



# Criminology Research Amendment Act 1986

No. 123 of 1986

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**SCHEDULE  
MINOR AMENDMENTS**



# Criminology Research Amendment Act 1986

No. 123 of 1986

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## An Act to amend the *Criminology Research Act 1971*

[Assented to 2 December 1986]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

### Short title, &c.

1. (1) This Act may be cited as the *Criminology Research Amendment Act 1986*.

(2) The *Criminology Research Act 1971*<sup>1</sup> is in this Act referred to as the Principal Act.

### Interpretation

2. Section 4 of the Principal Act is amended—

- (a) by adding “or by a person authorised by the Treasurer to give approvals for the purposes of the provision in which the expression occurs” at the end of the definition of “approved bank”; and
- (b) by omitting the definition of “the appropriate Minister” and substituting the following definition:

“‘the appropriate Minister’ means—

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- (a) in relation to a State, such Minister of the Crown of that State as is prescribed, and includes any Minister of the Crown for the time being acting for and on behalf of that Minister; and
- (b) in relation to the Northern Territory, such Minister of the Northern Territory as is prescribed, and includes any Minister of the Northern Territory for the time being acting for and on behalf of that Minister;”.

**Establishment of Institute**

**3. Section 5 of the Principal Act is amended—**

- (a) by omitting sub-section (2) and substituting the following sub-section:
  - “(2) The Institute—
  - (a) is a body corporate; and
  - (b) shall have a seal.”; and
- (b) by omitting sub-section (4) and substituting the following sub-section:
  - “(4) All courts, judges and persons acting judicially shall take judicial notice of the imprint of the seal of the Institute appearing on a document and shall presume that the document was duly sealed.”.

**Functions of Institute**

**4. Section 6 of the Principal Act is amended—**

- (a) by omitting paragraph (a) and substituting the following paragraph:
  - “(a) to conduct, or arrange for the conduct of, such criminological research as is approved by the Board or is requested by the Attorney-General;”;
- (b) by omitting from paragraph (b) “and the States” and substituting “, the States, and the Northern Territory,”;
- (c) by omitting paragraph (c) and substituting the following paragraph:
  - “(c) to conduct, or arrange for the conduct of, such seminars and courses of training or instruction for persons engaged, or to be engaged, in criminological research or in work related to the prevention or correction of criminal behaviour as are approved by the Board or are requested by the Attorney-General;”;
- (d) by omitting from paragraph (h) “and”; and
- (e) by inserting after paragraph (h) the following paragraphs:
  - “(ha) to collect information and statistics (without detracting from, and in the context of, the overall collecting and co-ordinating role of the Australian Bureau of Statistics);

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- “(hb) to provide information and advice to Departments, agencies and authorities of the Commonwealth, of the States, and of the Northern Territory dealing with the administration of criminal justice;
- “(hc) to collaborate, in and outside Australia, with governments, institutions and authorities, and with bodies and persons, in relation to research, or the training of persons, in or in connection with the administration of criminal justice; and”.

5. After section 6 of the Principal Act the following section is inserted:

**Power of Attorney-General to request Institute to perform certain functions**

“6A. (1) The Attorney-General may request the Institute to—

- (a) conduct, or arrange for the conduct of, criminological research into a matter specified by the Attorney-General; or
- (b) to conduct seminars or courses of training or instruction in a matter specified by the Attorney-General, being seminars or courses of training or instruction for persons engaged, or to be engaged, in criminological research or in work related to the prevention or correction of criminal behaviour.

“(2) Where the Attorney-General so requests the Institute to conduct, or arrange for the conduct of, criminological research, or to conduct seminars or courses of training or instruction, the Attorney-General may also require the Board to ensure that such priority is given to the conduct of that research, or to the conduct of those seminars or courses of training or instruction, as the Attorney-General specifies.”.

**Powers of Institute**

6. Section 7 of the Principal Act is amended by inserting before paragraph (a) the following paragraphs:

- “(aa) to acquire, hold and dispose of real and personal property;
- “(ab) to enter into contracts;”.

**Constitution of Board**

7. Section 9 of the Principal Act is amended—

- (a) by omitting sub-section (1) and substituting the following sub-section:
  - “(1) The Board shall consist of—
  - (a) the Director;
  - (b) 3 members appointed by the Attorney-General; and
  - (c) 4 members appointed by the Council.”; and
- (b) by omitting sub-section (4).

