrested under subsection (3) must, as soon as practicable after that arrest, be brought before a prescribed authority in the State or Territory in which the person is arrested.

(5) Subject to subsection (6), where a prescribed authority in a State or Territory before whom a person is brought under subsection (4) is satisfied that:

(a) the person is the person named in the instrument revoking the release order; and

(b) the release order has been revoked and the revocation is still in force;

the prescribed authority must issue a warrant:

(c) authorising any constable to take the person to a specified prison or hospital in the State or Territory; and

(d) directing that the person be detained in prison or in hospital in that State or Territory for such part of the period fixed by the court to be the period of detention under subsection 20BC(2) as had not elapsed at the time of the making of the release order.

(6) If the prescribed authority in the State or Territory before whom the person is brought under subsection (4) cannot complete the hearing under subsection (5) immediately, the prescribed authority may issue a warrant for the remand of the person in a prison or hospital in the State or Territory pending completion of the hearing.

(7) The Attorney‑General may, at any time, by order in writing, vary the prison or hospital at which a person is detained under this section.

(8) Where for urgent medical or security reasons it becomes necessary to do so, an officer of the State or Territory in which a person is detained may vary the prison or hospital at which the person is detained but, where the officer does so, the officer must forthwith notify the Attorney‑General, in writing, of the variation and of the reasons for that variation.

20BG Attorney‑General to review detention of persons taken back into detention

(1) Where, under subsection 20BF(5), a prescribed authority directs that a person be detained in prison or in a hospital, the Attorney‑General must, as soon as practicable after the person is so detained, consider (in this section called the ***initial consideration***) whether or not the person should be released from detention and must, while the person is in detention, reconsider the matter at least once in each period of 6 months after the initial consideration.

(2) Subsection 20BD(2) and, subject to the modification set out in subsection (3), section 20BE, apply in relation to an initial consideration and to any reconsideration under subsection (1).

(3) For the purposes of applying section 20BE, subsection 20BE(1) has effect as if the reference in that subsection to subsection 20BD(1) were a reference to subsection (1) of this section.

20BH State or Territory mental health authorities to be notified of certain releases

Where a person detained by authority of an order under subsection 20BC(2) or a warrant under subsection 20BF(5) for a specified period in a State or Territory is due to be released because the period of that person’s detention has ended, the Attorney‑General must notify the mental health authorities of the State or Territory of the proposed release of the person.

Division 7—Acquittal because of mental illness

20BJ Acquittal where person mentally ill

(1) Where a person has been charged with a federal offence on indictment and the person is acquitted because of mental illness at the time of the offence, the court must order that the person be detained in safe custody in prison or in a hospital for a period specified in the order, not exceeding the maximum period of imprisonment that could have been imposed if the person had been convicted of the offence charged.

(2) The Attorney‑General may, at any time, by order in writing, vary the prison or hospital at which a person is detained under subsection (1).

(3) Where, for urgent medical or security reasons it becomes necessary to do so, an officer of the State or Territory in which a person is detained under this section may vary the prison or hospital at which the person is detained but, where the officer does so, the officer must forthwith notify the Attorney‑General, in writing, of the variation and of the reasons for the variation‑

(4) Despite subsection (1), the court may, if in the court’s opinion it is more appropriate to do so than to make an order under subsection (1), order the person’s release from custody either absolutely or subject to conditions to apply for such period as the court specifies in the order, not exceeding 3 years.

(5) The conditions may include:

(a) a condition that the person remain in the care of a responsible person nominated in the order; and

(b) a condition that the person attend upon a person nominated, or at a place specified, in the order for assessment of the person’s mental illness, mental condition or intellectual disability and, where appropriate, for treatment.

(6) Where a person has been released from custody subject to conditions, the person or the Director of Public Prosecutions may, at any time, apply to the court to vary those conditions.

20BK Review by Attorney‑General

(1) Where, under subsection 20BJ(1), a court orders that a person be detained in safe custody in prison or in a hospital, the Attorney‑General must, as soon as practicable after the person is so detained, consider (in this section called the ***initial consideration***) whether or not the person should be released from detention and must, while the person is in detention, reconsider the matter at least once in each period of 6 months after the initial consideration.

(2) In considering whether a person should be released from custody the Attorney‑General:

(a) must obtain and consider:

(i) a report from a duly qualified psychiatrist or psychologist; and

(ii) a report from another duly qualified medical practitioner; and

(b) may obtain and consider such other reports as the Attorney‑General considers necessary; and

(c) must take into account any representations made to the Attorney‑ General by the person or on the person’s behalf.

20BL Attorney‑General may order release

(1) The Attorney‑General may, after considering under subsection 20BK(1) whether or not the person should be released from custody, order that the person be released from custody.

(2) The Attorney‑General must not order a person’s release from detention unless the Attorney‑General is satisfied that the person is not a threat or danger either to himself or herself or to the community.

(3) An order:

(a) must be in writing; and

(b) remains in force for such a period as is specified in the order (being a period equal to the balance of the period fixed by the court for detention in safe custody under subsection 20BJ(1)) or for a period of 5 years, whichever is the lesser; and

(c) is subject to such conditions (if any) as are specified in the order.

(4) Without limiting the generality of paragraph (3)(c), the conditions that may be specified in the order may include all or any of the following:

(a) a condition that the person reside at an address specified in the order;

(b) a condition that the person present himself or herself for such medical or psychiatric treatment as is specified in the order at such times and places as are specified in the order;

(c) a condition that the person undertake such medical or mental health therapy as is specified in the order;

(d) a condition that the person undertake such social, vocational or educational counselling as is specified in the order;

(e) a condition that the person participate in such programs relating to financial management, behaviour modification or inter‑personal relationships as are specified in the order.

20BM Release order may be revoked

(1) The Attorney‑General may, by instrument in writing, revoke an order made under subsection 20BL(1) (in this section called a ***release order***) at any time while that release order remains in force:

(a) if the person concerned has, during that period, failed, without reasonable excuse, to comply with a condition of the order; or

(b) if there are reasonable grounds for suspecting that the person has, during that period, failed, without reasonable excuse, so to comply;

and, where the Attorney‑General does so, the instrument of revocation must specify the condition of the order that the person has breached or is suspected of having breached.

(2) Before revoking a release order, the Attorney‑General must make all such enquiries and call for all such reports as are reasonably necessary for the purpose of determining whether the circumstances referred to in paragraph (1)(a) or (b) apply.

(3) Where a release order in relation to a person is revoked:

(a) a constable may arrest the person without warrant; or

(b) the Attorney‑General or the Director of Public Prosecutions may apply to a prescribed authority for a warrant for the arrest of the person.

(4) A person who is arrested under subsection (3) must, as soon as practicable after that arrest, be brought before a prescribed authority in the State or Territory in which the person is arrested.

(5) Subject to subsection (6), where a prescribed authority in a State or Territory before whom a person is brought under subsection (4) is satisfied that:

(a) the person is the person named in the instrument revoking the release order; and

(b) the release order has been revoked and the revocation is still in force;

the prescribed authority may issue a warrant:

(c) authorising any constable to take the person to a specified prison or hospital in the State or Territory; and

(d) directing that the person be detained in prison or in hospital in the State or Territory for such part of the period fixed by the court to be the period of detention in safe custody under subsection 20BJ(1) as had not elapsed at the time of the making of the release order.

(6) If the prescribed authority in the State or Territory before whom the person is brought under subsection (4) cannot complete the hearing under subsection (5) immediately, the prescribed authority may issue a warrant for the remand of the person in a prison or hospital in the State or Territory pending completion of the hearing.

(7) The Attorney‑General may, at any time, by order in writing, vary the prison or hospital at which a person is detained under this section.

(8) Where, for urgent medical or security reasons it becomes necessary to do so, an officer of the State or Territory in which the person is detained may vary the prison or hospital at which the person is detained but, where the officer does so, the officer must forthwith notify the Attorney‑General, in writing, of the variation and of the reasons for that variation.

20BN Attorney‑General to review detention of persons taken back into detention

(1) Where, under subsection 20BM(5), a prescribed authority directs that a person be detained in prison or in a hospital, the Attorney‑ General must, as soon as practicable after the person is so detained, consider (in this section called the ***initial consideration***) whether or not the person should be released from detention and must, while the person is in detention, reconsider the matter at least once in each period of 6 months after the initial consideration.

(2) Subsection 20BK(2) and, subject to the modification in subsection (3), section 20BL, apply in relation to an initial consideration and a reconsideration under subsection (1).

(3) For the purposes of applying section 20BL, subsection 20BL(1) has effect as if the reference in that subsection to subsection 20BK(1) were a reference to subsection (1) of this section.

20BP State or Territory authorities to be notified of certain releases

Where a person detained by authority of an order under subsection 20BJ(1) or a warrant under subsection 20BM(5) for a specified period in a State or Territory is due to be released because the period of the person’s detention has ended, the Attorney‑General must notify the mental health authorities of that State or Territory of the proposed release of the person.

Division 8—Summary disposition of persons suffering from mental illness or intellectual disability

20BQ Person suffering from mental illness or intellectual disability

(1) Where, in proceedings in a State or Territory before a court of summary jurisdiction in respect of a federal offence, it appears to the court:

(a) that the person charged is suffering from a mental illness within the meaning of the civil law of the State or Territory or is suffering from an intellectual disability; and

(b) that, on an outline of the facts alleged in the proceedings, or such other evidence as the court considers relevant, it would be more appropriate to deal with the person under this Division than otherwise in accordance with law;

the court may, by order:

(c) dismiss the charge and discharge the person:

(i) into the care of a responsible person, unconditionally, or subject to conditions, for a specified period that does not exceed 3 years; or

(ii) on condition that the person attend on another person, or at a place, specified by the court for an assessment of the first‑mentioned person’s mental condition, or for treatment, or both, but so that the total period for which the person is required to attend on that other person or at that place does not exceed 3 years; or

(iii) unconditionally; or

(d) do one or more of the following:

(i) adjourn the proceedings;

(ii) remand the person on bail;

(iii) make any other order that the court considers appropriate.

(2) Where a court makes an order under paragraph (1)(c) in respect of a person and a federal offence with which the person has been charged, the order acts as a stay against any proceedings, or any further proceedings, against the person in respect of the offence.

(3) Where a court makes an order under subsection (1) in respect of a person and a federal offence with which the person has been charged, the court must not make an order under section 19B, 20, 20AB or 21B in respect of the person in respect of the offence.

20BR Means by which court may be informed

For the purposes of this Division, a court of summary jurisdiction may inform itself as the court thinks fit, but not so as to require the person charged to incriminate himself or herself.

Division 9—Sentencing alternatives for persons suffering from mental illness or intellectual disability

20BS Hospital orders

(1) Where a person is convicted in a State or Territory, on indictment, of a federal offence and the court before which the person is convicted is satisfied that:

(a) the person is suffering from a mental illness within the meaning of the civil law of that State or Territory; and

(b) the illness contributed to the commission of the offence by the person; and

(c) appropriate treatment for the person is available in a hospital in that State or Territory; and

(d) the proposed treatment cannot be provided to the person other than as an inmate of a hospital in the State or Territory;

the court may, without passing sentence on the person, make an order (in this section called a ***hospital order***) that the person be detained in a hospital specified in the order for a period specified in the order for the purposes of receiving treatment specified in the order.

(2) A court must not make a hospital order unless, but for the mental illness of the person, the court would have sentenced the person to a term of imprisonment.

(3) A court must not specify a period of detention in a hospital that is longer than the period of imprisonment to which the person would have been sentenced had the hospital order not been made.

(4) Where the court orders a person to be detained in a hospital for a specified period, the court may fix a lesser period of detention during which the person is not to be eligible to be released from the hospital.

(5) Before reaching an opinion on the matters specified in subsection (1) in relation to a person, the court must obtain and consider the reports of 2 duly qualified psychiatrists with experience in the diagnosis and treatment of mental illness.

(6) A court may make a hospital order in respect of a person even if the person is serving a federal sentence at the time when, under the order, the person is to begin to be detained in hospital and, where a hospital order is made in such circumstances:

(a) the hospital order is sufficient authority for the person to be detained outside the prison during the period of involuntary hospitalisation under the order; and

(b) the person is to be treated, for the purposes of that sentence, as serving that sentence during the period of involuntary hospitalisation under the order; and

(c) if the person is still liable to serve a part of that sentence when the hospital order ends or is discharged, the person is to be returned for that purpose to the prison where he or she was serving that sentence before the making of the order.

(7) Subsection (4) does not enable a court, in the case of a person who is serving a federal sentence at the time when the hospital order begins, to fix a lesser period of detention ending:

(a) if a non‑parole period has been fixed in respect of the sentence— before the end of that non‑parole period; and

(b) otherwise—before the end of that sentence.

20BT Lesser periods of imprisonment fixed under hospital orders

(1) Where a lesser period of detention is fixed under subsection 20BS(4) in relation to a person detained in hospital under a hospital order, the Attorney‑General must, at the end of the lesser period, obtain and consider the reports of 2 duly qualified psychiatrists with experience in the diagnosis and treatment of mental illness so as to determine whether or not to release the person from the detention.

(2) Unless:

(a) either of the reports of the psychiatrists recommends that the person not be released because of a continuing need for hospital treatment; or

(b) the person continues, at the end of the lesser period of detention, to be required to serve a federal sentence of imprisonment that the person was serving at the time when the hospital order began;

the Attorney‑General must order the person to be released on such conditions (including conditions relating to release into the care of another person specified in the order) for the balance of the period of the hospital order as the Attorney‑General considers appropriate having regard to the reports and to such other matters as he or she considers relevant.

(3) Sections 20BM and 20BN apply in relation to a person released from involuntary hospitalisation by order under subsection (2) as if:

(a) the order under that subsection were a release order made under subsection 20BL(1); and

(b) the references in each of those sections to detention in a prison or a hospital were references only to detention in a hospital; and

(c) the reference in subsection 20BM(5) to the period of detention in safe custody under subsection 20BJ(1) were a reference to the period of detention in a hospital specified in the order under subsection 20BS(1).

20BU Discharge of hospital orders

(1) Where a person is subject to a hospital order, the person or the Director of Public Prosecutions may, at any time while the order is in force, apply to the court that imposed the order to discharge the order and to impose such other sentence as the court thinks appropriate, being a sentence that could have been imposed when the order was made.

(2) The court must not discharge a hospital order unless the court is satisfied:

(a) that the person has sufficiently recovered from mental illness no longer to require involuntary hospitalisation; or

(b) that the mental illness will not respond or respond further to hospital treatment.

(3) Where the court discharges a hospital order and imposes another sentence instead of the order:

(a) the new sentence must commence on the date of commencement of the order; and

(b) the length of the new sentence must not exceed the length of the order; and

(c) if the sentence is a sentence of imprisonment—the person concerned is to be treated as having served that part of the sentence during which he or she was subject to involuntary hospitalisation.

(4) Before reaching an opinion on the matters specified in subsection (2) in relation to a person, the court:

(a) must obtain and consider the reports of 2 duly qualified psychiatrists with experience in the diagnosis and treatment of mental illness; and

(b) if the person has been released, under section 20BR, into the care of another person for the balance of the hospital order—must obtain and consider the report of that other person; and

(c) may obtain and consider such other information as it thinks relevant.

(5) An application under subsection (1) to the court that made a hospital order may be dealt with by that court whether or not it is constituted in the way in which it was constituted when the order was made.

20BV Psychiatric probation orders

(1) Where a person is convicted in a State or Territory of a federal offence and the court is satisfied that:

(a) the person is suffering from a mental illness within the meaning of the civil law of that State or Territory; and

(b) the illness contributed to the commission of the offence by the person; and

(c) appropriate psychiatric treatment for the person is available in a hospital or other place in the State or Territory; and

(d) the person consents to the order being made;

the court may, without passing sentence on the person, make an order (in this section called a ***psychiatric probation order***) that the person reside at, or attend at, a specified hospital or other place for the purpose of receiving that psychiatric treatment.

(2) The court must not make an order unless the person, or the person’s legal guardian, consents to the proposed treatment.

(3) An order is subject to the following additional conditions.

(a) that the person will, during such period, not exceeding 2 years, as the court specifies in the order, be subject to the supervision of a probation officer appointed in accordance with the order and obey all reasonable directions of a probation officer so appointed;

(b) that the person will be of good behaviour for such period, not exceeding 5 years, as the court specifies in the order.

(4) The court may, on the application of the person, of the probation officer appointed to supervise the person or of the person in charge of the hospital or other place where the treatment is being undertaken, vary the treatment that the person is to undertake.

20BW Breach of psychiatric probation orders

(1) Where an order has been made under section 20BV and information is laid before a magistrate, whether before or after the end of the period referred to in paragraph 20BV(3)(a) or (b), alleging that the person has, without reasonable excuse, failed to comply with a condition of the order, the magistrate may:

(a) issue a summons directing the person to appear, on a date, and at a time and place, fixed in the summons, before the court by which the order was made; or

(b) if the information is laid on oath and the magistrate is of the opinion that proceedings against the person by summons might not be effective—issue a warrant for the arrest of the person.

(2) Where:

(a) a person who is served with a summons issued under subsection (1) fails to attend before the court as required by the summons; or

(b) a person who has been admitted to bail under subsection (4) fails to attend before the court as required by the conditions of that bail;

the court may issue a warrant for the arrest of the person.

(3) A warrant for the arrest of a person issued under subsection (1) or (2) also authorises the bringing of the person before the court as soon as practicable after the person’s arrest and the detention of the person in custody until the person is released by order of the court or under subsection (4).

(4) Where a person is arrested under a warrant issued under subsection (1) or (2) and the court before which the person is to be brought is not sitting at the time of the arrest, the person must be brought before a magistrate who may:

(a) remand the person to bail on such recognizance (with or without sureties) as the magistrate thinks fit and on the condition that the person appears before the court on such date, and at such time and place, as the magistrate specifies; or

(b) direct that the person be kept in custody in accordance with the warrant.

