



# **Anti-terrorism Act (No. 3) 2004**

**No. 125, 2004**

**An Act relating to foreign travel documents,  
persons in relation to whom ASIO questioning  
warrants are being sought, forensic procedures,  
and for other purposes**

Note: An electronic version of this Act is available in SCALEplus  
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)



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**An Act relating to foreign travel documents,  
persons in relation to whom ASIO questioning  
warrants are being sought, forensic procedures,  
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*[Assented to 16 August 2004]*

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Anti-terrorism Act (No. 3) 2004*.

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	16 August 2004
2. Schedule 1	The 28th day after the day on which this Act receives the Royal Assent.	13 September 2004
3. Schedule 2	The 28th day after the day on which this Act receives the Royal Assent.	13 September 2004
4. Schedule 3, items 1 to 5	The day on which this Act receives the Royal Assent.	16 August 2004
5. Schedule 3, item 6	The later of: (a) the start of the day on which this Act receives the Royal Assent; and (b) immediately after the commencement of Schedule 3 to the <i>Australian Federal Police and Other Legislation Amendment Act 2004</i> .	22 December 2004 (paragraph (b) applies)
	However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	

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Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

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### **3 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## Schedule 1—Foreign travel documents

### *Passports Act 1938*

#### 1 Before section 1

Insert:

### Part 1—Preliminary

#### 2 At the end of section 4A

Add:

- (2) Subsection (1) does not apply to Parts 2, 3 and 4 of this Act.

#### 3 Subsection 5(1)

Insert:

*competent authority* means a competent authority for the purposes of section 13, 14 or 15.

#### 4 Subsection 5(1)

Insert:

*document* includes:

- (a) any paper or other material on which there is writing; or
- (b) any paper or other material on which there are marks, figures, symbols or perforations that are:
  - (i) capable of being given a meaning by persons qualified to interpret them; or
  - (ii) capable of being responded to by a computer, a machine or an electronic device; or
- (c) any article or material (for example, a disk or a tape) from which information is capable of being reproduced with or without the aid of any other article or device.



**5 Subsection 5(1)**

Insert:

*enforcement officer* means:

- (a) an officer of Customs within the meaning of the *Customs Act 1901*; or
- (b) a member or a special member of the Australian Federal Police; or
- (c) an officer of the police force of a State or Territory; or
- (d) a person, or a person who is one of a class of persons, authorised in writing by the Minister to exercise the powers and perform the functions of an enforcement officer.

**6 Subsection 5(1)**

Insert:

*foreign passport* means a passport issued by or on behalf of the government of a foreign country.

**7 Subsection 5(1)**

Insert:

*foreign travel document* means:

- (a) a foreign passport; or
- (b) a document of identity issued for travel purposes by or on behalf of the government of a foreign country (whether or not also issued for another purpose).

**8 Subsection 5(1)**

Insert:

*Minister's determination* means an instrument made by the Minister for the purposes of this Act under section 24.

**9 Subsection 5(3)**

Omit "(other than paragraph (f))".

**10 Subsection 5(3)**

Omit "9B (other than paragraph (b)),".

**11 Subsection 5(4)**

Repeal the subsection.

**12 After section 6A**

Insert:

**Part 1A—Australian passports**

**13 Paragraph 9(1)(a)**

Omit “a passport”, substitute “an Australian passport”.

**14 Paragraph 9(1)(b)**

Omit “a passport”, substitute “an Australian passport”.

**15 At the end of paragraphs 9A(1)(a), (b), (c), (d) and (e)**

Add “or”.

**16 Paragraph 9A(1)(f)**

Repeal the paragraph.

**17 Subsection 9A(2)**

Omit “(f)”, substitute “(e)”.

**18 Section 9B**

Repeal the section.

**19 Subsection 10(2)**

Repeal the subsection (but not the penalty at the foot of the subsection).

**20 Before subsection 11(1)**

Insert:

(1A) This section does not apply to offences against Part 2 or 3 of this Act.

**21 Before subsection 12(1)**

Insert:

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(1A) This section does not apply in relation to Parts 2, 3 or 4 of this Act.