**Deputies of members of Board**

8. Section 10 of the Principal Act is amended by inserting “the Director or” after “in the case of” in paragraph (1) (a).

9. Section 11 of the Principal Act is repealed and the following section is substituted:

**Remuneration and allowances**

“11. (1) A member of the Board appointed under paragraph 9 (1) (b) or (c), or a deputy of such a member, shall be paid such remuneration as is determined by the Remuneration Tribunal.

“(2) A member of the Board appointed under paragraph 9 (1) (b) or (c), or a deputy of such a member, shall be paid such allowances as are prescribed.

“(3) Sub-sections (1) and (2) have effect subject to the *Remuneration Tribunals Act 1973*.

“(4) Sub-section (1) does not apply in relation to a member of the Board, or a deputy of such a member, if the member or deputy holds any office or appointment, or is otherwise employed, on a full-time basis in the service or employment of—

- (a) the Commonwealth, a State or the Administration of a Territory;
- (b) a body corporate established by a law of the Commonwealth, of a State or of a Territory for the purposes of the Commonwealth, of the State or of the Territory; or
- (c) an incorporated company over which the Commonwealth, a State or the Administration of a Territory is in a position to exercise control.”.

**Tenure of office of Director**

10. Section 17 of the Principal Act is amended by omitting from sub-section (4) “, but the resignation does not have effect until it is accepted by the Governor-General”.

11. Section 18 of the Principal Act is repealed and the following section is substituted:

**Remuneration and allowances of Director**

“18. (1) The Director shall be paid such remuneration as is determined by the Remuneration Tribunal.

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

“(3) Sub-sections (1) and (2) have effect subject to the *Remuneration Tribunals Act 1973*.”.

**Leave of absence of Director**

12. Section 19 of the Principal Act is amended by omitting “salary” and substituting “remuneration”.

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**13.** Section 22 of the Principal Act is repealed and the following section is substituted:

**Acting Director**

“22. (1) The Attorney-General may appoint a person to act as Director—

- (a) during a vacancy in the office of Director; or
- (b) during any period, or during all periods, when the Director is absent from duty or from Australia or is, for any other reason, unable to perform the functions of the office of Director,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

“(2) An appointment of a person under sub-section (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

“(3) The Attorney-General may—

- (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person acting as Director; and
- (b) terminate such an appointment at any time.

“(4) Where a person is acting as Director in accordance with paragraph (1) (b) and the office of Director becomes vacant while that person is so acting, then, subject to sub-section (2), that person may continue so to act until the Attorney-General otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

“(5) The appointment of a person to act as Director ceases to have effect if the person resigns the appointment by writing signed by the person and delivered to the Attorney-General.

“(6) While a person is acting as Director, the person may exercise all the powers, and shall perform all the functions, of the Director under this Act.

“(7) The validity of anything done by or in relation to a person purporting to act under sub-section (1) shall not be called in question on the ground that the occasion for the appointment had not arisen, that there is a defect or irregularity in or in connection with the appointment, that the appointment had ceased to have effect or that the occasion for the person to act had not arisen or had ceased.”.

**Repeal of sections 26 and 27**

**14.** Sections 26 and 27 of the Principal Act are repealed.

**Moneys payable to Institute**

**15.** Section 28 of the Principal Act is amended by omitting sub-sections (3) and (4).

16. After section 28 of the Principal Act the following section is inserted:

**Estimates**

“28A. (1) The Director shall prepare estimates, in such form as the Attorney-General directs, of expenditure of the Institute, out of moneys to be paid to the Institute under section 28, for each financial year and, if the Attorney-General so directs, for any other period specified by the Attorney-General, and the Director shall submit estimates so prepared to the Attorney-General not later than such date as the Attorney-General directs.

“(2) Moneys paid to the Institute under section 28 shall not be expended by the Institute otherwise than in accordance with estimates of expenditure approved by the Attorney-General.”

**Contracts**

17. Section 29 of the Principal Act is amended by omitting “Fifty thousand dollars” and substituting “\$100,000”.

18. Section 31 of the Principal Act is repealed and the following section is substituted:

**Application of moneys**

“31. The moneys of the Institute shall be applied only—

- (a) in payment or discharge of the expenses, charges, obligations and liabilities incurred or undertaken by the Institute in the performance of its functions and the exercise of its powers; and
- (b) in payment of remuneration and allowances payable under this Part.”