20BX Enforcement of psychiatric probation orders

(1) Where a person who is subject to an order under section 20BV appears before the court by which the order was made and the court is satisfied that the person has, without reasonable excuse, failed to comply with a condition of the order, the court may:

(a) without prejudice to the continuance of the order, impose a pecuniary penalty not exceeding $1,000 on the person; or

(b) discharge the order and make an order under section 20; or

(c) revoke the order and, subject to subsection (2), deal with the person for the offence in respect of which the order was made, in any way in which the person could have been dealt with for that offence if the order had not been made and the person was before the court for sentence in respect of the offence; or

(d) take no action.

(2) Where a person who is subject to an order under section 20BV is dealt with under subsection (1) for the offence in respect of which the order was made, the court must, in so dealing with the person, in addition to any other matters, take into account:

(a) the fact that the order was made; and

(b) anything done under the order; and

(c) any other order made in respect of the offence.

(3) Where a person who has been released in accordance with an order under section 20BV is dealt with under subsection (1) for the offence in respect of which the order was made, the person has such rights of appeal in respect of the way in which the person was dealt with for that offence as the person would have if:

(a) the court had, immediately before so dealing with the person, convicted the person of the offence; and

(b) the manner in which the person is dealt with had been a sentence passed upon that conviction.

(4) A pecuniary penalty imposed on a person under paragraph (1)(a) is to be treated, for the purposes of the laws of the Commonwealth, and of the States and Territories, with respect to the enforcement and recovery of fines ordered to be paid by offenders, as a fine imposed on the person because of the person’s conviction for an offence against a law of the Commonwealth.

20BY Program probation orders

(1) Where a person is convicted in a State or Territory of a federal offence and the court before which the person is convicted is satisfied that:

(a) the person is suffering from an intellectual disability; and

(b) the disability contributed to the commission of the offence by the person; and

(c) an appropriate education program or treatment is available for the person in that State or Territory;

the court may, without passing sentence on the person, order that the person be released, on condition that the person undertake the program or treatment specified in the order for a period specified in the order.

(2) Subsections 20BV(2), (3) and (4) and sections 20BW and 20BX apply to a person in respect of whom an order has been made under subsection (1) of this section in the same way as they apply to a person in respect of whom an order has been made under subsection 20BV(1) and, for that purpose, references in those provisions to treatment have effect as if they were references to an education program or treatment of the kind referred to in subsection (1) of this section.

Division 10—Miscellaneous

20C Offences by children and young persons

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

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

21B Reparation for offences

(1) Where:

(a) a person is convicted of an offence against a law of the Commonwealth; or

(b) an order is made under section 19B in relation to an offence against a law of the Commonwealth committed by a person;

the court may, in addition to the penalty, if any, imposed upon the person, order the offender:

(c) to make reparation to the Commonwealth or to a public authority under the Commonwealth, by way of money payment or otherwise, in respect of any loss suffered, or any expense incurred, by the Commonwealth or the authority, as the case may be, by reason of the offence; or

(d) to make reparation to any person, by way of money payment or otherwise, in respect of any loss suffered by the person as a direct result of the offence.

(2) A person is not to be imprisoned for a failure to pay an amount required to be paid under an order made under subsection (1).

(3) Where:

(a) the court orders a federal offender to make reparation to the Commonwealth, to a public authority of the Commonwealth or to any other person by way of payment of an amount of money; and

(b) the clerk, or other appropriate officer, of the court signs a certificate specifying:

(i) the amount of money to be paid by way of reparation; and

(ii) the identity of the person to whom the amount of money is to be paid; and

(iii) the identity of the person by whom the amount is to be paid; and

(c) the certificate is filed in a court (which may be the first‑ mentioned court) having civil jurisdiction to the extent of the amount to be paid;

the certificate is enforceable in all respects as a final judgment of the court in which it is filed in favour of the Commonwealth, of that public authority or of that person.

21D Prerogative of mercy and other Commonwealth laws unaffected

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

(2) This Part does not affect the operation of any other law of the Commonwealth, or of any law in force in a Territory, relating to the release of offenders.

21E Director of Public Prosecutions may appeal against reductions where promised co‑operation with law enforcement agencies refused

(1) Where a federal sentence, or a federal non‑parole period, is reduced by the court imposing the sentence or fixing the non‑parole period because the offender has undertaken to co‑operate with law enforcement agencies in proceedings, including confiscation proceedings, relating to any offence, the court must:

(a) if the sentence imposed is reduced—specify that the sentence is being reduced for that reason and state the sentence that would have been imposed but for that reduction; and

(b) if the non‑parole period is reduced—specify that the non‑parole period is being reduced for that reason and state what the period would have been but for that reduction.

(2) Where:

(a) a federal sentence is imposed or a federal non‑parole period is fixed; and

(b) the sentence or non‑parole period is reduced because the offender has undertaken to co‑operate with law enforcement agencies as described in subsection (1); and

(c) after sentence, the offender, without reasonable excuse, does not co‑operate in accordance with the undertaking;

the Director of Public Prosecutions may, at any time while the offender is under sentence, if the Director of Public Prosecutions is of the opinion that it is in the interests of the administration of justice to do so, appeal against the inadequacy of the sentence or of the non‑parole period.

(3) Where an appeal is begun under this section against the inadequacy of a sentence, or of a non‑parole period, that was reduced because of a person’s undertaking to co‑operate with law enforcement agencies, the court hearing the appeal:

(a) if it is satisfied that the person has failed entirely to co‑operate in accordance with the undertaking—must substitute for the reduced sentence or reduced non‑parole period the sentence, or non‑parole period, that would have been imposed on, or fixed in respect of, the person but for that reduction; and

(b) if it is satisfied that the person has failed in part to co‑operate in accordance with the undertaking—may substitute for the reduced sentence or reduced non‑parole period such a sentence, or such a non‑parole period, not exceeding in length the sentence that could be imposed, or the non‑parole period that could be fixed, under paragraph (a), as it thinks appropriate.

(4) In subsection (1):

***confiscation proceedings*** includes a reference to proceedings for forfeiture orders, pecuniary penalty orders and restraining orders under the *Proceeds of Crime Act 1987* and to restraining orders and pecuniary penalty orders under Part XIII of the *Customs Act 1901*.

21F Prescribed authorities and parole officers

(1) Subject to subsection (2), the Governor‑General may arrange with the Governor of a State, the Australian Capital Territory Executive, the Administrator of the Northern Territory or the Administrator of Norfolk Island:

(a) for the performance by persons who hold office as Magistrates in that State or Territory of the functions of a prescribed authority under this Part; and

(b) for the performance by officers of that State or Territory of the functions of a parole officer under this Part.

(2) Subsection (1) does not authorise an arrangement of the kind referred to in paragraph (1)(a) to be entered into between the Governor‑ General and the Australian Capital Territory Executive before 1 July 1990.

(3) The Attorney‑General may appoint officers of the Australian Public Service to be parole officers for the purposes of this Part.

(4) Notice of an arrangement under subsection (1) must be published in the *Gazette*.

(5) In this section:

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

Part II—Offences against the Government

24 Treason

(1) A person who:

(a) kills the Sovereign, does the Sovereign any bodily harm tending to the death or destruction of the Sovereign or maims, wounds, imprisons or restrains the Sovereign;

(b) kills the eldest son and heir apparent, or the Queen Consort, of the Sovereign;

(c) levies war, or does any act preparatory to levying war, against the Commonwealth;

(d) assists by any means whatever, with intent to assist, an enemy:

(i) at war with the Commonwealth, whether or not the existence of a state of war has been declared; and

(ii) specified by proclamation made for the purpose of this paragraph to be an enemy at war with the Commonwealth;

(e) instigates a foreigner to make an armed invasion of the Commonwealth or any Territory not forming part of the Commonwealth; or

(f) forms an intention to do any act referred to in a preceding paragraph and manifests that intention by an overt act;

shall be guilty of an indictable offence, called treason, and liable to the punishment of death.

(2) A person who:

(a) receives or assists another person who is, to his knowledge, guilty of treason in order to enable him to escape punishment; or

(b) knowing that a person intends to commit treason, does not give information thereof with all reasonable despatch to a constable or use other reasonable endeavours to prevent the commission of the offence;

shall be guilty of an indictable offence.

Penalty: Imprisonment for life.

(3) On the trial of a person charged with treason on the ground that he formed an intention to do an act referred to in paragraph 1(a), (b), (c), (d) or (e) and manifested that intention by an overt act, evidence of the overt act shall not be admitted unless the overt act was alleged in the indictment.

(4) A sentence of death passed by a court in pursuance of this section shall be carried into execution in accordance with the law of the State or Territory in which the offender is convicted or, if the law of that State or Territory does not provide for the execution of sentences of death, in accordance with the directions of the Governor‑General.

24AA Treachery

(1) A person shall not:

(a) do any act or thing with intent:

(i) to overthrow the Constitution of the Commonwealth by revolution or sabotage; or

(ii) to overthrow by force or violence the established government of the Commonwealth, of a State or of a proclaimed country; or

(b) within the Commonwealth or a Territory not forming part of the Commonwealth:

(i) levy war, or do any act preparatory to levying war, against a proclaimed country;

(ii) assist by any means whatever, with intent to assist, a proclaimed enemy of a proclaimed country; or

(iii) instigate a person to make an armed invasion of a proclaimed country.

(2) Where a part of the Defence Force is on, or is proceeding to, service outside the Commonwealth and the Territories not forming part of the Commonwealth, a person shall not assist by any means whatever, with intent to assist, any persons:

(a) against whom that part of the Defence Force, or a force that includes that part of the Defence Force, is or is likely to be opposed; and

(b) who are specified, or included in a class of persons specified, by proclamation to be persons in respect of whom, or a class of persons in respect of which, this subsection applies.

(3) A person who contravenes a provision of this section shall be guilty of an indictable offence, called treachery.

Penalty: Imprisonment for life.

(4) In this section:

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

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

(a) of and at war with a proclaimed country, whether or not the existence of a state of war has been declared; and

(b) specified by proclamation made for the purpose of this definition to be an enemy of and at war with that country.

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

24AB Sabotage

(1) In this section:

***act of sabotage*** means the destruction, damage or impairment, for a purpose intended to be prejudicial to the safety or defence of the Commonwealth, of any article:

(a) that is used, or intended to be used, by the Defence Force or a part of the Defence Force or is used, or intended to be used, in the Commonwealth or a Territory not forming part of the Commonwealth, by the armed forces of a country that is a proclaimed country for the purposes of section 24AA;

(b) that is used, or intended to be used, in or in connexion with the manufacture, investigation or testing of weapons or apparatus of war;

(c) that is used, or intended to be used, for any purpose that relates directly to the defence of the Commonwealth; or

(d) that is in or forms part of a place that is a prohibited place within the meaning of section 80;

***article*** includes any thing, substance or material.

(2) A person who:

(a) carries out an act of sabotage; or

(b) has in his possession any article that is capable of use, and which he intends for use, in carrying out an act of sabotage;

shall be guilty of an indictable offence.

Penalty: Imprisonment for 15 years.

(3) On a prosecution under this section it is not necessary to show that the accused person was guilty of a particular act tending to show a purpose intended to be prejudicial to the safety or defence of the Commonwealth and, notwithstanding that such an act is not proved against him, he may be convicted if, from the circumstances of the case, from his conduct or from his known character as proved, it appears that his purpose was a purpose intended to be prejudicial to the safety or defence of the Commonwealth.

(4) On a prosecution under this section, evidence is not admissible by virtue of subsection (3) if the magistrate exercising jurisdiction with respect to the examination and commitment for trial of the defendant, or the judge presiding at the trial, as the case may be, is of the opinion that that evidence:

(a) would not tend to show that the purpose of the defendant was a purpose intended to be prejudicial to the safety or defence of the Commonwealth; or

(b) would, having regard to all the circumstances of the case and notwithstanding subsection (5), prejudice the fair trial of the defendant.

(5) If evidence referred to in subsection (4) is admitted at the trial, the judge shall direct the jury that the evidence may be taken into account by the jury only on the question whether the purpose of the defendant was a purpose intended to be prejudicial to the safety or defence of the Commonwealth and must be disregarded by the jury in relation to any other question.

24AC Institution of prosecutions

(1) Proceedings for the commitment for trial of a person, or for the summary conviction of a person, in respect of an offence against section 24, 24AA or 24AB shall not be instituted except by the Attorney‑General or with the consent of the Attorney‑General or of a person thereto authorized in writing by the Attorney‑General.

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

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

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

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

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

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

24A Definition of seditious intention

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

(a) to bring the Sovereign into hatred or contempt;

(d) to excite disaffection against the Government or Constitution of the Commonwealth or against either House of the Parliament of the Commonwealth;

(f) to excite Her Majesty’s subjects to attempt to procure the alteration, otherwise than by lawful means, of any matter in the Commonwealth established by law of the Commonwealth; or

(g) to promote feelings of ill‑will and hostility between different classes of Her Majesty’s subjects so as to endanger the peace, order or good government of the Commonwealth;

is a seditious intention.

24B Definition of seditious enterprise

(1) A seditious enterprise is an enterprise undertaken in order to carry out a seditious intention.

(2) Seditious words are words expressive of a seditious intention.

24C Offences

Any person who:

(a) engages in or agrees or undertakes to engage in, a seditious enterprise;

(b) conspires with any person to carry out a seditious enterprise;

(c) counsels, advises or attempts to procure the carrying out of a seditious enterprise;

with the intention of causing violence or creating public disorder or a public disturbance, shall be guilty of an indictable offence.

Penalty: Imprisonment for 3 years.

24D Seditious words

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

Penalty: Imprisonment for 3 years.

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

24E Punishment of offences

(1) An offence under section 24C or 24D shall be punishable either on indictment or summarily, but shall not be prosecuted summarily without the consent of the Attorney‑General.

(2) If any person who is prosecuted summarily in respect of an offence against section 24C or 24D, elects, immediately after pleading, to be tried upon indictment, the court or magistrate shall not proceed to summarily convict that person but may commit him for trial.

(3) The penalty for an offence against section 24C or 24D shall, where the offence is prosecuted summarily, be imprisonment for a period not exceeding 12 months.

24F Certain acts done in good faith not unlawful

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

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

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

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

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

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

(2) For the purpose of subsection (1), an act or thing done:

(a) for a purpose intended to be prejudicial to the safety or defence of the Commonwealth;

(b) with intent to assist an enemy:

(i) at war with the Commonwealth; and

(ii) specified by proclamation made for the purpose of paragraph 24(1)(d) to be an enemy at war with the Commonwealth;

(c) with intent to assist a proclaimed enemy, as defined by subsection 24AA(4), of a proclaimed country as so defined;

(d) with intent to assist persons specified in paragraphs 24AA(2)(a) and (b); or

(e) with the intention of causing violence or creating public disorder or a public disturbance;

is not an act or thing done in good faith.

25 Inciting to mutiny

(1) Any person who knowingly attempts:

(a) to seduce any person serving in the Queen’s Forces from his duty and allegiance; or

(b) to incite any person serving in the Queen’s Forces to commit an act of mutiny, or any traitorous or mutinous act; or

(c) to incite any person serving in the Queen’s Forces to make or endeavour to make a mutinous assembly;

shall be guilty of an indictable offence.

Penalty: Imprisonment for life.

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

26 Assisting prisoners of war to escape

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

Penalty: Imprisonment for life.

27 Unlawful drilling

(1) Any person who:

(a) in contravention of the directions of a proclamation by the Governor‑General in that behalf, trains or drills any other person to the use of arms or the practice of military exercises, movements, or evolutions; or

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

shall be guilty of an indictable offence.

Penalty: Imprisonment for 5 years.

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

Penalty: Imprisonment for 2 years.

28 Interfering with political liberty

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

Penalty: Imprisonment for 3 years.

29 Destroying or damaging Commonwealth property

Any person who wilfully and unlawfully destroys or damages any property, whether real or personal, belonging to the Commonwealth or to any public authority under the Commonwealth, shall be guilty of an offence.

Penalty: Imprisonment for 10 years.

29A False pretences

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

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

Penalty: Imprisonment for 5 years.

29B False representation

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

Penalty: Imprisonment for 2 years.

29C Statements in applications for grant of money etc.

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

Penalty: Imprisonment for 2 years.

29D Fraud

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

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

30 Seizing goods in Commonwealth custody

Any person who, without lawful authority, takes any goods or property out of the possession, custody, or control of the Commonwealth or a public authority under the Commonwealth or out of the possession, custody, or control of a Commonwealth officer who has the possession, custody, or control thereof by virtue of his office, shall be guilty of an offence.

Penalty: Imprisonment for 1 year.

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

30A Unlawful associations

(1) The following are hereby declared to be unlawful associations, namely:

(a) any body of persons, incorporated or unincorporated, which by its constitution or propaganda or otherwise advocates or encourages:

(i) the overthrow of the Constitution of the Commonwealth by revolution or sabotage;

(ii) the overthrow by force or violence of the established government of the Commonwealth or of a State or of any other civilized country or of organized government; or

(iii) the destruction or injury of property of the Commonwealth or of property used in trade or commerce with other countries or among the States,

or which is, or purports to be, affiliated with any organization which advocates or encourages any of the doctrines or practices specified in this paragraph;

(b) any body of persons, incorporated or unincorporated, which by its constitution or propaganda or otherwise advocates or encourages the doing of any act having or purporting to have as an object the carrying out of a seditious intention as defined in section 24A.

(1A) Without limiting the effect of the provisions of subsection (1), any body of persons, incorporated or unincorporated, which is, in pursuance of section 30AA, declared by the Federal Court of Australia to be an unlawful association, shall be deemed to be an unlawful association for the purposes of this Act.

(2) Any branch or committee of an unlawful association, and any institution or school conducted by or under the authority or apparent authority of an unlawful association, shall, for all the purposes of this Act, be deemed to be an unlawful association.

30AA Application for declaration as to unlawful association

(1) The Attorney‑General may apply to the Federal Court of Australia for an order calling upon any body of persons, incorporated or unincorporated, to show cause why it should not be declared to be an unlawful association.

(2) An application under subsection (1):

(a) shall be made on the ground that the body of persons to which it relates is one which is described in subsection 30A(1); and

(b) shall be by summons which may contain averments setting out the facts relied upon in support of the application.