## **22 At the end of the Act**

Add:

# **Part 2—Enforcement officers’ powers in relation to foreign travel documents**

## **Division 1—Requesting the Minister to order surrender of foreign travel documents**

### **13 Request relating to Australian law enforcement matters**

- (1) If a competent authority believes on reasonable grounds that:
- (a) a person is the subject of an arrest warrant issued in Australia in respect of an indictable offence against a law of the Commonwealth, a State or Territory; or
  - (b) a person (including a person who is in prison) is prevented from travelling internationally by force of:
    - (i) an order of a court of the Commonwealth, a State or Territory; or
    - (ii) a condition of parole, or of a recognisance, surety, bail bond or licence for early release from prison, granted under a law of the Commonwealth, a State or Territory; or
    - (iii) a law of the Commonwealth, or an order or other direction (however described) under a law of the Commonwealth;

the competent authority may request the Minister to make an order under section 16 in relation to the person’s foreign travel documents.

- (2) In this section:

**competent authority**, in relation to a circumstance mentioned in paragraph (1)(a) or (b), means:

- (a) a person who has responsibility for, or powers, functions or duties in relation to, that circumstance under a law of the

- Commonwealth, a State or Territory (other than a person who is specified in a Minister's determination as not being a competent authority in relation to the circumstance); or
- (b) a person specified in a Minister's determination as a competent authority in relation to the circumstance.

*prevented from travelling internationally* includes:

- (a) required to remain in Australia; and
- (b) required to surrender a passport; and
- (c) not permitted to apply for a passport; and
- (d) not permitted to obtain a passport.

#### **14 Request relating to international law enforcement co-operation**

- (1) If a competent authority believes on reasonable grounds that:
- (a) a person is the subject of an arrest warrant issued in a foreign country in respect of a serious foreign offence; or
- (b) a person (including a person who is in prison) is prevented from travelling internationally by force of:
- (i) an order of a court of a foreign country; or
- (ii) a condition of parole, or of a recognisance, surety, bail bond or licence for early release from prison, granted under a law of a foreign country, or other similar arrangement made under a law of a foreign country; or
- (iii) a law of a foreign country, or an order or other direction (however described) under a law of a foreign country.

the competent authority may request the Minister to make an order under section 16 in relation to the person's foreign travel documents.

- (2) In this section:

*competent authority*, in relation to a circumstance mentioned in paragraph (1)(a) or (b), means:

- (a) an approved representative; or
- (b) an employee of the Commonwealth who is specified in a Minister's determination as a competent authority in relation to the circumstance; or
- (c) an agency (within the meaning of the *Financial Management and Accountability Act 1997*) that is specified in a Minister's

determination as a competent authority in relation to the circumstance.

***prevented from travelling internationally*** includes:

- (a) required to remain in the foreign country concerned; and
- (b) required to surrender a passport; and
- (c) not permitted to apply for a passport; and
- (d) not permitted to obtain a passport.

***serious foreign offence*** means an offence against the law of a foreign country:

- (a) for which the maximum penalty is death or imprisonment, or other deprivation of liberty, for a period of not less than 12 months; or
- (b) if the offence does not carry a penalty under the law of the country—the conduct constituting which is, under a treaty to which the country and Australia are parties (being a treaty relating in whole or in part to the surrender of persons accused or convicted of offences), required to be treated as an offence for which the surrender of persons is allowed by the country or Australia; or
- (c) the conduct constituting which would, if engaged in in Australia, constitute an indictable offence against this Act; or
- (d) the conduct constituting which would, if engaged in in Australia, constitute an offence specified in a Minister's determination made for the purposes of subparagraph 15(1)(a)(v).

## **15 Request relating to potential for harmful conduct**

- (1) If a competent authority suspects on reasonable grounds that:
  - (a) unless a person's foreign travel documents are surrendered, the person would be likely to engage in conduct that:
    - (i) might prejudice the security of Australia or a foreign country; or
    - (ii) might endanger the health or physical safety of other persons (whether in Australia or a foreign country); or
    - (iii) might interfere with the rights or freedoms of other persons (whether in Australia or a foreign country) set

out in the International Covenant on Civil and Political Rights; or

(iv) might constitute an indictable offence against this Act; or

(v) might constitute an indictable offence against a law of the Commonwealth, being an offence specified in a Minister's determination; and

(b) the person should be required to surrender the person's foreign travel documents in order to prevent the person from engaging in the conduct;

the competent authority may request the Minister to make an order under section 16 in relation to the person's foreign travel documents.