19. After section 32 of the Principal Act the following section is inserted:

**Trust moneys**

“32A. (1) The Institute shall ensure that all moneys received or held by the Institute on trust are paid into an account opened and maintained pursuant to section 30 that does not, or accounts referred to in that section that do not, contain any moneys of the Institute not held on trust.

“(2) Notwithstanding any other provision of this Division—

- (a) moneys or other property held by the Institute on trust shall be applied or dealt with only in accordance with the powers and duties of the Institute as trustee; and
- (b) moneys held by the Institute on trust may be invested—
  - (i) in any manner in which the Institute is authorized to invest those moneys by the terms of the trust; or
  - (ii) in any manner in which trust moneys may, for the time being, be invested under law,but not otherwise.



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“(3) Section 32 has effect as if—

- (a) the reference in that section to transactions and affairs included a reference to transactions and affairs relating to moneys or property received or held by the Institute on trust; and
- (b) the reference in that section to moneys or to assets included a reference to moneys, or assets, as the case may be, received or held by the Institute on trust.

“(4) Section 33 has effect as if—

- (a) the reference in paragraph (2) (c) to the receipt and expenditure of moneys by the Institute included a reference to the receipt by the Institute of moneys to be held on trust and the expenditure by the Institute of moneys held on trust, respectively; and
- (b) the reference in paragraph (2) (c) to the acquisition and disposal of assets by the Institute included a reference to the acquisition by the Institute of assets to be held on trust and the disposal by the Institute of assets held on trust, respectively.

“(5) Section 49 has effect as if—

- (a) the reference in paragraph (1) (a) to financial transactions included a reference to transactions relating to moneys or assets received or held by the Institute on trust;
- (b) the reference in sub-paragraph (1) (c) (i) to assets included a reference to assets received or held by the Institute on trust;
- (c) the reference in sub-section (5) to the receipt or payment of moneys by the Institute included a reference to the receipt by the Institute of moneys to be held on trust or to the payment by the Institute of moneys held on trust, as the case may be; and
- (d) the reference in sub-section (5) to the acquisition, receipt, custody or disposal of assets by the Institute included a reference to the acquisition or receipt by the Institute of assets to be held on trust or the custody or disposal by the Institute of assets held on trust, as the case may be.”.

**Establishment of Council**

**20.** Section 34 of the Principal Act is amended by omitting sub-section (4) and substituting the following sub-section:

“(4) All courts, judges and persons acting judicially shall take judicial notice of the imprint of the common seal of the Council appearing on a document and shall presume that the document was duly sealed.”.

**Constitution of Council**

**21.** Section 35 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “seven” and substituting “8”;
- (b) by omitting from paragraph (1) (a) “and”;
- (c) by inserting after paragraph (1) (b) the following word and paragraph:

“; and (c) one is to represent the Northern Territory.”; and

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- (d) by omitting sub-sections (3) and (4) and substituting the following sub-sections:

“(3) A member who is to represent a State, or the member who is to represent the Northern Territory, shall be appointed by the Attorney-General upon the nomination of the appropriate Minister of that State, or of the Northern Territory, as the case requires.

“(4) If, and only if, the appropriate Minister of a State, or of the Northern Territory, so requests, the Attorney-General shall remove from office the member representing that State, or the member representing the Northern Territory, as the case requires.”.

**Deputies of members of Council**

**22.** Section 36 of the Principal Act is amended—

- (a) by omitting from paragraph (1) (a) “or”;
- (b) by inserting after paragraph (1) (b) the following word and paragraph:
- “; or (c) in the case of the member appointed to represent the Northern Territory—with the approval of the appropriate Minister of that Territory,”; and
- (c) by omitting from sub-section (2) “or to the appropriate Minister of the State concerned” and substituting “; to the appropriate Minister of the State concerned, or to the appropriate Minister of the Northern Territory”.

**Resignation of members of Council and deputies of members**

**23.** Section 38 of the Principal Act is amended by adding at the end the following sub-section:

“(3) The member of the Council who is appointed to represent the Northern Territory, or the deputy of that member, may resign his or her office by writing signed by the member or deputy, as the case may be, and delivered to the appropriate Minister of the Northern Territory.”.