(3) The provisions of section 30R shall apply in relation to averments contained in the summons as if they were averments of the prosecutor in a prosecution for an offence under this Part.

(4) Service of a summons under this section upon the body of persons specified in the summons may be effected by publication of the summons in the *Gazette* and in a daily newspaper circulating in the city or town in which the head office in Australia of that body is stated in the summons to be situate, but the Court may order such further or other service as it thinks fit.

(5) Any officer or member of the body of persons specified in any summons issued under this section may appear on behalf of that body to show cause.

(7) If cause to the contrary is not shown to the satisfaction of the Court, it may make an order declaring the respondent body of persons to be an unlawful association.

(8) Any person who is an interested person in relation to any declaration made under this section may, within 14 days after the making of any such declaration, apply to the Federal Court of Australia for the setting aside of the order.

(9) Any application made under subsection (8) shall be heard by a Full Court of the Federal Court of Australia, and upon the hearing of the application the Court may affirm or annul the order.

30AB Attorney‑General may require information

(1) If the Attorney‑General believes that any person has in his possession any information or documents relating to an unlawful association, he may require the person, or, in the case of a corporation, any person holding a specified office in the corporation:

(a) to answer questions;

(b) to furnish information; and

(c) allow the inspection of documents belonging to, or in the possession of, that person or that corporation, as the case may be;

relating to:

(d) any money, property or funds belonging to or held by or on behalf of an unlawful association, or as to which there is reasonable cause to believe that they belong to or are held by or on behalf of an unlawful association;

(e) any payments made directly or indirectly by, to, or on behalf of, an unlawful association, or as to which there is reasonable cause to believe that they are so made; or

(f) any transactions to which an unlawful association is or is reasonably believed to be a party.

(2) Any person failing or neglecting to answer questions, furnish information or produce documents as required in pursuance of this section, shall be guilty of an offence.

Penalty: Imprisonment for 6 months.

30B Officers of unlawful associations

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

Penalty: Imprisonment for 1 year.

30C Advocating or inciting to crime

Any person who by speech or writing advocates or encourages:

(a) the overthrow of the Constitution of the Commonwealth by revolution or sabotage;

(b) the overthrow by force or violence of the established government of the Commonwealth or of a State or of any other civilized country or of organized government; or

(c) the destruction or injury of property of the Commonwealth or of property used in trade or commerce with other countries or among the States;

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

30D Giving or soliciting contributions for unlawful associations

(1) Any person who:

(a) gives or contributes money or goods to an unlawful association; or

(b) receives or solicits subscriptions or contributions of money or goods for an unlawful association;

shall be guilty of an offence.

Penalty: Imprisonment for 6 months.

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

30E Deregistration of newspaper

(1) No book, periodical, pamphlet, handbill, poster or newspaper issued by or on behalf or in the interests of any unlawful association shall:

(a) if posted in Australia, be transmitted through the post; or

(b) in the case of a newspaper, be registered as a newspaper under the provisions of the *Postal Services Act 1975*.

(2) Any newspaper registered under that Act, which is issued by or on behalf or in the interests of any unlawful association, shall be removed from the register.

(3) Any book, periodical, pamphlet, handbill, poster or newspaper posted in Australia, the transmission of which would be a contravention of this Act, shall be forfeited to the Commonwealth and shall be destroyed or disposed of as provided in the regulations in force under the *Postal Services Act 1975*.

30F Sale or distribution of books etc.

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

Penalty: Imprisonment for 6 months.

30FA Imprints on publications

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

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

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

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

Penalty: Imprisonment for 6 months.

30FD Disqualification from voting of member of unlawful association

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

30G Forfeiture of property held by an unlawful association

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

30H Proof of membership of an association

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

(a) been a member of an association;

(b) attended a meeting, of an association;

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

(d) distributed literature of an association;

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

30J Industrial disturbances, lock‑outs and strikes

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

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

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

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

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

(3) For the purposes of this section:

***employee*** includes any person whose usual occupation is as an employee;

***employer*** includes any person whose usual occupation is as an employer;

***lock‑out*** includes the closing of a place or part of a place of employment, if the closing is unreasonable, and the total or partial refusal of employers, acting in combination, to give work, if the refusal is unreasonable, or the total or partial suspension of work by an employer, if the suspension is unreasonable, with a view to compel his employees, or to aid another employer in compelling his employees, to accept any term or condition of employment;

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

30K Obstructing or hindering the performance of services

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

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

(b) compels or induces any person employed in or in connexion with the provision of any public service by the Commonwealth or by any Department or public authority under the Commonwealth to surrender or depart from his employment;

(c) prevents any person from offering or accepting employment in or in connexion with the provision of any public service by the Commonwealth or by any Department or public authority under the Commonwealth;

(d) obstructs or hinders the transport of goods or the conveyance of passengers in trade or commerce with other countries or among the States;

(e) compels or induces any person employed in or in connexion with the transport of goods or the conveyance of passengers in trade or commerce with other countries or among the States to surrender or depart from his employment; or

(f) prevents any person from offering or accepting employment in or in connexion with the transport of goods or the conveyance of passengers in trade or commerce with other countries or among the States;

shall be guilty of an offence.

Penalty: Imprisonment for 1 year.

30R Effect of averments of prosecutor

(1) In any prosecution for an offence under this Part, or for an offence to which any provision of this Part is material, the averments of the prosecutor contained in the information or indictment shall be *prima facie* evidence of the matter or matters averred.

(2) Subsection (1) shall apply to any matter so averred although:

(a) evidence in support or rebuttal of the matter averred or of any other matter is given by witnesses; or

(b) the matter averred is a mixed question of law and fact, but in that case the averment shall be *prima facie* evidence of the fact only.

(3) Any evidence given by witnesses in support or rebuttal of a matter so averred shall be considered on its merits and the credibility and probative value of such evidence shall be neither increased nor diminished by reason of this section.

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

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

Part III—Offences relating to the Administration of Justice

31 Definitions

In this Part, unless the contrary intention appears:

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

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

32 Judicial corruption

Any person who:

(a) being the holder of a judicial office, corruptly asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself, or any other person, on account of anything already done or omitted to be done or to be afterwards done or omitted to be done by him in his judicial capacity; or

(b) corruptly gives, confers, or procures, or promises or offers to give, confer, procure, or attempt to procure, to, upon, or for, any person holding a judicial office, any property or benefit of any kind on account of any such act or omission on the part of the person holding the judicial office;

shall be guilty of an indictable offence.

Penalty: Imprisonment for 10 years.

33 Official corruption in relation to offences

Any person who:

(a) being a judge or magistrate not acting judicially, or being a Commonwealth officer employed in a capacity not judicial for the prosecution or detention or punishment of offenders, corruptly asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person, on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by him, with a view to corrupt or improper interference with the due administration of justice under the law of the Commonwealth or of a Territory, or the procurement or facilitation of the commission of any offence against the law of the Commonwealth or of a Territory, or the protection of an offender or intending offender against the law of the Commonwealth or of a Territory from detection or punishment; or

(b) corruptly gives, confers, or procures, or promises or offers to give, confer, procure, or attempt to procure to, upon, or for, any such judge, magistrate, or Commonwealth officer, any property or benefit of any kind, on account of any such act or omission on the part of the judge, magistrate, or officer;

shall be guilty of an indictable offence.

Penalty: Imprisonment for 10 years.

34 Judge or magistrate acting oppressively or when interested

Any person who:

(a) being a judge or magistrate and being required or authorized by law to admit any person accused of an offence against the law of the Commonwealth to bail, without reasonable excuse, and in abuse of his office, requires excessive and unreasonable bail; or

(b) being a judge or magistrate, wilfully and perversely exercises federal jurisdiction in any matter in which he has a personal interest;

shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

35 Giving false testimony

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

Penalty: Imprisonment for 5 years.

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

36 Fabricating evidence

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

(a) fabricates evidence, or

(b) knowingly makes use of fabricated evidence;

shall be guilty of an offence.

Penalty: Imprisonment for 5 years.

36A Intimidation of witnesses etc.

A person who:

(a) threatens, intimidates or restrains;

(b) uses violence to or inflicts an injury on;

(c) causes or procures violence, damage, loss or disadvantage to; or

(d) causes or procures the punishment of;

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

Penalty: Imprisonment for 5 years.

37 Corruption of witnesses

Any person who:

(a) gives, confers, or procures, or promises or offers to give, confer, procure, or attempt to procure, any property or benefit of any kind to, upon, or for, any person, upon any agreement or understanding that any person called or to be called as a witness in any judicial proceeding shall give false testimony or withhold true testimony, or

(b) attempts by any means to induce a person called or to be called as a witness in any judicial proceeding to give false testimony, or to withhold true testimony, or

(c) asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself, or any other person, upon any agreement or understanding that any person shall as a witness in any judicial proceeding give false testimony or withhold true testimony;

shall be guilty of an indictable offence.

Penalty: Imprisonment for 5 years.

38 Deceiving witnesses

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

Penalty: Imprisonment for 2 years.

39 Destroying evidence

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

Penalty: Imprisonment for 5 years.

40 Preventing witnesses from attending Court

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

Penalty: Imprisonment for 1 year.

41 Conspiracy to bring false accusation

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

Penalty: Imprisonment for 10 years.

42 Conspiracy to defeat justice

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

Penalty: Imprisonment for 5 years.

43 Attempting to pervert justice

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

Penalty: Imprisonment for 5 years.

44 Compounding offences

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

Penalty: Imprisonment for 3 years.

45 Inserting advertisements without authority of Court

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

Penalty: Imprisonment for 2 years.

46 Aiding prisoner to escape

Any person who:

(a) aids a person in escaping, or attempting to escape, from lawful custody in respect of any offence against the law of the Commonwealth or of a Territory;

(aa) aids a person who has been lawfully arrested in respect of any offence against a law of the Commonwealth or of a Territory to escape, or to attempt to escape, from that arrest;

(ab) aids a person who is lawfully detained during the Governor‑General’s pleasure in respect of any offence against the law of the Commonwealth or of a Territory to escape, or to attempt to escape, from that detention; or

(b) conveys anything into a prison, lock‑up or other place of lawful detention with intent to facilitate the escape therefrom of a prisoner who is in custody in respect of an offence against the law of the Commonwealth or of a Territory;

shall be guilty of an indictable offence.

Penalty: Imprisonment for 5 years.

47 Escaping

A person who has been lawfully arrested, is in lawful custody, or is lawfully detained during the Governor‑General’s pleasure, in respect of any offence against a law of the Commonwealth or of a Territory and who escapes from that arrest, custody or detention is guilty of an offence.

Penalty: Imprisonment for 5 years.

47A Rescuing a prisoner from custody etc.

A person who:

(a) rescues by force a person (other than a person referred to in paragraph (c) or (d)) from lawful custody in respect of any offence against a law of the Commonwealth or of a Territory with which the person has been charged;

(b) rescues by force a person who has been lawfully arrested in respect of any offence against a law of the Commonwealth or of a Territory with which the person has not been charged;

(c) rescues by force a prisoner who is in lawful custody in any prison, lock‑up or other place of lawful detention in respect of any offence against a law of the Commonwealth or of a Territory from that prison, lock‑up or place; or

(d) rescues by force a person who is lawfully detained during the Governor‑General’s pleasure in respect of any offence against a law of the Commonwealth or of a Territory from that detention;

is guilty of an offence.

Penalty: Imprisonment for 14 years.

47B Person unlawfully at large

A person who:

(a) in accordance with a permission given under a law of a State or Territory, leaves a prison, lock‑up or other place of lawful detention where the person is in custody, or is detained during the Governor‑General’s pleasure, in respect of any offence against a law of the Commonwealth or of a Territory; and

(b) refuses or fails, without reasonable excuse, to return to that prison, lock‑up or other place in accordance with that permission;

is guilty of an offence.

Penalty: Imprisonment for 5 years.

47C Permitting escape

(1) A person who:

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

(b) is charged for the time being with the custody or detention of another person (including a person detained during the Governor‑General’s pleasure) in respect of any offence against a law of the Commonwealth or of a Territory; and

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

is guilty of an offence.

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

Penalty: Imprisonment for 5 years.

48 Harbouring etc. an escapee

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

Penalty: Imprisonment for 5 years.

48A Sentence ceases to run while escaped prisoner at large

A person who commits an offence against section 47 shall, upon being returned to lawful custody, undergo, in addition to any punishment imposed for that offence, the punishment that the person would have undergone if the person had not escaped.

48B Arrest of prisoner unlawfully at large

(1) A constable may, without warrant, apprehend a person whom the constable, with reasonable cause, suspects is a prisoner unlawfully at large.

(2) The constable shall forthwith take the person before a Magistrate.

(3) If the Magistrate is satisfied that the person is a prisoner unlawfully at large, the Magistrate may issue a warrant:

(a) authorising any constable to convey the person to a prison specified in the warrant; and

(b) directing that the person, having been conveyed to that prison in accordance with the warrant, be detained in prison to undergo the term of imprisonment or other detention that the person is required by law to undergo.

(4) In this section, ***prisoner unlawfully at large*** means a person who is at large (otherwise than by reason of having escaped from lawful custody) at a time when the person is required by law to be in custody for an offence against the law of the Commonwealth.

49 Removing property under seizure

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

Penalty: Imprisonment for 2 years.

50 Obstructing officers of Courts

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

Penalty: Imprisonment for 1 year.

Part V—Forgery

63 What amounts to forgery

(1) A person shall be deemed to forge a seal, signature, document, register, or record, as the case may be:

(a) if he makes a counterfeit of the seal, or of the impression of the seal;

(b) if he makes a counterfeit of the signature;

(c) if he makes a document, register, or record, which is false, knowing it to be false; or

(d) if he, without authority, by any means whatever, alters a genuine document, register, or record, in any material particular;

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

(2) A person shall be deemed to make a counterfeit of a seal, or of an impression of a seal, or of a signature, if he, without authority:

(a) in the case of a seal, makes a seal in the form of the genuine seal, or in a form resembling or apparently intended to resemble or pass for the genuine seal;

(b) in the case of an impression of a seal, makes an impression of the genuine seal, or an impression, resembling or apparently intended to resemble or pass for the impression of the genuine seal; or

(c) in the case of a signature, makes a signature in the form of the genuine signature, or in a form resembling or apparently intended to resemble or pass for the genuine signature.

(3) Where a person does an act referred to in a paragraph of subsection (1) with intent that a computer, a machine or other device should respond to the counterfeit seal or impression of a seal or signature, or to the false or altered document, register or record, as if it were genuine:

(a) to the prejudice of the Commonwealth or of any State or person; or

(b) with the result that the Commonwealth or any State or person would be induced to do or refrain from doing any act, whether in Australia or elsewhere;

the person shall be taken to have forged the seal, signature, document, register or record, as the case may be.

64 What amounts to uttering

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

65 Forgery of seals

(1) Any person who forges, or utters knowing it to be forged:

(a) the Great Seal of Australia or the public seal of a Territory;

(b) the seal of the High Court or any other federal court, or any seal used by the High Court or any other federal court;

(c) the official seal of a Minister of State;

(d) any official seal used by any Department of the Commonwealth, or any public authority under the Commonwealth; or

(e) an official seal of which, under a law of the Commonwealth or a Territory, judicial notice is to be taken;

shall be guilty of an indictable offence.

Penalty: Imprisonment for 10 years.

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

Penalty: Imprisonment for 2 years.

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

66 Forgery of official signatures

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

(a) the Governor‑General;

(b) any Justice of the High Court, or any Justice or Judge of any other federal court;

(c) a Minister of State;

(d) the President of the Senate, or the Speaker of the House of Representatives, or the chairman of any committee of either House; or

(e) a person of whose signature, under a law of the Commonwealth or a Territory, judicial notice is to be taken;

shall be guilty of an indictable offence.

Penalty: Imprisonment for 10 years.

67 Forgery of Commonwealth documents etc.

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

(a) any document issuable by, or deliverable to, the Senate or the House of Representatives, or any officer thereof;

(b) any document issuable by, or deliverable to, any Department of the Commonwealth or any public authority under the Commonwealth, or any Commonwealth officer;

(c) any document issuable by, or deliverable to, the High Court, or any other federal court, or any Justice, judge or officer thereof;

(d) any register or record kept by the Senate or the House of Representatives, or any officer thereof;

(e) any register, book, document or other record kept by any Department of the Commonwealth or any public authority under the Commonwealth or any Commonwealth officer; or

(f) any register or record kept by the High Court or any other federal court, or any officer thereof;

shall be guilty of an indictable offence.

Penalty: Imprisonment for 10 years.

68 Forging official marks

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

Penalty: Imprisonment for 2 years.

69 Making special paper etc. for

(1) Any person who, without lawful authority or excuse (proof whereof shall lie upon him):

(a) knowingly makes, uses, has in possession, or disposes of, paper resembling, or apparently intended to resemble or pass for, paper which is specially provided by proper authority for the purposes of any Commonwealth document; or

(b) knowingly makes, uses, or has in possession or disposes of, any instrument or thing for making any mark resembling, or apparently intended to resemble or pass for, any distinctive mark used in or on any paper specially provided by proper authority for the purpose of any Commonwealth document,

shall be guilty of an indictable offence.

Penalty: Imprisonment for 4 years.

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

Part VI—Offences by and against Public Officers

70 Disclosure of information by Commonwealth officers

(1) A person who, being a Commonwealth officer, publishes or communicates, except to some person to whom he is authorized to publish or communicate it, any fact or document which comes to his knowledge, or into his possession, by virtue of being a Commonwealth officer, and which it is his duty not to disclose, shall be guilty of an offence.

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

Penalty: Imprisonment for 2 years.

71 Stealing property of the Commonwealth

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

Penalty: Imprisonment for 7 years.

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

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

Penalty: Imprisonment for 7 years.

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

71A Proof of general deficiency sufficient

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

72 Falsification of books or records by officers

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

(a) makes any false entry in any book, record or document;

(b) omits to make any entry in any book, record or document;

(c) by act or omission falsifies any book, record or document;

(d) destroys or damages any book, record or document;

(e) furnishes any false return of any property; or

(f) omits to furnish any return of any property;

shall be guilty of an indictable offence.