Note: The text of the International Covenant on Civil and Political Rights is set out in Australian Treaty Series 1980 No. 23. In 2004 this was available in the Australian Treaties Library of the Department of Foreign Affairs and Trade, accessible on the Internet through that Department's world-wide web site.

(2) In this section:

***competent authority:***

(a) in relation to a circumstance mentioned in subsection (1) that relates to Australia, means:

(i) a person who has responsibility for, or powers, duties or functions in relation to, the circumstance under a law of the Commonwealth, a State or Territory (other than a person who is specified in a Minister's determination as not being a competent authority in relation to the circumstance); or

(ii) a person specified in a Minister's determination as a competent authority in relation to the circumstance; or

(b) in relation to a circumstance mentioned in subsection (1) that relates to a foreign country, means:

(i) an approved representative; or

(ii) an employee of the Commonwealth who is specified in a Minister's determination as a competent authority in relation to the circumstance; or

(iii) an agency (within the meaning of the *Financial Management and Accountability Act 1997*) that is

specified in a Minister's determination as a competent authority in relation to the circumstance.

## **Division 2—Demands for foreign travel documents**

### **16 Demand for foreign travel document if authorised by Minister**

- (1) If a competent authority makes a request under section 13, 14 or 15 in relation to a person, the Minister may order the surrender of the person's foreign travel documents.
- (2) If the Minister has made an order under subsection (1), an enforcement officer may demand that the person surrender to the officer the person's foreign travel documents.
- (3) If the person does not immediately surrender the person's foreign travel documents, the officer may:
  - (a) seize the person's foreign travel documents; and
  - (b) seize any foreign travel document of the person that is not in the possession or control of any person.
- (4) Subsection (3) does not authorise an enforcement officer to enter premises that the officer would not otherwise be authorised to enter.
- (5) A person commits an offence if:
  - (a) an enforcement officer demands under subsection (2) that the person surrender the person's foreign travel documents; and
  - (b) the officer informs the person that the Minister has ordered the surrender of the person's foreign travel documents and that the officer is authorised to make the demand; and
  - (c) the officer informs the person that it may be an offence not to comply with the demand; and
  - (d) the person has possession or control of one or more of the person's foreign travel documents; and
  - (e) the person fails to surrender those documents to the officer immediately.

Penalty: Imprisonment for 1 year or 20 penalty units, or both.

- (6) A foreign travel document obtained by an enforcement officer under this section may be retained for so long as there is a competent authority who:
  - (a) believes on reasonable grounds that a circumstance mentioned in section 13 or 14 applies in relation to the person; or
  - (b) suspects on reasonable grounds that a circumstance mentioned in section 15 applies in relation to the person.
- (7) Despite subsection (6), a foreign travel document must be returned to the person to whom it was issued if, on review by the Administrative Appeals Tribunal:
  - (a) the Tribunal sets aside the decision of the Minister to order the surrender of the document; and
  - (b) either:
    - (i) the Tribunal substitutes a decision not to order the surrender of the document; or
    - (ii) the Tribunal remits the matter for reconsideration and, on that reconsideration, the Minister decides not to order the surrender of the document.

### **17 Demand for suspicious foreign travel document**

- (1) An enforcement officer may demand that a person surrender to the officer:
  - (a) a foreign travel document that has been obtained, or that the officer suspects on reasonable grounds has been obtained, by means of a false or misleading statement, false or misleading information or a false or misleading document; or
  - (b) a foreign travel document or other document that has been used, or that the officer suspects on reasonable grounds has been used, in the commission of an offence against this Act.
- (2) A person commits an offence if:
  - (a) an enforcement officer demands under subsection (1) that the person surrender a document; and
  - (b) the officer informs the person that the officer is authorised to demand that document; and
  - (c) the officer informs the person that it may be an offence not to comply with the demand; and



- (d) the person has possession or control of the document; and
- (e) the person fails to surrender the document to the officer immediately.