**Meetings of Council**

**24.** Section 39 of the Principal Act is amended by omitting paragraph (7) (b) and substituting the following paragraph:

“(b) the member presiding has a deliberative vote and, if there is an equality of votes, also has the casting vote.”.

**Annual reports by Council**

**25.** Section 43 of the Principal Act is amended by inserting “and of the Northern Territory” after “State” in sub-sections (1), (3) and (4).

**Moneys payable to Fund**

**26.** Section 46 of the Principal Act is amended—

- (a) by omitting sub-section (1);
- (b) by omitting from sub-section (2) “also”;
- (c) by omitting from paragraph (2) (a) “further”; and
- (d) by inserting in paragraph (2) (b) “or the Northern Territory” after “State”.

**Investment of moneys in Fund**

27. Section 48 of the Principal Act is amended by inserting in sub-paragraph (a) (ii) “or the Northern Territory” after “State”.

**Audit**

28. Section 49 of the Principal Act is amended by inserting “and of the Northern Territory” after “State” in sub-section (4).

**Minor amendments**

29. The Principal Act is also amended as set out in the Schedule.

**Saving of existing appointments**

30. A person who, immediately before the commencement of this Act, held office—

- (a) as a member of the Board of Management of the Australian Institute of Criminology appointed by the Attorney-General under paragraph 9 (1) (a) of the Principal Act;
  - (b) as a member of that Board appointed by the Criminology Research Council under paragraph 9 (1) (b) of the Principal Act; or
  - (c) as a member of the Criminology Research Council appointed by the Attorney-General under sub-section 35 (3) of the Principal Act, shall continue to hold that office, subject to the Principal Act as amended by this Act, as if the person had been duly appointed—
    - (d) in the case of a person referred to in paragraph (a) of this section—by the Attorney-General under paragraph 9 (1) (b) of the Principal Act as so amended;
    - (e) in the case of a person referred to in paragraph (b) of this section—by the Council under paragraph 9 (1) (c) of the Principal Act as so amended; or
    - (f) in the case of a person referred to in paragraph (c) of this section—by the Attorney-General under sub-section 35 (3) of the Principal Act as so amended.
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**SCHEDULE**

Section 29

**MINOR AMENDMENTS**

**Section 4—**

- (a) Omit “of this Act” (wherever occurring).
- (b) Omit the definitions of “appointed” and “appointment”, substitute the following definition:  
“ ‘appoint’ includes re-appoint;”.

**Sub-section 9 (3)—**

- (a) Omit “his”, substitute “the”.
- (b) Omit “he”.

**Sub-section 10 (1)—**

Omit “his deputy”, substitute “the deputy of the member”.

**Sub-section 10 (2)—**

- (a) Omit “his deputy”, substitute “the deputy of the member”.
- (b) Omit “under his hand”, substitute “signed by the member and”.

**Sub-section 10 (3)—**

After “he”, insert “or she”.

**Sub-section 12 (1)—**

Omit “paragraph (a) of sub-section (1) of section 9 of this Act”, substitute “paragraph 9 (1) (b)”.

**Sub-section 12 (2)—**

- (a) Omit “his” (first occurring), substitute “from”.
- (b) Omit “under his hand”, substitute “signed by the Chairman and”.

**Sub-section 13 (1)—**

- (a) Omit “his” (first occurring), substitute “from”.
- (b) Omit “under his hand”, substitute “signed by the member or the deputy, as the case may be, and”.

**Sub-section 13 (2)—**

- (a) Omit “his” (first occurring), substitute “from”.
- (b) Omit “under his hand”, substitute “signed by the member or the deputy, as the case may be, and”.

**Sub-sections 14 (1), (2), (3) and (4)—**

Omit “his deputy”, substitute “the deputy of the Chairman”.

**Sub-section 14 (3)—**

After “he”, insert “or she”.

**Sub-section 14 (5)—**

Omit “two” (wherever occurring), substitute “2”.

**Sub-section 14 (6)—**

- (a) Omit “under his hand”, substitute “signed by the member”.
- (b) After “his” (second, third and fourth occurring), insert “or her”.

**SCHEDULE—continued**

**Sub-section 17 (1)—**

- (a) Omit “seven”, substitute “7”.
- (b) Omit “his”, substitute “the person’s”.
- (c) Omit “he”.

**Sub-sections 17 (2) and (3)—**

Omit “sixty-five”, substitute “65”.