Penalty: Imprisonment for 7 years.

73 Corruption and bribery of Commonwealth officers

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

(3) A person who, in order to influence or affect a Commonwealth officer in the exercise of his duty or authority as a Commonwealth officer, gives or confers, or promises or offers to give or confer, any property or benefit of any kind to or on the Commonwealth officer or any other person is guilty of an offence.

Penalty: Imprisonment for 2 years.

73A Corruption and bribery of members of the Parliament

(1) A member of either House of the Parliament who asks for or receives or obtains, or offers or agrees to ask for or receive or obtain, any property or benefit of any kind for himself or any other person, on an understanding that the exercise by him of his duty or authority as such a member will, in any manner, be influenced or affected, is guilty of an offence.

(2) A person who, in order to influence or affect a member of either House of the Parliament in the exercise of his duty or authority as such a member or to induce him to absent himself from the House of which he is a member, any committee of that House or from any committee of both Houses of the Parliament, gives or confers, or promises or offers to give or confer, any property or benefit of any kind to or on the member or any other person is guilty of an offence.

Penalty: Imprisonment for 2 years.

74 False returns or certificates by officers

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

(a) any remuneration payable or claimed to be payable to himself or to any other person; or

(b) any other matter required by law to be certified for the purpose of any payment of money or delivery of goods to be made to any person;

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

Penalty: Imprisonment for 2 years.

75 Personating public officers

Any person who:

(a) personates any Commonwealth officer on an occasion when the latter is required to do any act or attend in any place by virtue of being a Commonwealth officer; or

(b) falsely represents himself to be a Commonwealth officer, and assumes to do any act or attend in any place for the purpose of doing any act by virtue of pretending to be a Commonwealth officer;

shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

76 Obstructing etc. public officers

(1) A person must not intentionally and knowingly obstruct, resist, hinder, use violence against, threaten or intimidate:

(a) a Commonwealth officer who is carrying out, or attempting to carry out, a function or duty of such an officer; or

(b) a person who is exercising a power, or carrying out a function or duty:

(i) under a law of the Commonwealth; or

(ii) on behalf of the Commonwealth or a public authority under the Commonwealth;

or who is attempting to exercise such a power or carry out such a function or duty.

Penalty: Imprisonment for 2 years.

(2) This section does not limit the power of a court to punish a contempt of the court.

Part VIA—Offences relating to computers

76A Interpretation

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

***carrier*** means:

(a) a general carrier within the meaning of the *Telecommunications Act 1991*; or

(b) a mobile carrier within the meaning of that Act; or

(c) a person who supplies eligible services within the meaning of that Act under a class licence issued under section 209 of that Act;

***Commonwealth*** includes a public authority under the Commonwealth;

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

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

(2) In this Part:

(a) a reference to data stored in a computer includes a reference to data entered or copied into the computer; and

(b) a reference to data stored on behalf of the Commonwealth in a computer includes a reference to:

(i) data stored in the computer at the direction or request of the Commonwealth; and

(ii) data supplied by the Commonwealth that is stored in the computer under, or in the course of performing, a contract with the Commonwealth.

76B Unlawful access to data in Commonwealth and other computers

(1) A person who intentionally and without authority obtains access to:

(a) data stored in a Commonwealth computer; or

(b) data stored on behalf of the Commonwealth in a computer that is not a Commonwealth computer;

is guilty of an offence.

Penalty: Imprisonment for 6 months.

(2) A person who:

(a) with intent to defraud any person and without authority obtains access to data stored in a Commonwealth computer, or to data stored on behalf of the Commonwealth in a computer that is not a Commonwealth computer; or

(b) intentionally and without authority obtains access to data stored in a Commonwealth computer, or to data stored on behalf of the Commonwealth in a computer that is not a Commonwealth computer, being data that the person knows or ought reasonably to know relates to:

(i) the security, defence or international relations of Australia;

(ii) the existence or identity of a confidential source of information relating to the enforcement of a criminal law of the Commonwealth or of a State or Territory;

(iii) the enforcement of a law of the Commonwealth or of a State or Territory;

(iv) the protection of public safety;

(v) the personal affairs of any person;

(vi) trade secrets;

(vii) records of a financial institution; or

(viii) commercial information the disclosure of which could cause advantage or disadvantage to any person;

is guilty of an offence.

Penalty: Imprisonment for 2 years.

(3) A person who:

(a) has intentionally and without authority obtained access to data stored in a Commonwealth computer, or to data stored on behalf of the Commonwealth in a computer that is not a Commonwealth computer;

(b) after examining part of that data, knows or ought reasonably to know that the part of the data which the person examined relates wholly or partly to any of the matters referred to in paragraph (2)(b); and

(c) continues to examine that data;

is guilty of an offence.

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

76C Damaging data in Commonwealth and other computers

A person who intentionally and without authority or lawful excuse:

(a) destroys, erases or alters data stored in, or inserts data into, a Commonwealth computer;

(b) interferes with, or interrupts or obstructs the lawful use of, a Commonwealth computer;

(c) destroys, erases, alters or adds to data stored on behalf of the Commonwealth in a computer that is not a Commonwealth computer; or

(d) impedes or prevents access to, or impairs the usefulness or effectiveness of, data stored in a Commonwealth computer or data stored on behalf of the Commonwealth in a computer that is not a Commonwealth computer;

is guilty of an offence.

Penalty: Imprisonment for 10 years.

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

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

Penalty: Imprisonment for 6 months.

(2) A person who:

(a) by means of a facility operated or provided by the Commonwealth or by a carrier, with intent to defraud any person and without authority obtains access to data stored in a computer; or

(b) by means of such a facility, intentionally and without authority obtains access to data stored in a computer, being data that the person knows or ought reasonably to know relates to:

(i) the security, defence or international relations of Australia;

(ii) the existence or identity of a confidential source of information relating to the enforcement of a criminal law of the Commonwealth or of a State or Territory;

(iii) the enforcement of a law of the Commonwealth or of a State or Territory;

(iv) the protection of public safety;

(v) the personal affairs of any person;

(vi) trade secrets;

(vii) records of a financial institution; or

(viii) commercial information the disclosure of which could cause advantage or disadvantage to any person;

is guilty of an offence.

Penalty: Imprisonment for 2 years.

(3) A person who:

(a) by means of a facility operated or provided by the Commonwealth or by a carrier, has intentionally and without authority obtained access to data stored in a computer;

(b) after examining part of that data, knows or ought reasonably to know that the part of the data which the person examined relates wholly or partly to any of the matters referred to in paragraph (2)(b); and

(c) continues to examine that data;

is guilty of an offence.

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

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

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

(a) destroys, erases or alters data stored in, or inserts data into, a computer;

(b) interferes with, or interrupts or obstructs the lawful use of, a computer; or

(c) impedes or prevents access to, or impairs the usefulness or effectiveness of, data stored in a computer;

is guilty of an offence.

Penalty: Imprisonment for 10 years.

76F Saving of State and Territory laws

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

Part VII—Espionage and Official Secrets

77 Interpretation

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

***article*** includes any thing, substance or material;

***cipher*** includes:

(a) a code or cryptogram;

(b) a system, method, device or machine whereby a cipher, code or cryptogram may be created; and

(c) a code word, password or identification signal;

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

(a) an opinion; and

(b) a report of a conversation;

***model*** includes design, pattern and specimen;

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

***sketch*** includes a representation of a place or thing;

***the Commonwealth*** includes the Territories.

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

(a) expressions referring to obtaining, collecting, recording, using, having in possession, communicating, receiving or retaining include obtaining, collecting, recording, using, having in possession, communicating, receiving or retaining in whole or in part, and whether the thing or information itself, or only the substance, effect or description of the thing or information, is obtained, collected, recorded, used, possessed, communicated, received or retained;

(b) expressions referring to obtaining or retaining any sketch, plan, photograph, model, cipher, note, document, article or information include copying or causing to be copied the whole or a part of the sketch, plan, photograph, model, cipher, note, document, article or information; and

(c) expressions referring to the communication of any sketch, plan, photograph, model, cipher, note, document, article or information include the transfer or transmission, or the publishing, of the sketch, plan, photograph, model, cipher, note, document, article or information.

(3) A reference in this Part to a sketch, plan, photograph, model, cipher, note, document or article or to information shall be read as including a reference to a copy of, a part of or a copy of a part of a sketch, plan, photograph, model, cipher, note, document or article or information.

(4) For the purposes of this Part, a place that is occupied by, or a thing that is under the control of, the Commonwealth shall be deemed to belong to the Commonwealth.

(5) This Part applies to and in relation to a sketch, plan, photograph, model, cipher, note, document or article by whomsoever it is made and whatsoever information it contains.

78 Espionage and similar activities

(1) If a person for a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen’s dominions:

(a) makes a sketch, plan, photograph, model, cipher, note, document or article that is likely to be, might be or is intended to be directly or indirectly useful to an enemy or a foreign power;

(b) obtains, collects, records, uses, has in his possession or communicates to another person a sketch, plan, photograph, model, cipher, note, document, article or information that is likely to be, might be or is intended to be directly or indirectly useful to an enemy or a foreign power; or

(c) approaches, is in the neighbourhood of, is in, enters, inspects or passes over a prohibited place;

he shall be guilty of an indictable offence.

Penalty: Imprisonment for 7 years.

(2) On a prosecution under this section:

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

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

(3) On a prosecution under this section, evidence is not admissible by virtue of paragraph 2(a) if the magistrate exercising jurisdiction with respect to the examination and commitment for trial of the defendant, or the judge presiding at the trial, as the case may be, is of the opinion that that evidence, if admitted:

(a) would not tend to show that the purpose of the defendant was a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen’s dominions; or

(b) would, having regard to all the circumstances of the case and notwithstanding subsection (4), prejudice the fair trial of the defendant.

(4) If evidence referred to in subsection (3) is admitted at the trial, the judge shall direct the jury that the evidence may be taken into account by the jury only on the question whether the purpose of the defendant was a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen’s dominions and must be disregarded by the jury in relation to any other question.

79 Official secrets

(1) For the purposes of this section, a sketch, plan, photograph, model, cipher, note, document or article is a prescribed sketch, plan, photograph, model, cipher, note, document or article in relation to a person, and information is prescribed information in relation to a person, if the person has it in his possession or control and:

(a) it has been made or obtained in contravention of this Part;

(b) it has been entrusted to the person by a Commonwealth officer or a person holding office under the Queen or he has made or obtained it owing to his position as a person:

(i) who is or has been a Commonwealth officer;

(ii) who holds or has held office under the Queen;

(iii) who holds or has held a contract made on behalf of the Queen or the Commonwealth;

(iv) who is or has been employed by or under a person to whom a preceding subparagraph applies; or

(v) acting with the permission of a Minister;

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

(c) it relates to a prohibited place or anything in a prohibited place and:

(i) he knows; or

(ii) by reason of its nature or the circumstances under which it came into his possession or control or for any other reason, he ought to know;

that it should not be communicated to a person not authorized to receive it.

(2) If a person for a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen’s dominions:

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

(i) a person to whom he is authorised to communicate it; or

(ii) a person to whom it is, in the interest of the Commonwealth or a part of the Queen’s dominions, his duty to communicate it,

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

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

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

he shall be guilty of an indictable offence.

Penalty: Imprisonment for 7 years.

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

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

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

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

Penalty: Imprisonment for 2 years.

(4) If a person:

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

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

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

he shall be guilty of an offence.

Penalty: Imprisonment for 6 months.

(5) If a person receives any sketch, plan, photograph, model, cipher, note, document, article or information, knowing or having reasonable ground to believe, at the time when he receives it, that it is communicated to him in contravention of section 78 or subsection (2) of this section, he shall be guilty of an indictable offence unless he proves that the communication was contrary to his desire.

Penalty: Imprisonment for 7 years.

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

Penalty: Imprisonment for 2 years.

(7) On a prosecution under subsection (2) it is not necessary to show that the accused person was guilty of a particular act tending to show a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen’s dominions and, notwithstanding that such an act is not proved against him, he may be convicted if, from the circumstances of the case, from his conduct or from his known character as proved, it appears that his purpose was a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen’s dominions.

(8) On a prosecution under this section, evidence is not admissible by virtue of subsection (7) if the magistrate exercising jurisdiction with respect to the examination and commitment for trial of the defendant, or the judge presiding at the trial, as the case may be, is of the opinion that that evidence, if admitted:

(a) would not tend to show that the purpose of the defendant was a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen’s dominions; or

(b) would, having regard to all the circumstances of the case and notwithstanding subsection (9), prejudice the fair trial of the defendant.

(9) If evidence referred to in subsection (8) is admitted at the trial, the judge shall direct the jury that the evidence may be taken into account by the jury only on the question whether the purpose of the defendant was a purpose intended to be prejudicial to the safety or defence of the Commonwealth or a part of the Queen’s dominions and must be disregarded by the jury in relation to any other question.

(10) A person charged with an offence against subsection (2) may be found guilty of an offence against subsection (3) or (4) and a person charged with an offence against subsection (5) may be found guilty of an offence against subsection (6).

80 Prohibited places

The following places shall be prohibited places:

(a) any work of defence, arsenal, factory, dockyard, aerodrome, camp, ship, aircraft, telegraph or signal station, or office, belonging to the Queen or the Commonwealth, and any other place belonging to the Queen or the Commonwealth used for the purpose of building, repairing, making, obtaining or storing any ship, aircraft, arms, or materials or instruments of use in time of war, or any plans or documents relating thereto;

(aa) any camp, barracks or place where prisoners of war, internees or members of the Defence Force are detained;

(b) any place not belonging to the Queen or the Commonwealth where any ship, aircraft, arms, or materials or instruments of use in time of war, or any plans or documents relating thereto, are being made, repaired, obtained, tested or stored under contract with, or with any person on behalf of, the Queen or the Commonwealth;

(c) any place belonging to the Queen or the Commonwealth which is for the time being declared by the Governor‑General to be a prohibited place for the purposes of this Part on the ground that information with respect thereto, or damage thereto, would be useful to an enemy or to a foreign power; and

(d) any railway, road, way, or channel, or other means of communication by land or water (including any works or structures being part thereof or connected therewith), or any place used for gas, water, electricity works or other works for purposes of a public character, or any place where any ship, aircraft, arms, or materials or instruments of use in time of war, or any plans or documents relating thereto, are being made, repaired, obtained, tested or stored otherwise than on behalf of the Queen or the Commonwealth, which is for the time being declared by the Governor‑General by proclamation to be a prohibited place for the purposes of this Part, on the ground that information with respect thereto, or the destruction or obstruction thereof, or interference therewith, would be useful to an enemy or to a foreign power.

81 Harbouring spies

(1) Any person who:

(a) knowingly harbors any person whom he knows or has reasonable ground for supposing to be a spy; or

(b) knowingly permits any persons, whom he knows or has reasonable ground for supposing to be spies, to meet or assemble in any premises in his occupation or under his control; or

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

shall be guilty of an offence.

Penalty: Imprisonment for 7 years.

(2) For the purposes of this section any person who has committed any offence or is about to commit any offence against this Part (other than this section) shall be deemed to be a spy.

(3) In this section, ***authorized officer*** means:

(a) a member or special member of the Australian Federal Police;

(b) an officer of the Defence Force who is in command or in charge of a prohibited place;

(c) a member of the police force of a State or Territory who is the principal officer of police in any town or locality; or

(d) any other person declared by the Attorney‑General, in writing, to be an authorized officer for the purposes of this section.

82 Search warrants

(1) If a Justice of the Peace is satisfied, by information on oath, that there is reasonable ground for suspecting that an offence against this Part has been, is being or is about to be committed, he may grant a search warrant.

(2) A search warrant granted under this section authorizes any constable or Commonwealth officer who is named in, or is lawfully in possession of, the warrant, with such assistance as he thinks necessary, to:

(a) enter, if necessary by force, at any time, any premises or place named or described in the warrant;

(b) search the premises or place and every person found therein and every person whom he reasonably believes to be about to enter or to have recently left the premises or place;

(c) break open and search any cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, in the premises or place;

(d) seize anything that he finds on the premises or place or on any such person, and which he has reasonable grounds to believe is evidence of or otherwise relates to any offence or suspected offence which has been, is being or is about to be committed against this Part;

(e) make extracts from or copies of any book, document or paper liable to seizure under the warrant; and

(f) take such action as he considers expedient to prevent the commission of an offence against this Part.

(3) Where a search warrant is granted under this section:

(a) the person who applied for the grant of the warrant shall forward to the Attorney‑General a report of all the circumstances relating to the granting of the warrant; and

(b) the constable or Commonwealth officer who executes the warrant shall forward to the Attorney‑General a report of all the circumstances relating to the execution of the warrant.

(4) A female shall not be searched under this section except by a female.

(5) In this section, ***premises*** includes vehicle, vessel or aircraft.

83 Unlawful soundings

(1) Any person who in the Commonwealth or in any Territory:

(a) takes any unlawful soundings;

(b) makes any record of any unlawful soundings;

(c) knowingly has in possession any record of unlawful soundings;

(d) communicates to any person outside the Commonwealth or any Territory any record of or information concerning unlawful soundings; or

(e) communicates to any other person any record of or information concerning unlawful soundings with intent that the record or information may be communicated to any person outside the Commonwealth or any Territory;

shall be guilty of an indictable offence.

Penalty: Imprisonment for 2 years.

(2) For the purposes of this section all soundings taken in the territorial waters of the Commonwealth or any Territory shall be deemed to be unlawful unless they were made under the authority of the Queen, the Commonwealth Government, or a State Government, or the Government of a Territory, or were reasonably necessary for the navigation of the vessel from which they were taken or for any purpose in which the vessel from which they were taken was lawfully engaged.

(3) In any prosecution under this section, proof that any soundings were not unlawfully taken shall lie upon the defendant.