Penalty: Imprisonment for 1 year or 20 penalty units, or both.

- (3) A document surrendered to an enforcement officer under this section may be retained for so long as there is an enforcement officer who suspects on reasonable grounds:
  - (a) that the document was obtained by means of a false or misleading statement, false or misleading information or a false or misleading document; or
  - (b) that the document has been used in the commission of an offence against this Act.

## **Part 3—Offences relating to foreign travel documents**

### **18 Making false or misleading statements in relation to foreign travel document applications**

- (1) A person commits an offence if:
  - (a) the person makes a statement (whether orally, in writing or any other way) to another person; and
  - (b) the statement:
    - (i) is false or misleading; or
    - (ii) omits any matter or thing without which the statement is misleading; and
  - (c) the statement is made in, or in connection with, an application for a foreign travel document.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

- (2) Subsection (1) does not apply:
  - (a) as a result of subparagraph (1)(b)(i)—if the statement is not false or misleading in a material particular; or

- (b) as a result of subparagraph (1)(b)(ii)—if the statement did not omit any matter or thing without which the statement is misleading in a material particular.

Note: The defendant bears an evidential burden in relation to the matters in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

## **19 Giving false or misleading information in relation to foreign travel document applications**

- (1) A person commits an offence if:
  - (a) the person gives information to another person; and
  - (b) the information:
    - (i) is false or misleading; or
    - (ii) omits any matter or thing without which the information is misleading; and
  - (c) the information is given in, or in connection with, an application for a foreign travel document.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

- (2) Subsection (1) does not apply:
  - (a) as a result of subparagraph (1)(b)(i)—if the information is not false or misleading in a material particular; or
  - (b) as a result of subparagraph (1)(b)(ii)—if the information did not omit any matter or thing without which the statement is misleading in a material particular.

Note: The defendant bears an evidential burden in relation to the matters in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

## **20 Producing false or misleading documents in relation to foreign travel document applications**

- (1) A person commits an offence if:
  - (a) the person produces a document to another person; and
  - (b) the document is false or misleading; and
  - (c) the document is produced in, or in connection with, an application for a foreign travel document.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

- (2) Subsection (1) does not apply if the document is not false or misleading in a material particular.

Note: The defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

- (3) Subsection (1) does not apply to a person who produces a document if the document is accompanied by a written statement signed by the person (or, in the case of a body corporate, by a competent officer of the body corporate):

- (a) stating that the document is, to the knowledge of the first-mentioned person, false or misleading in a material particular; and
- (b) setting out, or referring to, the material particular in which the document is, to the knowledge of the first-mentioned person, false or misleading.

Note: The defendant bears an evidential burden in relation to the matter in subsection (3). See subsection 13.3(3) of the *Criminal Code*.

## **21 Improper use or possession of a foreign travel document**

- (1) A person commits an offence if:
- (a) the person uses a foreign travel document in connection with travel or identification; and
  - (b) the document has been cancelled.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

- (2) A person commits an offence if:
- (a) the person uses a foreign travel document in connection with travel or identification; and
  - (b) the document was not issued to the person.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

- (3) A person commits an offence if:
- (a) the person provides another person with a foreign travel document that was issued to the first-mentioned person; and

- (b) the first-mentioned person is reckless as to whether the document is or will be used by the other person in connection with travel or identification.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

- (4) A person commits an offence if:
  - (a) the person has possession or control of a foreign travel document; and
  - (b) the person knows that the document was not issued to the person.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

- (5) Subsections (1), (2), (3) and (4) do not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (5). See subsection 13.3(3) of the *Criminal Code*.

## 22 Possessing, making or providing false foreign travel documents

- (1) A person commits an offence if:
  - (a) the person has possession or control of a document; and
  - (b) the person knows that the document is a false foreign travel document.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

- (2) A person commits an offence if:
  - (a) the person:
    - (i) makes a false foreign travel document; or
    - (ii) provides a false foreign travel document to another person; and
  - (b) the person does so with the intention that the false foreign travel document may be used, acted on or accepted as if it were a passport or document of identity issued by or on behalf of the government of a foreign country.