**Sub-section 17 (3)—**

Omit “he”, substitute “the person”.

**Sub-section 17 (4)—**

- (a) Omit “his”, substitute “from”.
- (b) Omit “under his hand”, substitute “signed by the Director and”.

**Paragraph 21 (a)—**

Omit “his” (wherever occurring).

**Paragraph 21 (b)—**

Omit “fourteen”, “twenty-eight” and “twelve”, substitute “14”, “28” and “12”, respectively.

**Section 21—**

Omit “him”, substitute “the Director”.

**Sub-section 23 (1)—**

Omit “he”, substitute “the Director”.

**Sub-section 28 (2)—**

Omit “the last preceding sub-section”, substitute “sub-section (1)”.

**Sub-section 33 (3)—**

Omit “fifteen”, substitute “15”.

**Sub-section 35 (5)—**

Omit “his nomination”, substitute “the nomination of the member”.

**Sub-sections 36 (1) and (2)—**

Omit “his deputy”, substitute “the deputy of the member”.

**Sub-section 36 (2)—**

Omit “under his hand”, substitute “signed by the member and”.

**Sub-section 36 (3)—**

After “he”, insert “or she”.

**Sub-section 37 (2)—**

Omit “his” (wherever occurring).

**Sub-section 37 (3)—**

- (a) Omit “his”, substitute “from”.
- (b) Omit “under his hand”, substitute “signed by the Chairman and”.

**SCHEDULE—continued**

**Sub-section 38 (1)—**

- (a) Omit “his”, substitute “from”.
- (b) Omit “under his hand”, substitute “signed by the member or the deputy, as the case may be, and”.

**Sub-section 38 (2)—**

- (a) Omit “his”, substitute “from”.
- (b) Omit “under his hand”, substitute “signed by the member or the deputy, as the case may be, and”.

**Sub-sections 39 (1), (2), (3) and (4)—**

Omit “his deputy”, insert “the deputy of the Chairman”.

**Sub-section 39 (3)—**

After “he”, insert “or she”.

**Sub-section 39 (5)—**

Omit “four”, substitute “4”.

**Sub-section 39 (6)—**

Omit the sub-section, substitute the following sub-section:

“(6) A member of the Council may, by writing signed by the member, appoint another member or the deputy of another member as the proxy of the first-mentioned member to attend and vote on behalf of the first-mentioned member at a meeting of the Council at which neither the first-mentioned member nor the deputy of the first-mentioned member is present.”.

**Sub-section 43 (2)—**

Omit “the last preceding sub-section”, substitute “sub-section (1)”.

**Sub-section 43 (3)—**

Omit “his”, substitute “the”.

**Sub-section 43 (5)—**

Omit “fifteen”, substitute “15”.

**Sub-section 47 (1)—**

Omit “the next succeeding sub-section”, substitute “sub-section (2)”.

**Section 48—**

Omit “the last preceding section”, substitute “section 47”.

**Sub-paragraph 48 (a) (iii)—**

Omit “under his hand”, substitute “signed by the Treasurer”.

**Sub-paragraph 48 (b) (ii)—**

Omit “the last preceding paragraph”, substitute “paragraph (a)”.

**Sub-section 49 (1)—**

Omit “his”.

**Sub-section 49 (2)—**

- (a) Omit “his discretion”, substitute “the discretion of the Auditor-General”.
- (b) Omit “the last preceding sub-section”, substitute “sub-section (1)”.

**SCHEDULE—continued**

**Sub-section 49 (3)—**

Omit “of this section”.

**Sub-section 49 (4)—**

Omit “paragraph (b), or in sub-paragraph (ii) of paragraph (c), of sub-section (1) of this section”, substitute “paragraph (1) (b) or in sub-paragraph (1) (c) (ii)”.

**Sub-sections 49 (5), (6) and (7)—**

Omit “him” (wherever occurring), substitute “the Auditor-General”.

**Sub-section 49 (8)—**

(a) Omit “the last preceding sub-section”, substitute “sub-section (7)”.

(b) Omit “Two hundred dollars”, substitute “\$200”.

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**NOTE**

1. No. 15, 1971, as amended. For previous amendments, see No. 136, 1971; No. 216, 1973; No. 37, 1976; and No. 36, 1978.

*[Minister's second reading speech made in—  
House of Representatives on 12 February 1986  
Senate on 20 February 1986]*