(4) Any figure or word or sign representing a figure (other than the printed figures appearing on any official or recognised map or chart) appearing on any map or sketch of any portion of the coast or territorial waters of Australia or of a Territory shall, in the absence of satisfactory proof to the contrary, be deemed to be a record of an unlawful sounding, but nothing in this subsection shall affect proof of unlawful soundings in any other manner.

(5) All records of unlawful soundings including all maps or charts having thereon any record of unlawful soundings shall be forfeited to the Commonwealth.

(6) A reference in this section to soundings shall be read as including a reference to a hydrographic survey and a reference to the taking of soundings shall be read as including a reference to the making of a hydrographic survey.

83A Illegal use of uniforms, official permits, impersonation etc.

(1) A person who, for the purpose of contravening, or of assisting another person to contravene, a provision of this Part or of gaining admission, or of assisting another person to gain admission, to a prohibited place:

(a) uses or wears, without lawful authority, a naval, military, air force, police or other official uniform, or a uniform so nearly resembling such a uniform as to be likely to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear such a uniform;

(b) makes use of a disguise or false name or knowingly conceals his identity or nationality;

(c) forges, alters, tampers with, disposes of or destroys an official permit or knowingly uses or has in his possession a forged, altered or irregular official permit or official paper or anything so closely resembling an official permit or official paper as to be likely to deceive;

(d) personates, or falsely represents himself to be, a person:

(i) who is or has been a Commonwealth officer;

(ii) who holds or has held office under the Queen;

(iii) who holds or has held a contract made on behalf of the Queen or the Commonwealth;

(iv) who is or has been employed by or under a person to whom a preceding subparagraph applies; or

(v) acting with the permission of a Minister;

(e) without lawful authority or excuse, manufactures, uses or disposes of, or has in his possession or under his control:

(i) an official die, key, badge, device, seal or stamp;

(ii) an impression of such a die, key, badge, device, seal or stamp; or

(iii) an official paper; or

(f) counterfeits an official die, key, badge, device, seal or stamp, or uses, disposes of or has in his possession or under his control:

(i) a counterfeited official die, key, badge, device, seal or stamp;

(ii) anything so closely resembling an official die, key, badge, device, seal or stamp as to be likely to deceive; or

(iii) any paper so closely resembling an official paper as to be likely to deceive;

shall be guilty of an indictable offence.

Penalty: Imprisonment for 7 years.

(2) A person who, without lawful authority or excuse:

(a) allows another person to have possession of an official permit issued for the use of the first‑mentioned person alone;

(b) being a person for whose use an official permit has been issued, fails to comply with a direction or condition appearing on, or given by the authority which issued, the permit;

(c) has in his possession or use an official permit issued for the use of some person other than himself;

(d) on obtaining possession of an official permit by finding or otherwise, neglects or fails to restore it to:

(i) the person or authority by whom or for whose use it was issued;

(ii) a Commonwealth officer; or

(iii) a constable; or

(e) manufactures, alters, disposes of or has in his possession or use an official die, key, badge, device, seal, or paper or anything so closely resembling such an article as to be likely to deceive;

shall be guilty of an indictable offence.

Penalty: Imprisonment for 7 years.

(3) For the purposes of this section:

(a) the expression ***official permit*** means a naval, military, air force, police or official passport, pass, permit, badge, certificate, licence or document which:

(i) purports to identify the holder or authorizes him to do an act or thing; and

(ii) is used or intended for use in the service of the Queen or of the Commonwealth; and

(b) a die, key, badge, device, seal, stamp or paper shall be deemed to be an official die, key, badge, device, seal, stamp or paper, as the case may be, if it is used or intended for use in the service of the Queen or of the Commonwealth.

83B Arrest without warrant of offenders against this Part

A person may, without warrant, arrest another person:

(a) if that other person has committed, is committing, has attempted to commit or is attempting to commit an offence against this Part;

(b) if there is immediate danger that that other person will commit or attempt to commit an offence against this Part; or

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

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

84 Arrest of persons in or about prohibited places

(1) Where a Commonwealth officer has reasonable grounds for suspecting that a person who is in, or in the neighbourhood of, a prohibited place has committed, is committing, has attempted to commit, is attempting to commit or is about to commit an offence against this Part, the Commonwealth officer may, without warrant, arrest that person.

(2) A person who is arrested in pursuance of subsection (1) shall forthwith be brought before the officer or other person in charge of the prohibited place.

(3) The officer or other person in charge of the prohibited place may order the person brought before him to be detained pending further investigation, and the person shall thereupon be detained.

(4) If a person is arrested under this section, a report of the facts and circumstances shall forthwith be made by the officer or other person in charge of the prohibited place to the Attorney‑General and:

(a) if no charge is laid against the suspected person within 24 hours after his arrest—he shall be released from detention; or

(b) if a charge is laid against the suspected person—he shall be dealt with according to law.

(5) No action lies against the Commonwealth or a Commonwealth officer or any other person in respect of any arrest or detention in pursuance of this section, but if the Governor‑General is satisfied that an arrest or detention was made without reasonable cause he may award reasonable compensation in respect of the arrest or detention.

84A Search of suspects

(1) If a Commonwealth officer or a constable, while acting in the course of his duty or employment, has reasonable ground for suspecting that a person who:

(a) is about to enter or leave the Commonwealth;

(b) has been in or near, or has passed over, a prohibited place; or

(c) is behaving or has behaved in a suspicious manner;

is in possession of evidence of an offence against this Part, the officer or constable may cause the person, his belongings and any bag or other article in his possession to be searched, and may, without warrant, detain the person for that purpose.

(2) A female shall not be searched under this section except by a female.

85 Institution of prosecution

(1) A prosecution under this Part shall be instituted only by or with the consent of the Attorney‑General or of a person acting under his direction but a person charged with an offence against this Part may be arrested, or a warrant for his arrest may be issued and executed, and he may be remanded in custody or on bail, notwithstanding that the consent of the Attorney‑General or a person acting under his direction has not been obtained, but no further proceedings shall be taken until that consent has been obtained.

(2) Nothing in this section shall prevent the discharging of the accused if proceedings are not continued within a reasonable time.

85A Offences by companies etc.

Where an offence against this Part is committed by a company or corporation, or by a member or servant of a partnership acting in the course of the business of the partnership, every director and officer of that company or corporation, or every member of that partnership, as the case may be, shall be guilty of that offence, unless he proves that the act or omission constituting the offence occurred without his knowledge or consent.

85B Hearing in camera etc.

(1) At any time before or during the hearing before a federal court, a court exercising federal jurisdiction or a court of a Territory of an application or other proceedings, whether in pursuance of this Act or otherwise, the judge or magistrate, or other person presiding or competent to preside over the proceedings, may, if satisfied that such a course is expedient in the interest of the defence of the Commonwealth:

(a) order that some or all of the members of the public shall be excluded during the whole or a part of the hearing of the application or proceedings;

(b) order that no report of the whole or a specified part of or relating to the application or proceedings shall be published; or

(c) make such order and give such directions as he thinks necessary for ensuring that no person, without the approval of the court, has access, either before, during or after the hearing of the application or the proceedings, to any affidavit, exhibit, information or other document used in the application or the proceedings that is on the file in the court or in the records of the court.

(2) A person who contravenes or fails to comply with an order made or direction given in pursuance of this section shall be guilty of an offence.

Penalty: Imprisonment for 5 years.

85C Imprints to be evidence

(1) The imprint appearing upon a book, periodical, pamphlet, hand‑bill, poster or newspaper is, in a prosecution for an offence against this Part, evidence that the book, periodical, pamphlet, hand‑bill, poster or newspaper was printed or published by the person specified in the imprint.

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

85D Forfeiture of articles etc.

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

Part VIIA—Offences relating to postal services

85E Interpretation—definitions

In this Part, unless the contrary intention appears:

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

***Australia Post*** means the Australian Postal Corporation;

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

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

***postal message*** means:

(a) a material record of an unwritten communication:

(i) carried by post; or

(ii) collected or received by Australia Post for carriage by post; or

(b) a material record issued by Australia Post as a record of an unwritten communication:

(i) carried by post; or

(ii) collected or received by Australia Post for carriage by post

85F Interpretation—expressions used in Australian Postal Corporation Act

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

85G Forgery of postage stamps etc.

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

Penalty: Imprisonment for 10 years.

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

Penalty: Imprisonment for 10 years.

(3) A person shall not, without lawful authority or excuse, make, use, have in his or her possession, or sell or otherwise dispose of, any paper or article that has affixed to it, or printed on it, a mark, label or design resembling, apparently intended to resemble or pass for, or likely to be mistaken for, a postage stamp, knowing it is not a postage stamp.

Penalty: Imprisonment for 5 years.

(4) A person shall not, without lawful authority or excuse, make, use, have in his or her possession, or sell or otherwise dispose of, any article resembling, apparently intended to resemble or pass for, or likely to be mistaken for, an envelope, letter‑card, aerogram or other article on which Australia Post has caused a postage stamp to be affixed or printed, knowing that it is not such an article.

Penalty: Imprisonment for 5 years.

(5) A person shall not, without lawful authority or excuse, make, use, have in his or her possession, or sell or otherwise dispose of, any die, plate or instrument capable of making a mark, label or design in the form of, or in a form resembling, apparently intended to resemble or pass for, or likely to be mistaken for, a postage stamp, knowing that it is such a die, plate or instrument.

Penalty: Imprisonment for 5 years.

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

(a) tenders it or puts it off;

(b) attempts to tender it or put it off;

(c) uses or deals with it;

(d) attempts to use or deal with it; or

(e) attempts to induce any person to use, deal with, act on or accept it.

85H Special paper for postage stamps

A person shall not, without lawful authority or excuse:

(a) knowingly or recklessly make, use, have in his or her possession, or sell or otherwise dispose of, paper:

(i) supplied for, or used by, Australia Post for the purpose of printing postage stamps; or

(ii) resembling, or apparently intended to resemble or pass for, paper supplied for, or used by, Australia Post for that purpose;

(b) knowingly or recklessly make, use, have in his or her possession, or sell or otherwise dispose of, paper:

(i) supplied for, or used by, a person other than Australia Post for the purpose of printing postage stamps for Australia Post; or

(ii) resembling, or apparently intended to resemble or pass for, paper supplied for, or used by, a person other than Australia Post for that purpose; or

(c) knowingly or recklessly make, use, have in his or her possession, or sell or otherwise dispose of, any instrument or thing for making a mark, label or design resembling, or apparently intended to resemble or pass for, any distinctive mark, label or design used on any paper especially supplied for the purpose of the printing of postage stamps by or on behalf of Australia Post.

Penalty: Imprisonment for 5 years.

85J Fraudulently removing postage stamps

(1) A person shall not fraudulently:

(a) remove from an article any postage stamp affixed to, or printed on, the article;

(b) remove from a postage stamp that has previously been used any postmark made on the stamp; or

(c) use for postal purposes a postage stamp that has previously been used for postal services or has been obliterated or defaced.

Penalty: Imprisonment for 1 year.

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

85K Stealing articles in the course of post etc.

(1) A person shall not:

(a) fraudulently take a mail‑bag, or an article in the course of post, from the possession of an employee of Australia Post;

(b) fraudulently take a mail‑bag, or an article in the course of post, from any place appointed by Australia Post for the receipt or delivery of mail‑bags or such an article; or

(c) steal, or fraudulently conceal, misappropriate or destroy, a mail‑bag or an article in the course of post (including an article that appears to have been lost or wrongly delivered by Australia Post or lost in the course of delivery to Australia Post).

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

Penalty: Imprisonment for 5 years.

85L Tampering with mail‑bags etc.

(1) A person shall not fraudulently open or tamper with:

(a) a mail‑bag; or

(b) an article in the course of post.

Penalty: Imprisonment for 5 years.

(2) A person shall not open:

(a) a mail‑bag unless the person is authorised to do so by Australia Post; or

(b) an article in the course of post unless the person is authorised to do so by Australia Post or the person to whom the article is directed.

Penalty: Imprisonment for 2 years.

85M Improperly obtaining articles in the course of post

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

Penalty: Imprisonment for 5 years.

85N Wrongful delivery of postal article etc.

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

Penalty: Imprisonment for 1 year.

85P Stealing postal messages etc.

(1) A person shall not:

(a) fraudulently or with intent to prevent the due sending, carriage, delivery or receipt of a postal message, take a postal message from the possession of an employee of Australia Post;

(b) fraudulently take a postal message from any place or vehicle in use by Australia Post; or

(c) steal, or fraudulently conceal, misappropriate or destroy, a postal message.

(2) A person shall not receive a postal message knowing it to have been stolen, or fraudulently taken, concealed or misappropriated.

Penalty: Imprisonment for 5 years.

85Q Forgery of postal messages etc.

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

Penalty: Imprisonment for 10 years.

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

Penalty: Imprisonment for 10 years.

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

(a) tenders it or puts it off;

(b) attempts to tender it or put it off;

(c) uses or deals with it;

(d) attempts to use or deal with it; or

(e) attempts to induce any person to use, deal with, act on or accept it.

85R Wrongful delivery of postal messages

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

Penalty: Imprisonment for 1 year.

85S Improper use of postal services

A person shall not knowingly or recklessly:

(a) use a postal or telecommunications service supplied by Australia Post to menace or harass another person; or

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

Penalty: Imprisonment for 1 year.

85T Sending false postal messages

A person shall not:

(a) intentionally and without a person’s authority, submit, or cause to be submitted, to Australia Post as a postal message signed or to be sent by the person, a postal message that was not so signed or to be sent;

(b) knowingly or recklessly submit, or cause to be submitted, to Australia Post a postal message signed with the name of a fictitious person;

(c) intentionally and without the authority of the person sending a postal message, alter the postal message; or

(d) knowingly or recklessly write, issue or deliver a document purporting to be a postal message that has been carried by post knowing that it is not such a message.

Penalty: Imprisonment for 1 year.

85U Obstructing carriage of articles by post

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

Penalty: Imprisonment for 2 years.

85V Interference with property of Australia Post

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

Penalty: Imprisonment for 1 year.

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

Penalty: $3,000.

85W Causing narcotic substances to be carried by post

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

Penalty: Imprisonment for 2 years.

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

85X Causing explosives to be carried by post etc.

(1) A person shall not knowingly or recklessly cause to be carried by post an article that consists of, encloses or contains:

(a) an explosive; or

(b) any prescribed dangerous or deleterious substance.

Penalty: Imprisonment for 10 years.

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

Penalty: Imprisonment for 5 years.

85Y Hoax explosives etc.

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

(a) that the article consists of, encloses or contains an explosive or a dangerous or deleterious substance; or

(b) that an explosive, or a dangerous or deleterious substance, is or will be left in any place.

Penalty: Imprisonment for 5 years.

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

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

85ZA Postage stamps to be valuable securities etc.

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

Part VIIB—Offences relating to telecommunications services

85ZB Interpretation—definitions

In this Part, unless the contrary intention appears:

***carrier*** means:

(a) a general carrier; or

(b) a mobile carrier; or

(c) a person who supplies eligible services under a class licence issued under section 209 of the *Telecommunications Act 1991*;

***communication*** does not include a communication solely by means of radiocommunication;

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

***telecommunications network*** means a system, or series of systems, for carrying communications by means of guided or unguided electromagnetic energy or both;

***telecommunications service*** means a service for carrying telecommunications by means of guided or unguided electromagnetic energy or both.

85ZBA Interpretation—person acting for a general or mobile carrier

For the purposes of this Part, a person who does any thing for or on behalf of a person who is, or persons at least one of whom is, a general carrier or a mobile carrier, is, in respect of:

(a) the doing by that person of that thing; or

(b) any rental, fee or charge payable for or in relation to the doing by that person of that thing; or

(c) the operation by that person of a facility in connection with the doing of that thing; or

(d) a facility belonging to that person; or

(e) the operation by that person of a satellite;

taken to be a carrier.

85ZC Interpretation—expressions used in Telecommunications Act

Unless the contrary intention appears, expressions used in this Part, and in the *Telecommunications Act 1991*, have the same respective meanings as in that Act.

85ZD Wrongful delivery of communications

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

Penalty: Imprisonment for 1 year.

85ZE Improper use of telecommunications services

A person shall not knowingly or recklessly:

(a) use a telecommunications service supplied by a carrier to menace or harass another person; or

(b) use a telecommunications service supplied by a carrier in such a way as would be regarded by reasonable persons as being, in all the circumstances, offensive.

Penalty: Imprisonment for 1 year.

85ZF Fraudulent representations and devices

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

(a) defraud a carrier of any rental, fee or charge properly payable for or in relation to a telecommunications service supplied by the carrier; or

(b) knowingly or recklessly cause a carrier to supply a telecommunications service to another person without payment by that other person of the proper rental, fee or charge.

Penalty: Imprisonment for 5 years.

85ZG Interference with telecommunications services

(1) A person shall not knowingly or recklessly manipulate, or tamper or interfere with, any facility operated by a carrier in such a way as to hinder the normal operation of a telecommunications service supplied by the carrier.

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

Penalty: Imprisonment for 2 years.

85ZH Sending signals to satellite

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

Penalty: $12,000.

85ZJ Interference with carrier facilities

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

Penalty: Imprisonment for 1 year.

85ZK Equipment used for unlawful purposes etc.

(1) A person shall not:

(a) connect equipment to a telecommunications network with the intention of using it in, or in relation to, the commission of an offence against a law of the Commonwealth or of a State or Territory; or

(b) use equipment connected to a telecommunications network in, or in relation to, the commission of such an offence.

Penalty: Imprisonment for 5 years.

(2) Subsection (1) does not apply in relation to equipment if the connection by a person of the equipment to a telecommunications network would not be in contravention of section 253 of the *Telecommunications Act 1991*.

85ZKA Unauthorised call‑switching devices prohibited

(1) A person shall not:

(a) manufacture;

(b) advertise, display or offer for sale;

(c) sell; or

(d) use, operate or possess;

equipment that the person knows is equipment of a kind that, when connected to a telecommunications network operated by a carrier, enables 2 persons each of whom, by means of different telecommunications services each of which is supplied by a carrier, calls that equipment (whether or not either of the persons is aware that the call the person is making is a call to such equipment), to send communications to, and receive communications from, each other, over that network during those calls.