Penalty: Imprisonment for 10 years or 1,000 penalty units, or both.

- (3) Subsections (1) and (2) do not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (3). See subsection 13.3(3) of the *Criminal Code*.

- (4) In this section:

***false foreign travel document:***

- (a) means a document:
- (i) that purports to be a passport issued by or on behalf of the government of a foreign country but that was not issued by or on behalf of that government; or
  - (ii) that purports to be a document of identity issued for travel purposes by or on behalf of the government of a foreign country for the purposes of travel but that was not issued by or on behalf of that government; and
- (b) includes a foreign travel document that has been altered by a person who is not authorised to alter that foreign travel document.

***make***, in relation to a false foreign travel document, includes alter a document so as to make it a false document (whether or not it was already a false document before the alteration).

## **Part 4—Miscellaneous**

### **23 Administrative review**

- (1) Application may be made to the Administrative Appeals Tribunal for review of a decision by the Minister under section 16 to order the surrender of a person's foreign travel documents.
- (2) For the purposes of section 27 of the *Administrative Appeals Tribunal Act 1975*, the only person whose interests are taken to be affected by the decision is the person whose foreign travel documents are ordered to be surrendered.

- (3) The Minister may, if the Minister makes a decision in response to a request under section 15, certify that the decision involved matters of international relations or criminal intelligence.
- (4) Despite section 43 of the *Administrative Appeals Tribunal Act 1975*, if the Minister has given a certificate under subsection (3) in relation to a decision, then in any review of that decision the Administrative Appeals Tribunal may only make a decision:
  - (a) affirming the Minister's decision; or
  - (b) remitting the decision to the Minister for reconsideration in accordance with any directions or recommendations of the Tribunal.

## **24 Minister's determinations**

- (1) The Minister may make instruments specifying any of the matters that this Act provides may be specified in a Minister's determination.
- (2) An instrument made under subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

## **25 Regulations**

- The Governor-General may make regulations prescribing matters:
- (a) required or permitted by this Part or by Part 2 or 3 of this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part or to Part 2 or 3 of this Act.

## **Schedule 2—Persons in relation to whom ASIO questioning warrants are being sought**

### *Australian Security Intelligence Organisation Act 1979*

#### **1 After section 34JB**

Insert:

#### **34JBA Surrender of passport by person in relation to whom warrant is sought**

- (1) If the Director-General has sought the Minister's consent to request the issue of a warrant under section 34D in relation to a person, then, as soon as practicable after that person is notified of that action and of the effect of this subsection, the person must deliver to an enforcement officer every passport that:
  - (a) is an Australian passport (as defined in the *Passports Act 1938*), or a foreign passport, that has been issued to the person; and
  - (b) the person has in his or her possession or control.

Penalty: Imprisonment for 5 years.
- (2) The Director-General must cause a passport delivered under subsection (1) to be returned to the person to whom it was issued, as soon as practicable after the first of the following events:
  - (a) the Minister refuses to consent to request the issue of a warrant under section 34D in relation to the person;
  - (b) an issuing authority refuses to issue a warrant under section 34D in relation to the person;
  - (c) if a warrant under section 34D is issued in relation to the person—the period specified in the warrant under paragraph 34D(6)(b) ends;

but the Director-General may cause the passport to be returned to that person earlier.

- (3) Subsection (2) does not require:
  - (a) the return of a passport during a period specified under paragraph 34D(6)(b) in another warrant that specifies the person to whom the passport was issued; or
  - (b) the return of a passport that has been cancelled.
- (4) If a warrant under section 34D is issued in relation to the person, a person approved under subsection 24(1) in relation to the warrant may, after a passport of the first-mentioned person is delivered under subsection (1) and before it is returned under subsection (2):
  - (a) inspect or examine the passport; and
  - (b) make copies or transcripts of it.
- (5) In this section:

***enforcement officer*** means any of the following:

  - (a) a member of the Australian Federal Police;
  - (b) an officer of the police force of a State or Territory;
  - (c) an officer of Customs (within the meaning of the *Customs Act 1901*).

**34JBB Person in relation to whom warrant is sought must not leave Australia without permission**

- (1) A person commits an offence if:
  - (a) the person has been notified:
    - (i) that the Director-General has sought the Minister's consent to request the issue of a warrant under section 34D in relation to the person; and
    - (ii) of the effect of this subsection in connection with that action; and
  - (b) the person leaves Australia; and
  - (c) the leaving occurs after the person has been notified that the Director-General has sought the Minister's consent and of the effect of this subsection in connection with that action, and before the first of the following events:
    - (i) if the Minister refuses to consent to request the issue of a warrant under section 34D in relation to the person—that refusal;



- (i) if an issuing authority refuses to issue a warrant under section 34D in relation to the person—that refusal;
- (ii) if a warrant under section 34D is issued in relation to the person—the period specified in the warrant under paragraph 34D(6)(b) ends; and
- (d) the person does not have written permission from the Director-General to leave Australia at the time the person leaves Australia.

Penalty: Imprisonment for 5 years.

- (2) The Director-General may give written permission for a person to leave Australia at a specified time. The permission may be given either unconditionally or subject to specified conditions.

Note 1: The Director-General may revoke or amend the permission. See subsection 33(3) of the *Acts Interpretation Act 1901*.

Note 2: If permission is given subject to a condition and the condition is not met, the permission is not in force.

## **2 Application of item 1**

The amendments made by item 1 of this Schedule apply to a person in relation to whom the Director-General has sought the Minister's consent to request the issue of a warrant under section 34D of the *Australian Security Intelligence Organisation Act 1979* on or after the commencement of that item.

## Schedule 3—Forensic procedures

### *Crimes Act 1914*

#### 1 Subsection 3(1)

Insert:

*State offence* means an offence against a law of a State or the Australian Capital Territory.

#### 2 Division 11A of Part ID (heading)

Repeal the heading, substitute:

### **Division 11A—Operation of this Part in relation to certain incidents**

#### 3 Paragraph 23YUF(1)(b)

Omit “occurring outside Australia and Norfolk Island”.

#### 4 Paragraph 23YUF(2)(a)

Before “one or more”, insert “if the determination would relate to an incident occurring wholly outside Australia and Norfolk Island—”.

#### 5 After subsection 23YUF(2)

Insert:

- (2A) The Minister must not make a determination under paragraph (1)(b) relating to an incident occurring wholly within Australia or Norfolk Island unless:
- (a) the Minister suspects on reasonable grounds that the incident involves the commission of:
    - (i) an offence against a law of the Commonwealth; or
    - (ii) a State offence that has a federal aspect; or
    - (iii) an offence against a law of a Territory; or

- 
- (b) the Minister suspects on reasonable grounds that victims of the incident are persons of a kind with respect to whom the Commonwealth Parliament has power to make laws; or
  - (c) the Minister is satisfied that the incident is or has created a national emergency.
- (2B) Without limiting paragraph (1)(b), the reference in that paragraph to persons of a kind with respect to whom the Commonwealth Parliament has power to make laws includes references to the following:
- (a) aliens;
  - (b) persons receiving pensions, benefits or allowances from the Commonwealth;
  - (c) members of the Australian Defence Force;
  - (d) persons employed by, or holding an office in, the Commonwealth;
  - (e) residents of a Territory.
- (2C) A State offence is taken, for the purposes of subparagraph (2A)(a)(ii), to have a federal aspect if:
- (a) it has a federal aspect within the meaning of section 4A of the *Australian Crime Commission Act 2002*; or
  - (b) it would have a federal aspect within the meaning of that section if the references in paragraph 4A(2)(d) of that Act to the Australian Crime Commission included references to the Australian Federal Police.

## **6 Subsection 23YUF(2C)**

Repeal the subsection.

Note: This item does not commence at all if Schedule 3 to the *Australian Federal Police and Other Legislation Amendment Act 2004* does not commence. See item 5 of the table in subsection 2(1).

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*[Minister's second reading speech made in—  
House of Representatives on 24 June 2004  
Senate on 4 August 2004]*

(142/04)