Penalty: Imprisonment for 5 years.

(2) Subsection (1) does not apply to equipment:

(a) if the connection of the equipment to a telecommunications network by a person would not be in contravention of section 253 of the *Telecommunications Act 1991*; or

(b) if the equipment is used, or intended for use, by a carrier in connection with a telecommunications service or the operation or maintenance of a telecommunications network.

(3) For the purposes of establishing a contravention of subsection (1), if, having regard to:

(a) a person’s abilities, experience, qualifications and other attributes; and

(b) all the circumstances surrounding the alleged contravention of that subsection;

the person ought reasonably to have known that equipment is equipment of the kind referred to in that subsection, the person shall be taken to have known that the equipment is equipment of that kind.

85ZKB Interception devices prohibited

(1) A person shall not:

(a) manufacture;

(b) advertise, display or offer for sale;

(c) sell; or

(d) possess;

an apparatus or device (whether in an assembled or unassembled form) that the person knows is an apparatus or device of a kind that is capable of being used to enable a person to intercept a communication in contravention of subsection 7(1) of the *Telecommunications (Interception) Act 1979*.

Penalty: Imprisonment for 5 years.

(2) Subsection (1) does not apply:

(a) to an apparatus or device unless the apparatus or device could reasonably be regarded as having been designed for the purpose, or for purposes including the purpose, of using it in connection with an act that, if not done in any of the circumstances referred to in subsection 7(2) of the *Telecommunications (Interception) Act 1979*, would contravene subsection 7(1) of that Act;

(b) to the possession of an apparatus or device by a person in the course of the person’s duties relating to interception of communications passing over a telecommunications system (being a telecommunications system within the meaning of the *Telecommunications (Interception) Act 1979*), that is interception of communications otherwise than in contravention of subsection 7(1) of that Act; or

(c) to the:

(i) manufacture;

(ii) advertising, displaying or offering for sale;

(iii) sale; or

(iv) possession;

of an apparatus or device of the kind referred to in subsection (1) of this section in circumstances specified in regulations made for the purposes of this subsection.

(3) For the purposes of establishing a contravention of subsection (1), if, having regard to:

(a) a person’s abilities, experience, qualifications and other attributes; and

(b) all the circumstances surrounding the alleged contravention of that subsection;

the person ought reasonably to have known that an apparatus or device is an apparatus or device of a kind referred to in that subsection, the person shall be taken to have known that the apparatus or device is an apparatus or device of that kind.

Part VIIC—Pardons, quashed convictions and spent convictions

Division 1—Interpretation and application of Part

85ZL Interpretation of Part

In this Part, unless the contrary intention appears:

***Commonwealth authority*** means:

(a) a Commonwealth Minister;

(b) a Commonwealth Department;

(ba) the Defence Force;

(c) a body (whether incorporated or not), or a tribunal, established or appointed for a public purpose by or under a Commonwealth law, not being:

(i) an incorporated company, society or association; or

(ii) an organisation within the meaning of the *Industrial Relations Act 1988* or a branch of such an organisation;

(d) a body established or appointed by the Governor‑General, or by a Commonwealth Minister, otherwise than by or under a Commonwealth law;

(e) a person holding or performing the duties of an office established by or under, or an appointment made under, a Commonwealth law other than the office of Secretary of a Commonwealth Department;

(f) a person holding or performing the duties of an appointment made by the Governor‑General, or by a Commonwealth Minister, otherwise than under a Commonwealth law;

(g) a federal court;

(h) the Supreme Court of the Australian Capital Territory; or

(j) the Australian Federal Police;

***Commonwealth Department*** means a Department within the meaning of the *Public Service Act 1922*;

***Commonwealth law*** means:

(a) an Act other than:

(i) the *Australian Capital Territory (Self‑Government) Act 1988*; or

(ii) the *Northern Territory (Self‑Government) Act 1978*;

(b) an instrument (including rules, regulations or by‑laws) made under an Act (other than an Act referred to in subparagraph (a)(i) or (ii)); or

(c) any other legislation that applies as a law of the Commonwealth (other than legislation in so far as it is applied by an Act referred to in subparagraph (a)(i) or (ii)), to the extent that it operates as such a law;

***Commonwealth Minister*** means a Minister of State of the Commonwealth;

***Commonwealth offence*** means an offence against a Commonwealth law;

***complaint*** means a complaint under subsection 85ZZA(1);

***designated offence*** means:

(a) a sexual offence; or

(b) any other offence against the person if the victim of the offence was under 18 at the time the offence was committed;

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

***foreign law*** means a law of a foreign country;

***foreign offence*** means an offence against a foreign law;

***intelligence or security agency*** means:

(a) the Australian Security Intelligence Organization;

(b) the Australian Secret Intelligence Service;

(c) the Office of National Assessments;

(d) that part of the Department of Defence known as the Defence Signals Directorate; or

(e) that part of the Department of Defence known as the Defence Intelligence Organisation;

***law enforcement agency*** means:

(a) the Australian Federal Police;

(b) the police force of a State or Territory;

(ba) the Australian Customs Service;

(c) the National Crime Authority;

(d) the Australian Bureau of Criminal Intelligence;

(e) the National Exchange of Police Information;

(f) the Independent Commission Against Corruption established under the Independent Commission Against Corruption Act, 1988 of the State of New South Wales, or a similar body established under a law of another State;

(g) the New South Wales Crime Commission established under the New South Wales Crime Commission Act 1985 of New South Wales, or a similar body established under a law of another State;

(h) the Office of the Director of Public Prosecutions, or a similar body established under a State law;

(j) a Director of Public Prosecutions, or a person performing a similar function, appointed under a law of a State;

(k) staff appointed to assist a Director or person referred to in paragraph (j); or

(m) officers or members of the Attorney‑General’s Department of a State or a similar State Department, or of a body administered by such a Department, being officers or members whose primary function is the institution or conduct of proceedings for State offences;

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

***Privacy Act*** means the *Privacy Act 1988*;

***security*** has the same meaning as in the *Australian Security Intelligence Organization Act 1979*;

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

***State*** includes the Australian Capital Territory and the Northern Territory;

***State authority*** means:

(a) a State Minister;

(b) a State Department;

(c) a body (whether incorporated or not), or a tribunal, established or appointed for a public purpose by or under a State law, not being:

(i) an incorporated company, society or association;

(ii) an association of employers or employees that is registered or recognised under a State law dealing with the conciliation and arbitration of industrial disputes; or

(iii) the body corporate constituted under subsection 6(1) of the *Legal Practitioners Ordinance 1970* of the Australian Capital Territory or a similar body constituted under a law of another State;

(d) a body established or appointed by a Governor of a State, or by a State Minister, or by the Australian Capital Territory Executive or the Administrator of the Northern Territory otherwise than by or under a State law;

(e) a person holding or performing the duties of an office established by or under, or an appointment made under, a State law, other than the office of head of a State Department (however described);

(f) a person holding or performing the duties of an appointment, being an appointment made by a Governor of a State or by a State Minister, or by the Australian Capital Territory Executive or the Administrator of the Northern Territory otherwise than under a State law;

(g) a State court; or

(h) a State police force;

***State law*** means a law in force in a State (other than a Commonwealth law);

***State offence*** means an offence against a State law;

***Territory*** does not include the Australian Capital Territory or the Northern Territory;

***Territory law*** means a law in force in a Territory (other than a Commonwealth law);

***Territory offence*** means an offence against a Territory law;

***waiting period***, in relation to an offence, means:

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

(b) in any other case—the period of 10 years beginning on the day on which the person was convicted of the offence.

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

(1) For the purposes of this Part, a person shall be taken to have been convicted of an offence if:

(a) the person has been convicted, whether summarily or on indictment, of the offence;

(b) the person has been charged with, and found guilty of, the offence but discharged without conviction; or

(c) the person has not been found guilty of the offence, but a court has taken it into account in passing sentence on the person for another offence.

(2) For the purposes of this Part, a person’s conviction of an offence is spent if:

(a) the person has been granted a pardon for a reason other than that the person was wrongly convicted of the offence; or

(b) the person was not sentenced to imprisonment for the offence, or was not sentenced to imprisonment for the offence for more than 30 months, and the waiting period for the offence has ended.

85ZN Meaning of *quash*

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

(a) where the person was convicted of the offence—if the conviction has been quashed or set aside;

(b) where the person was found guilty of the offence, but discharged without conviction—if the finding of guilt has been quashed or set aside; or

(c) where the person was not found guilty of the offence, but a court has taken it into account in passing sentence on the person for another offence:

(i) if the person’s conviction of the other offence has been quashed or set aside; or

(ii) if the court’s decision to take the offence into account has been set aside.

85ZP Application of Part

(1) This Part applies in relation to a person convicted of an offence whether the person was convicted before or after the commencement of this Part.

(2) A reference in this Part to a person convicted of an offence does not include a reference to a body corporate.

(3) Nothing in this Part authorises a person or body to disclose or take into account a conviction of an offence if to do so would contravene any Commonwealth law, State law, Territory law or foreign law.

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

85ZQ Part binds the Crown

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

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

85ZR Pardons for persons wrongly convicted

(1) Despite any other Commonwealth law or any State law or Territory law, where a person has been granted a free and absolute pardon for a Commonwealth offence or a Territory offence because the person was wrongly convicted of the offence:

(a) the person shall be taken, in any State or Territory, for all purposes, never to have been convicted of the offence; and

(b) the person shall be taken, in a foreign country, by any Commonwealth authority or State authority in that country, for all purposes, never to have been convicted of the offence.

(2) Despite any other Commonwealth law or any Territory law, where, under a State law or a foreign law a person is, in particular circumstances or for a particular purpose, to be taken never to have been convicted of an offence under a law of that State or foreign country:

(a) the person shall be taken, in any Territory, in corresponding circumstances or for a corresponding purpose, never to have been convicted of that offence; and

(b) the person shall be taken, in any State or foreign country, in corresponding circumstances or for a corresponding purpose, by any Commonwealth authority in that State or country, never to have been convicted of that offence.

85ZS Effect of pardons for persons wrongly convicted

Without affecting the generality of section 85ZR, but despite any other Commonwealth law or any State law or Territory law, where, under section 85ZR, a person is, in particular circumstances or for a particular purpose, to be taken never to have been convicted of an offence:

(a) the person is not required, in those circumstances or for that purpose, to disclose the fact that the person was charged with, or convicted of, the offence;

(b) it is lawful for the person to claim, in those circumstances, or for that purpose, on oath or otherwise, that he or she was not charged with, or convicted of, the offence;

(c) in the case of a Commonwealth offence or a Territory offence—the person is not otherwise subject to any legal duty or disability to which he or she would not have been subject if he or she had not been convicted; and

(d) anyone else who knows, or could reasonably be expected to know, that section 85ZR applies to the person in relation to the offence shall not:

(i) without the person’s consent, disclose the fact that the person was charged with, or convicted of, the offence to any other person, or to a Commonwealth authority or State authority, where it is lawful for the first‑mentioned person not to disclose it to that other person or that authority; or

(ii) in those circumstances, or for that purpose, take account of the fact that the person was charged with, or convicted of, the offence.

85ZT Quashed convictions

(1) Despite any other Commonwealth law or any State law or Territory law, where a person’s conviction of a Commonwealth offence or a Territory offence has been quashed, the person is not required:

(a) in any State or Territory—to disclose to any person, for any purpose, the fact that the person has been charged with, or convicted of, the offence; or

(b) in a foreign country—to disclose to any Commonwealth authority or State authority in that country, for any purpose, the fact that the person has been charged with, or convicted of, the offence.

(2) Despite any other Commonwealth law or any Territory law, where a person’s conviction of a State offence or a foreign offence has been quashed, the person is not required:

(a) in any Territory—to disclose to any person, for any purpose, the fact that the person has been charged with, or convicted of, the offence; or

(b) in any State or foreign country—to disclose to any Commonwealth authority in that State or country, for any purpose, the fact that the person has been charged with, or convicted of, the offence.

85ZU Effect of quashed convictions

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

(a) it is lawful for the person to claim, in those circumstances, or for that purpose, on oath or otherwise, that he or she was not charged with, or convicted of, the offence; and

(b) anyone else who knows, or could reasonably be expected to know, that section 85ZT applies to the person in relation to the offence shall not:

(i) without the person’s consent, disclose the fact that the person was charged with, or convicted of, the offence to any other person, or to a Commonwealth authority or State authority, where it is lawful for the first‑mentioned person not to disclose it to that other person or that authority; or

(ii) in those circumstances, or for that purpose, take account of the fact that the person was charged with, or convicted of, the offence.

Division 3—Spent convictions

85ZV Spent convictions

(1) Subject to Division 6, but despite any other Commonwealth law or any State law or Territory law, if a person’s conviction of a Commonwealth offence or a Territory offence is spent, the person is not required:

(a) in any State or Territory—to disclose to any person, for any purpose, the fact that the person has been charged with, or convicted of, the offence; or

(b) in a foreign country—to disclose to any Commonwealth authority or State authority in that country, for any purpose, the fact that the person has been charged with, or convicted of, the offence.

(2) Subject to Division 6, but despite any other Commonwealth law or any Territory law, if a person’s conviction of a State offence or a foreign offence is spent, the person is not required:

(a) in any Territory—to disclose to any person, for any purpose, the fact that the person has been charged with, or convicted of, the offence; or

(b) in any State or foreign country—to disclose to any Commonwealth authority in that State or country, for any purpose, the fact that the person has been charged with, or convicted of, the offence.

(3) Subject to Division 6, but despite any other Commonwealth law or any Territory law, where:

(a) a person was convicted of a State offence;

(b) subsection (2) does not apply to the person in relation to the offence; and

(c) under a law in force in that State, being a law dealing with the disclosure or taking into account of spent convictions (however described in that law) it is lawful for the person, in particular circumstances or for a particular purpose, not to disclose the fact that the person was charged with, or convicted of, the offence;

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

(d) in a Territory—to disclose the fact that the person was charged with, or convicted of, the offence; or

(e) in a State or foreign country—to disclose that fact to any Commonwealth authority in that State or country.

85ZW Effect of right of non‑disclosure

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

(a) it is lawful for the person to claim, in those circumstances, or for that purpose, on oath or otherwise, that he or she was not charged with, or convicted of, the offence; and

(b) anyone else who knows, or could reasonably be expected to know, that section 85ZV applies to the person in relation to the offence shall not:

(i) without the person’s consent, disclose the fact that the person was charged with, or convicted of, the offence to any other person, or to a Commonwealth authority or State authority, where it is lawful for the first‑mentioned person not to disclose it to that other person or that authority; or

(ii) in those circumstances, or for that purpose, take account of the fact that the person was charged with, or convicted of, the offence.

Division 4—Convictions of further offences

85ZX Convictions of further Commonwealth or Territory offences

(1) Where:

(a) Division 3 applies to a person in relation to an offence of which the person was convicted, or would (unless an order is made under this section) so apply to the person if the waiting period for the offence had ended; and

(b) before or after the end of the waiting period for the offence, the person is convicted summarily, by a court exercising federal jurisdiction or a court of a Territory, of another offence, being an offence committed during that waiting period;

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

(2) Where:

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

(b) before or after the end of the waiting period for the offence, the person is convicted on indictment, by a court exercising federal jurisdiction or a court of a Territory, of another offence, being an offence committed during that waiting period;

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

85ZY Convictions of further State or foreign offences

Subject to subsection 85ZV(3), where:

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

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

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

Division 5—Complaints to Privacy Commissioner

85ZZ Privacy Commissioner’s functions

(1) The Privacy Commissioner has the following functions:

(a) to investigate an act or practice of a person or of a Commonwealth authority or State authority that may breach Division 2 or 3 and, where the Commissioner considers it appropriate, to try, by conciliation, to effect a settlement of the matters that gave rise to the investigation;

(b) to receive and examine any written requests for complete or partial exclusion of persons from the application of Division 3 and advise the Minister whether an exclusion should be granted and whether there should be any restrictions on the circumstances in which an exclusion would apply.

(2) In the performance of those functions, the Privacy Commissioner shall:

(a) have due regard for the protection of important human rights and social interests that compete with the rights given by this Part, including the recognition of the right of government and business to achieve their objectives in an efficient way;

(b) take account of:

(i) international obligations accepted by Australia, including those concerning the international technology of communications; and

(ii) developing general international guidelines relevant to the better protection of individual privacy;

(c) take into account the nature of the offence concerned;

(d) ensure that his or her advice is, within the limitations of the powers of the Commonwealth, capable of acceptance, adaptation and extension in any State or Territory; and

(e) ensure that his or her directions and advice are consistent with the Information Privacy Principles set out in section 14 of the Privacy Act.

85ZZA Complaints to the Privacy Commissioner

(1) A person may complain to the Privacy Commissioner about an act or practice of another person or of a Commonwealth authority or State authority that may be a breach of Division 2 or 3.

(2) A complaint shall be in writing.

(3) It is the duty of members of the staff of the Human Rights and Equal Opportunity Commission to give appropriate help to a person who wishes to make a complaint and wants help to formulate the complaint.

(4) The complaint shall specify the respondent to the complaint.

85ZZB Identity of respondent to complaint

(1) If a complaint is about an act or practice of a Commonwealth Department or a State Department, or an officer of such a Department, the Secretary or head of the Department is the respondent to the complaint.

(2) If a complaint is about an act or practice of another Commonwealth authority or State authority, or a member or officer of such an authority, being an authority that is within the responsibility of a Commonwealth or State Minister but not within the responsibility of a Commonwealth Department or a State Department, the Minister is the respondent to the complaint.

(3) If a complaint is about an act or practice of any other Commonwealth authority or State authority, or a member or officer of such an authority, the chief executive officer of the authority is the respondent to the complaint.

(4) If a complaint is about an act or practice of a person other than a Commonwealth authority or a State authority, that person is the respondent to the complaint.

85ZZC Investigation of complaints

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

(2) The Privacy Commissioner may decide not to investigate, or not to investigate further, an act or practice about which a complaint has been made if satisfied that:

(a) the act or practice is not a breach of Division 2 or 3;

(b) the complainant has not complained to the respondent about the act or practice;

(c) the complainant has complained to the respondent, and that the respondent:

(i) has dealt, or is dealing, adequately with the complaint; or

(ii) has not yet had an adequate opportunity to deal with the complaint;

(d) the complaint was made more than 12 months after the complainant became aware of the act or practice;

(e) the complaint is frivolous, vexatious, misconceived or lacking in substance;

(f) the act or practice is the subject of an application under another Commonwealth law, or under a State law or a Territory law, and that the subject‑matter of the complaint has been, or is being, dealt with adequately under that law; or

(g) the act or practice could be made the subject of an application under another Commonwealth law, or under a State law or a Territory law, for a more appropriate remedy.

85ZZD Determinations of Privacy Commissioner

(1) After investigating a complaint, the Commissioner may:

(a) make a determination dismissing the complaint; or

(b) find the complaint substantiated and make a determination that includes one or more of the following:

(i) a declaration that the authority or person about whom the complaint was made has engaged in conduct unlawful under this Act and should not repeat or continue that conduct;

(ii) a declaration that the respondent should do any reasonable act or carry out any reasonable course of conduct to redress any loss or damage suffered by the complainant;

(iii) a declaration that the respondent should employ or re‑employ the complainant;

(iv) a declaration that the respondent should promote the complainant;

(v) a declaration that the complainant is entitled to a specified amount by way of compensation for any loss or damage suffered because of the act or practice about which the complaint was made;

(vi) a declaration that the termination of a contract or agreement should be varied to redress any loss or damage suffered by the complainant;

(vii) a declaration that it would be inappropriate for any further action to be taken in the matter.

(2) The Privacy Commissioner may require one or both parties to a complaint to attend such counselling as is specified by the Commissioner with a view to settling the matter to which the complaint relates.

(3) When making a determination, the Privacy Commissioner shall state any findings of fact upon which the determination is based.

(4) When making a determination, the Privacy Commissioner may declare that the complainant is entitled to a specified amount to reimburse the complainant for expenses reasonably incurred in connection with the making of the complaint and the investigation of the complaint.

(5) In paragraph (1)(b):

***damage*** includes humiliation suffered by the complainant or injury to his or her feelings.

85ZZE Payment of compensation or expenses

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

(a) if the complaint was about an act or practice of a Commonwealth authority—from the Commonwealth;

(b) if the complaint was about an act or practice of a State authority— from that State; or

(c) in any other case—from the respondent.

85ZZF Enforcement of determination or recommendation

(1) The Privacy Commissioner or the complainant may apply to the Federal Court for an order to enforce a determination under paragraph 85ZZD(1)(b) or subsection 85ZZD(4).

(2) If the Federal Court is satisfied that the authority or person about whom the complaint was made has done anything that is a breach of Division 2 or 3 the court may make any orders it thinks fit (including a declaration of right).

(3) An order may give effect to a determination.

85ZZG Application of Privacy Act

(1) Sections 42 to 48 (inclusive) of the Privacy Act, and sections 50, 64 to 68 (inclusive), 96 and 98 of that Act apply, with any necessary changes, in relation to a complaint as if the complaint had been made under subsection 36(1) of that Act.

(2) Where a provision of the Privacy Act is applied under subsection (1) or (2), a reference in that provision to an agency shall be read as a reference to a Commonwealth authority or a State authority, as the case requires.

Division 6—Exclusions

85ZZH Exclusions

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

(a) a law enforcement agency, for the purpose of making decisions in relation to prosecution or sentencing or of assessing:

(i) prospective employees or prospective members of the agency; or

(ii) persons proposed to be engaged as consultants to, or to perform services for, the agency or a member of the agency;

(b) an intelligence or security agency, for the purpose of assessing:

(i) prospective employees or prospective members of the agency; or

(ii) persons proposed to be engaged as consultants to, or to perform services for, the agency or a member of the agency;

(c) a court or tribunal established under a Commonwealth law, a State law or a Territory law, for the purpose of making a decision, including a decision in relation to sentencing;

(d) a person who makes a decision under the *Migration Act 1958*, the *Australian Citizenship Act 1948*, or the *Immigration Act 1980* of the Territory of Norfolk Island, for the purpose of making that decision;

(e) a person or body who employs or otherwise engages other persons in relation to the care, instruction or supervision of minors, for the purpose of finding out whether a person who is being assessed by the person or body for that employment or engagement has been convicted of a designated offence;

(f) a person or body who otherwise makes available care, instruction or supervision services for minors, for the purpose of finding out whether a person who is being assessed by the person or body in connection with those services has been convicted of a designated offence;

(g) a Commonwealth authority, for the purpose of assessing appointees or prospective appointees to a designated position;

(h) the Cash Transaction Reports Agency, for the purpose of assessing:

(i) prospective officers or prospective members of the Agency; or

(ii) persons proposed to be engaged as consultants to, or to perform services for, the Agency;

(j) the Australian Government Solicitor, for the purpose of instituting or conducting proceedings for Commonwealth offences;

(k) a prescribed person or body, for a prescribed purpose, in relation to a conviction for a prescribed offence.

85ZZJ Further exclusions—law enforcement agencies

(1) Division 3 does not apply in relation to:

(a) the disclosure of information by a law enforcement agency, or an employee or member of a law enforcement agency, to another law enforcement agency, or an employee or member of another law enforcement agency, where the disclosure is made in the discharge of the duties of the first‑mentioned agency, employee or member;

(b) filing or recording information that comes into the possession of a law enforcement agency, or an employee or member of a law enforcement agency, where the filing or recording is done in the discharge of the duties of the agency, employee or member; or

(c) the use by a law enforcement agency of information relating to the investigation or prevention of crime, where the investigation or prevention of crime is a function of the agency.

(2) In this section:

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

85ZZK Fair reporting: pardons and quashed convictions

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

Part VIII—Miscellaneous

86 Conspiracy

(1) A person who conspires with another person:

(a) to commit an offence against a law of the Commonwealth;

(b) to prevent or defeat the execution or enforcement of a law of the Commonwealth;

(c) to effect a purpose that is unlawful under a law of the Commonwealth; or

(d) to effect a lawful purpose by means that are unlawful under a law of the Commonwealth;

shall be guilty of an indictable offence.

Penalty: Imprisonment for 3 years.

(2) Notwithstanding the penalty set out at the foot of subsection (1):

(a) where the offender conspired with another person to commit an offence against a law of the Commonwealth that is punishable by death—the Court before which the offender is convicted may impose a penalty of imprisonment for life or such lesser penalty as it thinks fit; and

(b) where the offender conspired with another person to commit an offence against a law of the Commonwealth that is punishable by imprisonment for a greater period than 3 years—the offender is punishable as if he had committed that offence.

86A Conspiracy to defraud

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

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

87 False certificates

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

Penalty: Imprisonment for 2 years.

88 Buying or selling offices

Any person who:

(a) corruptly asks, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself or any other person on account of anything done or omitted to be done or to be afterwards done or omitted to be done, by him or any other person, with regard to the appointment or contemplated appointment of any person to any office or employment in the Australian Public Service or the public service of a Territory, or with regard to any application by any person for employment in the Australian Public Service or the public service of a Territory; or

(b) corruptly gives, confers or procures, or promises or offers to give or confer, or to procure or attempt to procure, to upon or for any person any property or benefit of any kind on account of any such act or omission;

shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

89 Trespassing on Commonwealth land

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

Penalty: $1,000.

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

Penalty: $1,000.

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

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

(5) In this section:

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

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

***protective service officer*** has the same meaning as in the *Australian Protective Service Act 1987*.

89A Discharging firearms on or over Commonwealth land

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

Penalty: Imprisonment for 6 months.

(2) A person who commits an offence against this section may be apprehended by a constable or an authorized Commonwealth officer and detained in proper custody to be dealt with according to law.

(3) An authorized Commonwealth officer shall not, under this section, apprehend a person unless he first produces to the person the instrument by virtue of which he is an authorized Commonwealth officer.

(4) In this section:

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

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

90 Trespass by cattle or live stock

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

Penalty: $100.

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

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

Penalty: Imprisonment for 1 year.

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

A person who:

(a) in a document that, under a law of a Territory, is, or is required to be, produced or furnished to, or filed or lodged with, a Commonwealth officer; or

(b) in a document that is required to be registered under, or to be prepared for the purposes of, a law of a Territory;

knowingly makes a false statement shall be guilty of an offence.

Penalty: Imprisonment for 2 years.

91 Regulations

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

Endnotes

Endnote 1—About the endnotes

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

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

**Abbreviation key—Endnote 2**

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

**Legislation history and amendment history—Endnotes 3 and 4**

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

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

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

**Editorial changes**

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

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

**Misdescribed amendments**

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

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

Endnote 2—Abbreviation key

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

Endnote 3—Legislation history

| Act | | Number and year | Assent | Commencement | | Application, saving and transitional provisions |
| --- | --- | --- | --- | --- | --- | --- |
| Crimes Act 1914 | | 12, 1914 | 29 Oct 1914 | 29 Oct 1914 |  | |
| Crimes Act 1915 | | 6, 1915 | 7 May 1915 | 29 Oct 1914 (s 3) | — | |
| War Precautions Act Repeal Act 1920 | | 54, 1920 | 2 Dec 1920 | s 11, 12: 2 Dec 1920 | — | |
| Crimes Act 1926 | | 9, 1926 | 16 Mar 1926 | 29 Mar 1926 (s 2 and gaz 1926, p 437) | — | |
| Crimes Act 1928 | | 13, 1928 | 22 June 1928 | 22 June 1928 | — | |
| Crimes Act 1932 | | 30, 1932 | 30 May 1932 | 30 May 1932 | — | |
| Judiciary Act 1937 | | 5, 1937 | 3 July 1937 | s 5 and The Sch: 3 July 1937 | s 5 | |
| Crimes Act 1941 | | 6, 1941 | 4 Apr 1941 | 3 Sept 1939 (s 2) | — | |
| Defence (Transitional Provisions) Act 1946 | | 77, 1946 | 14 Dec 1946 | Third Sch: 1 Jan 1947 (s 2) | — | |
| Statute Law Revision Act 1950 | | 80, 1950 | 16 Dec 1950 | s 16 and First Sch: 31 Dec 1950 (s 2) | s 16 | |
| Crimes Act 1955 | | 10, 1955 | 31 May 1955 | s 3‑5: 31 May 1955 (s 2) | — | |
| Crimes Act 1959 | | 11, 1959 | 23 Apr 1959 | s 3: 23 Apr 1959 (s 2) s 4: 14 Jan 1960 (s 2 and gaz 1960, p 47) | — | |
| Crimes Act 1960 | | 84, 1960 | 13 Dec 1960 | 13 Dec 1960 (s 2) | — | |
| Statute Law Revision (Decimal Currency) Act 1966 | | 93, 1966 | 29 Oct 1966 | First Sch: 1 Dec 1966 (s 2(1)) |  | |
| Crimes Act 1973 | | 33, 1973 | 27 May 1973 | 27 May 1973 (s 2) | — | |
| Statute Law Revision Act 1973 | | 216, 1973 | 19 Dec 1973 | Sch 1: 31 Dec 1973 (s 2) | — | |
| Postal and Telecommunications Commissions (Transitional Provisions) Act 1975 | | 56, 1975 | 12 June 1975 | Sch 2: 1 July 1975 (s 2(1)) | — | |
| Jurisdiction of Courts (Miscellaneous Amendments) Act 1979 | | 19, 1979 | 28 Mar 1979 | s 124: 28 Mar 1979 (s 2(1)) Sch: 15 May 1979 (s 2(3) and gaz 1979, No S86) | s 124 | |
| Australian Federal Police (Consequential Amendments) Act 1979 | | 155, 1979 | 28 Nov 1979 | Sch: 19 Oct 1979 (s 2(1)) | — | |
| Australian Federal Police (Consequential Amendments) Act 1980 | | 70, 1980 | 28 May 1980 | Sch: 28 May 1980 (s 2) | — | |
| Crimes (Currency) Act 1981 | | 122, 1981 | 17 Sept 1981 | s 31‑33: 16 Dec 1985 (s 2(2)) | — | |
| as amended by |  |  |  |  | |
| Statute Law (Miscellaneous Provisions) Act (No. 2) 1985 | 193, 1985 | 16 Dec 1985 | Sch 1: 16 Dec 1985 (s 2(1), (7)) | s 16 | |
| Crimes Amendment Act 1982 | | 67, 1982 | 16 June 1982 | s 1, 2, 14 and Sch 2: 16 June 1982 (s 2(1)) s 6, 8 and 9: 16 Dec 1985 (s 2(2)) Remainder: 1 Nov 1982 (s 2(2) and gaz 1982 No G43) | s 4(2), 5(2), (6(2), 7(2), 8(2), (3), 10(2) and 13(2) | |
| as amended by |  |  |  |  | |
| Statute Law (Miscellaneous Provisions) Act (No. 2) 1985 | 193, 1985 | 16 Dec 1985 | Sch 1: 16 Dec 1985 (s 2(1)) | s 16 | |
| Statute Law (Miscellaneous Amendments) Act (No. 2) 1982 | | 80, 1982 | 22 Sept 1982 | s 60‑65: 16 Dec 1985 (s 2(6)) | — | |
| Defence Force (Miscellaneous Provisions) Act 1982 | | 153, 1982 | 31 Dec 1982 | s 38: 3 July 1985 (s 2) | — | |
| Statute Law (Miscellaneous Provisions) Act (No. 2) 1983 | | 91, 1983 | 22 Nov 1983 | Sch: 22 Nov 1983 (s 2(6)) | s 6(1) | |
| Director of Public Prosecutions (Consequential Amendments) Act 1983 | | 114, 1983 | 14 Dec 1983 | s 8: 16 Dec 1985 (s 2(2), (3)) s 9: 5 Mar 1984 (s 2(1)) | — | |
| Radiocommunications (Transitional Provisions and Consequential Amendments) Act 1983 | | 136, 1983 | 22 Dec 1983 | s 5 and Sch: 27 Aug 1985 (s 2) | s 5 | |
| Australian Government Solicitor (Consequential Amendments) Act 1984 | | 10, 1984 | 10 Apr 1984 | s 4(1), (3): 1 July 1984 (s 2(1)) Sch: 16 Dec 1985 (s 2(2)) | s 4(1), (3) | |
| Public Service Reform Act 1984 | | 63, 1984 | 25 June 1984 | Sch 5: 20 July 1984 (s 2(4), gaz 1984, No S276) | — | |
| Statute Law (Miscellaneous Provisions) Act (No. 2) 1984 | | 165, 1984 | 25 Oct 1984 | s 6(1) and Sch 1: 25 Oct 1984 (s 2(9), (32)) | s 6(1) | |
| Statute Law (Miscellaneous Provisions) Act (No. 2) 1985 | | 193, 1985 | 16 Dec 1985 | s 8 and Sch 1: 16 Dec 1985 (s 2(1), (6) | s 8, 16 | |
| Statute Law (Miscellaneous Provisions) Act (No. 1) 1986 | | 76, 1986 | 24 June 1986 | Sch 1 (in part): 24 June 1986 (s 2(1)) Sch 1 (in part): 1 Oct 1986 (s 2(6) and gaz 1986, No S471) | s 9 | |
| Intelligence and Security (Consequential Amendments) Act 1986 | | 102, 1986 | 17 Oct 1986 | s 11‑14: 1 Feb 1987 (s 2) | — | |
| Statute Law (Miscellaneous Provisions) Act (No. 2) 1986 | | 168, 1986 | 18 Dec 1986 | Sch 1: 18 Dec 1986 (s 2(1)) | s 5(1) | |
| Proceeds of Crime (Miscellaneous Amendments) Act 1987 | | 73, 1987 | 5 June 1987 | s 15‑18: 5 June 1987 (s 2) | — | |
| Crimes Legislation Amendment Act 1987 | | 120, 1987 | 16 Dec 1987 | s 12, 13 and 15: 13 Jan 1988 (s 2(6)) s 11, 14 and 75: 1 Mar 1989 (s 2(1) and gaz 1989, No S54) s 16, 17 and Sch 1: 19 Dec 1988 (s 2(1) and gaz 1988 No S384) | s 75 | |
| Statute Law (Miscellaneous Provisions) Act 1987 | | 141, 1987 | 18 Dec 1987 | s 5(1), (6), (7) and Sch: 18 Dec 1987 (s 2(1)) | s 5(1), (6) and (7) | |
| Telecommunications and Postal Services (Transitional Provisions and Consequential Amendments) Act 1989 | | 63, 1989 | 19 June 1989 | s 4 and 5: 1 July 1989 (s 2(1) and gaz 1989, No S230 | — | |
| Crimes Legislation Amendment Act 1989 | | 108, 1989 | 30 June 1989 | s 6‑9, 12 and Sch 1: 30 June 1989 (s 2(1)) s 10: 30 June 1990 (s 2(2)) | s 12 | |
| Crimes Legislation Amendment Act (No. 2) 1989 | | 4, 1990 | 17 Jan 1990 | s 4‑19 and 23‑28, 30‑33 and 35: 17 July 1990 (s 2(13), (14)) s 20‑22: 30 June 1990 (s 2(2)) | s 23‑28, 30‑33 and 35(3) | |
| Law and Justice Legislation Amendment Act 1989 | | 11, 1990 | 17 Jan 1990 | s 12 and 13: 17 Jan 1990 (s 2(5)(b)) | — | |
| Defence Legislation Amendment Act 1990 | | 75, 1990 | 22 Oct 1990 | Sch 3: 30 June 1990 (s 2(5)) | — | |
| Crimes Legislation Amendment Act 1991 | | 28, 1991 | 4 Mar 1991 | s 25, 27, 28 and 30(a), (c): 4 Mar 1991 (s 2(1)) s 26 and 29: 1 Apr 1991 (s 2(3)) s 30(b): 29 Apr 1991 (s 2(2) and gaz 1991 No S108) | — | |
| Crimes (Investigation of Commonwealth Offences) Amendment Act 1991 | | 59, 1991 | 9 May 1991 | s 3, 4: awaiting commencement (s 2(2), (3)) | — | |
| Telecommunications (Transitional Provisions and Consequential Amendments) Act 1991 | | 99, 1991 | 27 June 1991 | s 3‑22 and Sch 1: 1 July 1991 (s 2(2)) Sch 2: awaiting commencement (s 2(3) | s 3‑22 | |

Endnote 4—Amendment history

| Provision affected | How affected |
| --- | --- |
| **Part I** |  |
| s 2 | am No 9, 1926 |
|  | rs No 11, 1959; No 84, 1960 |
|  | am No 33, 1973 |
|  | rep No 216, 1973 |
| s 3 | am No 9, 1926; No 30, 1932; No 11, 1959; No 84, 1960; No 216, 1973; No 155, 1979; No 70, 1980; No 67, 1982; No 63, 1984; No 165, 1984; No 141, 1987; No 63, 1989; No 4, 1990; No 28, 1991; No 99, 1991 (Sch 2) |
| s 3A | ad No 84, 1960 |
| s 3B | ad No 67, 1982 |
|  | am No 193, 1985; No 4, 1990 |
| **Part IA** |  |
| Part IA heading | ad No 84, 1960 |
| s 4A | ad No 120, 1987 |
| s 4B | ad No 120, 1987 |
|  | am No 108, 1989; No 28, 1991 |
| s 4C | ad No 120, 1987 |
| s 4D | ad No 120, 1987 |
| s 4E | ad No 120, 1987 |
| s 4F | ad No 120, 1987 |
| s 4G | ad No 120, 1987 |
| s 4H | ad No 120, 1987 |
| s 4J | ad No 120, 1987 |
|  | am No 108, 1989 |
| s 4K | ad No 120, 1987 |
| s 4L | ad No 28, 1991 |
| s 5 | am No 9, 1926; No 84, 1960; No 153, 1982; No 120, 1987 |
| s 6 | am No 84, 1960; No 67, 1982; No 120, 1987 |
| s 7 | am No 9, 1926; No 84, 1960; No 120, 1987 |
| s 7A | ad No 54, 1920 |
|  | am No 84, 1960; No 93, 1966; No 216, 1973; No 67, 1982; No 120, 1987; No 108, 1989 |
| s 8A | ad No 9, 1926 |
|  | am No 84, 1960; No 76, 1986; No 120, 1987 |
| s 9 | am No 9, 1926; No 84, 1960; No 67, 1982 |
| s 10 | am No 9, 1926; No 84, 1960; No 168, 1986; No 120, 1987; No 28, 1991 |
| s 11 | am No 84, 1960 |
|  | rep No 120, 1987 |
| s 12 | am No 80, 1950; No 67, 1982 |
|  | rep No 120, 1987 |
| s 12A | ad No 9, 1926 |
|  | am No 84, 1960; No 93, 1966; No 33, 1973; No 67, 1982 |
|  | rep No 120, 1987 |
| s 14 | am No 9, 1926; No 67, 1982 |
| s 15 | am No 67, 1982 |
| s 15A (prev s 18A) |  |
| s 15B (prev s 21) |  |
| s 15C (prev s 21A) |  |
| s 15D (prev s 21C) |  |
| s 15E (prev s 22) |  |
| s 15F (prev s 23) |  |
| **Part IB** |  |
| Part IB heading | ad No 4, 1990 |
| **Division 1** |  |
| Division 1 | ad No 4, 1990 |
| s 16 | am No 93, 1966; No 67, 1982 |
|  | rep No 120, 1987 |
|  | ad No 4, 1990 |
| **Division 2** |  |
| Division 2 | ad No 4, 1990 |
| s 16A | ad No 4, 1990 |
| s 16B | ad No 4, 1990 |
| s 16BA (prev s 21AA) |  |
| s 16C | ad No 4, 1990 |
| s 16D | ad No 4, 1990 |
| **Division 3** |  |
| Division 3 | ad No 4, 1990 |
| s 16E | ad No 4, 1990 |
| s 16F | ad No 4, 1990 |
| s 16G | ad No 4, 1990 |
| s 17 | am No 84, 1960; No 67, 1982; No 80, 1982 |
|  | rep No 4, 1990 |
| s 17A | ad No 67, 1982 |
|  | am No 4, 1990 |
| s 18 | am No 9, 1926; No 84, 1960 |
| s 18A | ad No 84, 1960 |
|  | am No 67, 1982; No 193, 1985; No 73, 1987; No 4, 1990 |
|  | renum No 4, 1990 |
| s 19 | am No 80, 1950; No 84, 1960 |
|  | rs No 67, 1982; No 4, 1990 |
| s 19A | ad No 84, 1960 |
|  | am No 33, 1973; No 67, 1982 |
|  | rs No 4, 1990 |
| s 19AA | ad No 4, 1990 |
| **Division 4** |  |
| Division 4 | ad No 4, 1990 |
| s 19AB | ad No 4, 1990 |
| s 19AC | ad No 4, 1990 |
| s 19AD | ad No 4, 1990 |
| s 19AE | ad No 4, 1990 |
| s 19AF | ad No 4, 1990 |
| s 19AG | ad No 4, 1990 |
| s 19AH | ad No 4, 1990 |
| s 19AJ | ad No 4, 1990 |
| s 19AK | ad No 4, 1990 |
| **Division 5** |  |
| Division 5 | ad No 4, 1990 |
| s 19AL | ad No 4, 1990 |
| s 19AM | ad No 4, 1990 |
| s 19AN | ad No 4, 1990 |
| s 19AP | ad No 4, 1990 |
| s 19AQ | ad No 4, 1990 |
| s 19AR | ad No 4, 1990 |
| s 19AS | ad No 4, 1990 |
| s 19AT | ad No 4, 1990 |
| s 19AU | ad No 4, 1990 |
| s 19AV | ad No 4, 1990 |
| s 19AW | ad No 4, 1990 |
| s 19AX | ad No 4, 1990 |
| s 19AY | ad No 4, 1990 |
| s 19AZ | ad No 4, 1990 |
| s 19AZA | ad No 4, 1990 |
| s 19AZB | ad No 4, 1990 |
| s 19AZC | ad No 4, 1990 |
| s 19AZD | ad No 4, 1990 |
| s 19B | ad No 84, 1960 |
|  | rs No 67, 1982 |
|  | am No 4, 1990 (s 10(a) md not incorp) |
| s 20 | am No 9, 1926 |
|  | rs No 67, 1982 |
|  | am No 108, 1989; No 4, 1990 |
| s 20A | ad No 84, 1960 |
|  | am No 33, 1973 |
|  | rs No 67, 1982 |
|  | am No 80, 1982; No 4, 1990 |
| s 20AA | ad No 67, 1982 |
|  | am No 80, 1982; No 114, 1983; No 10, 1984 |
| s 20AB | ad No 67, 1982 |
|  | am No 193, 1985; No 4, 1990 |
| s 20AC | ad No 67, 1982 |
|  | am No 80, 1982; No 4, 1990 |
| **Division 6** |  |
| Division 6 | ad No 4, 1990 |
| s 20B | ad No 84, 1960 |
|  | am No 33, 1973; No 67, 1982 |
|  | rs No 4, 1990 |
| s 20BA | ad No 4, 1990 |
| s 20BB | ad No 4, 1990 |
| s 20BC | ad No 4, 1990 |
| s 20BD | ad No 4, 1990 |
| s 20BE | ad No 4, 1990 |
| s 20BF | ad No 4, 1990 |
| s 20BG | ad No 4, 1990 |
| s 20BH | ad No 4, 1990 |
| **Division 7** |  |
| Division 7 | ad No 4, 1990 |
| s 20BJ | ad No 4, 1990 |
| s 20BK | ad No 4, 1990 |
| s 20BL | ad No 4, 1990 |
| s 20BM | ad No 4, 1990 |
| s 20BN | ad No 4, 1990 |
| s 20BP | ad No 4, 1990 |
| **Division 8** |  |
| Division8 | ad No 4, 1990 |
| s 20BQ | ad No 4, 1990 |
| s 20BR | ad No 4, 1990 |
| **Division 9** |  |
| Division 9 | ad No 4, 1990 |
| s 20BS | ad No 4, 1990 |
| s 20BT | ad No 4, 1990 |
| s 20BU | ad No 4, 1990 |
| s 20BV | ad No 4, 1990 |
| s 20BW | ad No 4, 1990 |
| s 20BX | ad No 4, 1990 |
| s 20BY | ad No 4, 1990 |
| **Division 10** |  |
| Division 10 heading | ad No 4, 1990 |
| s 20C | ad No 84, 1960 |
|  | am No 67, 1982 |
| s 21 | am No 9, 1926; No 67, 1982 |
|  | renum No 4, 1990 |
| s 21A | ad No 9, 1926 |
|  | am No 33, 1973; No 67, 1982 |
|  | renum No 4, 1990 |
| s 21AA | ad No 67, 1982 |
|  | am No 91, 1983; No 114, 1983; No 4, 1990 |
|  | renum No 4, 1990 |
| s 21B | ad No 9, 1926 |
|  | rs No 84, 1960 |
|  | am No 33, 1973; No 67, 1982; No 4, 1990 (s 17(a) md not incorp) |
| s 21C | ad No 9, 1926 |
|  | renum No 4, 1990 |
| s 21D | ad No 84, 1960 |
|  | am No 4, 1990 |
| s 21E | ad No 4, 1990 |
| s 21F | ad No 4, 1990 |
| s 22 | am No 67, 1982 |
|  | renum No 4, 1990 |
| s 23 | am No 84, 1960; No 67, 1982 |
|  | renum No 4, 1990 |
| **Part IC** |  |
| Part IC | ad No 59, 1991 |
| s 23A | ad No 59, 1991 |
| s 23B | ad No 59, 1991 |
| s 23C | ad No 59, 1991 |
| s 23D | ad No 59, 1991 |
| s 23E | ad No 59, 1991 |
| s 23F | ad No 59, 1991 |
| s 23G | ad No 59, 1991 |
| s 23H | ad No 59, 1991 |
| s 23J | ad No 59, 1991 |
| s 23K | ad No 59, 1991 |
| s 23L | ad No 59, 1991 |
| s 23M | ad No 59, 1991 |
| s 23N | ad No 59, 1991 |
| s 23P | ad No 59, 1991 |
| s 23Q | ad No 59, 1991 |
| s 23R | ad No 59, 1991 |
| s 23S | ad No 59, 1991 |
| s 23T | ad No 59, 1991 |
| s 23U | ad No 59, 1991 |
| s 23V | ad No 59, 1991 |
| s 23W | ad No 59, 1991 |
| **Part II** |  |
| s 24 | rs No 84, 1960 |
|  | am No 33, 1973; No 67, 1982 |
| s 24AA | ad No 84, 1960 |
|  | am No 67, 1982 |
| s 24AB | ad No 84, 1960 |
|  | am No 33, 1973; No 67, 1982 |
| s 24AC | ad No 84, 1960 |
|  | am No 67, 1982 |
| s 24A | ad No 54, 1920 |
|  | am No 84, 1960; No 102, 1986 |
| s 24B | ad No 54, 1920 |
| s 24C | ad No 54, 1920 |
|  | am No 67, 1982; No 102, 1986 |
| s 24D | ad No 54, 1920 |
|  | am No 67, 1982; No 102, 1986 |
| s 24E | ad No 54, 1920 |
|  | am No 93, 1966; No 67, 1982; No 108, 1989 |
| s 24F | ad No 84, 1960 |
|  | am No 33, 1973; No 67, 1982; No 102, 1986 |
| s 25 | am No 80, 1950; No 84, 1960; No 67, 1982 |
| s 26 | rs No 84, 1960 |
| s 27 | am No 67, 1982 |
| s 28 | am No 67, 1982 |
| s 29 | am No 67, 1982; No 120, 1987 |
| s 29A | ad No 9, 1926 |
|  | am No 67, 1982 |
| s 29B | ad No 9, 1926 |
|  | am No 6, 1941; No 67, 1982 |
| s 29C | ad No 9, 1926 |
|  | rs No 84, 1960 |
|  | am No 67, 1982 |
| s 29D | ad No 165, 1984 |
|  | am No 76, 1986 |
| s 30 | am No 84, 1960; No 67, 1982 |
| **Part IIA** |  |
| Part IIA | ad No 9, 1926 |
| s 30A | ad No 9, 1926 |
|  | am No 30, 1932; No 33, 1973; No 19, 1979; No 67, 1982 |
| s 30AA | ad No 30, 1932 |
|  | am No 5, 1937; No 33, 1973; No 19, 1979; No 67, 1982 |
| s 30AB | ad No 30, 1932 |
|  | am No 93, 1966; No 67, 1982 |
| s 30B | ad No 9, 1926 |
|  | am No 67, 1982 |
| s 30C | ad No 9, 1926 |
|  | am No 33, 1973; No 67, 1982 |
| s 30D | ad No 9, 1926 |
|  | am No 67, 1982 |
| s 30E | ad No 9, 1926 |
|  | am No 30, 1932; No 84, 1960; No 56, 1975; No 67, 1982 |
| s 30F | ad No 9, 1926 |
|  | am No 30, 1932; No 67, 1982 |
| s 30FA | ad No 30, 1932 |
| s 30FB | ad No 30, 1932 |
|  | am No 33, 1973; No 67, 1982 |
|  | rep No 136, 1983 |
| s 30FC | ad No 30, 1932 |
|  | am No 93, 1966; No 67, 1982 |
| s 30FD | ad No 30, 1932 |
|  | am No 33, 1973; No 19, 1979; No 67, 1982 |
| s 30G | ad No 9, 1926 |
|  | am No 84, 1960 |
| s 30H | ad No 9, 1926 |
| s 30J | ad No 9, 1926 |
|  | am No 33, 1973 |
| s 30K | ad No 9, 1926 |
|  | am No 67, 1982 |
| s 30L | ad No 9, 1926 |
|  | rs No 30, 1932 |
|  | rep No 33, 1973 |
| s 30M | ad No 9, 1926 |
|  | rep No 33, 1973 |
| s 30N | ad No 9, 1926 |
|  | am No 93, 1966 |
|  | rep No 33, 1973 |
| s 30P | ad No 9, 1926 |
|  | rep No 33, 1973 |
| s 30Q | ad No 9, 1926 |
|  | rep No 33, 1973 |
| s 30R | ad No 9, 1926 |
|  | am No 67, 1982 |
| **Part III** |  |
| s 31 | am No 84, 1960; No 67, 1982 |
| s 32 | am No 67, 1982 |
| s 33 | am No 84, 1960; No 67, 1982 |
| s 34 | am No 67, 1982 |
| s 35 | am No 216, 1973; No 67, 1982 |
| s 36 | am No 67, 1982; No 73, 1987 |
| s 36A | ad No 84, 1960 |
|  | am No 67,1982 |
| s 37 | am No 67, 1982 |
| s 38 | am No 67, 1982 |
| s 39 | am No 67, 1982; No 73, 1987 |
| s 40 | rs No 84, 1960 |
|  | am No 67, 1982 |
| s 41 | am No 84, 1960; No 67, 1982 |
| s 42 | am No 67, 1982 |
| s 43 | am No 67, 1982; No 73, 1987 |
| s 44 | am No 84, 1960; No 67, 1982 |
| s 45 | am No 84, 1960; No 67, 1982 |
| s 46 | am No 67, 1982; No 120, 1987; No 108, 1989 |
| s 47 | am No 67, 1982 |
|  | rs No 120, 1987 |
|  | am No 108, 1989 |
| s 47A | ad No 120, 1987 |
| s 47B | ad No 120, 1987 |
|  | am No 108, 1989 |
| s 47C | ad No 120, 1987 |
|  | am No 108, 1989 |
| s 48 | am No 216, 1973; No 67, 1982 |
|  | rs No 120, 1987 |
|  | am No 108, 1989 |
| s 48A | ad No 141, 1987 |
| s 48B | ad No 141, 1987 |
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| s 50 | am No 84, 1960; No 67, 1982 |
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|  | rep No 122, 1981 |
| s 52 | am No 84, 1960 |
|  | rep No 122, 1981 |
| s 53 | rep No 122, 1981 |
| s 54 | rep No 122, 1981 |
| s 55 | rep No 122, 1981 |
| s 56 | am No 84, 1960 |
|  | rep No 122, 1981 |
| s 57 | rep No 122, 1981 |
| s 58 | am No 84, 1960 |
|  | rep No 122, 1981 |
| s 59 | am No 84, 1960 |
|  | rep No 122, 1981 |
| s 60 | rs No 84, 1960 |
|  | rep No 122, 1981 |
| s 60A | ad No 84, 1960 |
|  | rep No 122, 1981 |
| s 61 | am No 84, 1960 |
|  | rep No 122, 1981 |
| s 62A | ad No 10, 1955 |
|  | rs No 84, 1960 |
|  | rep No 122, 1981 |
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|  | rep No 122, 1981 |
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|  | rs No 67, 1982 |
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|  | rs No 28, 1991 |
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|  | am No 99, 1991 |
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|  | am No 99, 1991 |
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|  | am No 99, 1991 |
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| s 77 | am No 9, 1926 |
|  | rs No 84, 1960 |
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|  | rs No 84, 1960 |
|  | am No 67, 1982 |
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|  | am No 33, 1973; No 67, 1982 |
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|  | am No 67, 1982 |
| s 83B | ad No 84, 1960 |
| s 84 | rs No 84, 1960 |
|  | am No 67, 1982 |
| s 84A | ad No 84, 1960 |
| s 85 | am No 216, 1973 |
| s 85A | ad No 84, 1960 |
| s 85B | ad No 84, 1960 |
|  | am No 67, 1982 |
| s 85C | ad No 84, 1960 |
| s 85D | ad No 84, 1960 |
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|  | rep No 67, 1982 |
|  | ad No 63, 1989 |
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| s 85L | ad No 63, 1989 |
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| s 85N | ad No 63, 1989 |
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| s 85ZC | ad No 63, 1989 |
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| s 85ZF | ad No 63, 1989 |
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