



Crimes Legislation Amendment Act 1991

No. 28 of 1991

TABLE OF PROVISIONS PART 1—INTRODUCTORY

Section	Short title
1.	Commencement
PART 2—AMENDMENTS OF THE AUSTRALIAN FEDERAL POLICE ACT 1979	
3.	Principal Act
4.	Functions
5.	Powers and duties of members
6.	Commissioner and Deputy Commissioner
7.	Absence etc. of Commissioner or Deputy Commissioner
8.	Remuneration and allowances
9.	Leave of absence
10.	Termination of appointment
11.	Insertion of new section: 26BA. Members may be directed to perform certain staff member functions etc.
12.	Term of appointments
13.	Undertakings and oaths or affirmations
14.	Special leave of absence
15.	Insertion of new section: 35A. Transfers
16.	Promotion
17.	Review by Merit Protection and Review Agency of non-appellable promotion decisions
18.	Insertion of new section: 36C. Review by Merit Protection and Review Agency in certain other cases

TABLE OF PROVISIONS—*continued*

Section 19.	Regulations may provide for certain other terms and conditions
PART 3—AMENDMENTS OF THE CASH TRANSACTION REPORTS ACT 1988	
20.	Principal Act
21.	Reports of suspect transactions
22.	Special provisions in relation to reports of suspect transactions
23.	Access to CTR information
PART 4—AMENDMENTS OF THE CRIMES ACT 1914	
24.	Principal Act
25.	Interpretation
26.	Pecuniary penalties—natural persons and bodies corporate
27.	Insertion of new section: 4L. Specified defences not to preclude other defences
28.	Search warrants
29.	Insertion of new section: 76. Obstructing etc. public officers
30.	Interpretation of Part
PART 5—AMENDMENTS OF THE CRIMES (PROTECTION OF AIRCRAFT) ACT 1973	
31.	Principal Act
32.	Long title
33.	Interpretation
34.	Approval of ratification of Convention and accession to Protocol
35.	Offences
36.	Evidence of certain matters
37.	Regulations
38.	Schedule
39.	Schedule 2
PART 6—AMENDMENTS OF THE DIRECTOR OF PUBLIC PROSECUTIONS ACT 1983	
40.	Principal Act
41.	Interpretation
42.	Office of the Director of Public Prosecutions
43.	Powers of Director
44.	Director may request assistance of Commissioner of Police
45.	Insertion of new sections: 18A. Appointment etc. of Associate Director 18B. Exercise of powers and functions by Associate Director
46.	Remuneration and allowances
47.	Leave of absence
48.	Resignation
49.	Director or Associate Director not to undertake other work
50.	Termination of appointment
51.	Disclosure of interests
52.	Oath or affirmation of office
53.	Acting appointments—Director
54.	Insertion of new section: 26A. Acting appointments—Associate Director
55.	Staff
56.	Delegation by Director

TABLE OF PROVISIONS—*continued*

Section

PART 7—AMENDMENTS OF THE PROCEEDS OF CRIME ACT 1987

- 57. Principal Act
- 58. Interpretation
- 59. Charge on property subject to restraining order

**PART 8—AMENDMENTS OF THE TELECOMMUNICATIONS
(INTERCEPTION) ACT 1979**

- 60. Principal Act
- 61. Interpretation
- 62. Investigation of an offence
- 63. Relevant proceedings
- 64. Telecommunications not to be intercepted
- 65. Reports to be made to Attorney-General on results of interception
- 66. Preconditions for declaration
- 67. Agency may apply for warrant
- 68. Issue of warrant for entry on premises
- 69. Managing Director of carrier to be informed of issue or revocation of certain warrants
- 70. Further dealing by recipient of certain information
- 71. Other records to be kept by Commonwealth agencies in connection with interceptions
- 72. Commonwealth agencies to report to Minister about applications and warrants under Parts IV and VI
- 73. Savings

PART 9—AMENDMENTS OF OTHER ACTS

- 74. Amendments of other Acts

SCHEDULE 1

**NEW SCHEDULE 2 TO BE ADDED TO THE CRIMES (PROTECTION OF
AIRCRAFT) ACT 1973**

SCHEDULE 2

AMENDMENTS OF OTHER ACTS



Crimes Legislation Amendment Act 1991

No. 28 of 1991

An Act to amend certain Acts in relation to criminal and law enforcement matters, and for related purposes

[Assented to 4 March 1991]

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

PART 1—INTRODUCTORY

Short title

1. This Act may be cited as the *Crimes Legislation Amendment Act 1991*.

Commencement

2. (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(2) Section 23, paragraph 30 (b), subsection 61 (2) and sections 62, 63, 67 and 73 commence on a day to be fixed by Proclamation, being

Crimes Legislation Amendment No. 28, 1991

the day on which Schedule 1 (3) to the State Drug Crime Commission (Amendment) Act 1990 of New South Wales commences.

(3) Sections 26, 29 and 43 commence 28 days after the day on which this Act receives the Royal Assent.

(4) Subject to subsection (5), section 58 commences on a day to be fixed by Proclamation.

(5) If section 58 does not commence within the period of 12 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

(6) Subsection 74 (2) and Part 2 of Schedule 2 are taken to have commenced immediately after the commencement of section 15 of the *Crimes Legislation Amendment Act 1989*.

(7) Subsection 74 (3) and Part 3 of Schedule 2 are taken to have commenced immediately after the commencement of section 25 of the *Intelligence and Security (Consequential Amendments) Act 1986*.

**PART 2—AMENDMENTS OF THE AUSTRALIAN FEDERAL
POLICE ACT 1979**

Principal Act

3. In this Part, “Principal Act” means the *Australian Federal Police Act 1979*¹.

Functions

4. Section 8 of the Principal Act is amended:

(a) by adding at the end of paragraphs (1) (a) and (1) (aa) “and”;

(b) by inserting after paragraph (1) (b) the following paragraph:

“(ba) the provision of services in accordance with arrangements entered into under subsection (1C) or (2A) and doing anything else included in the arrangements that is incidental or conducive to the provision of the services; and”;

(c) by inserting in subsection (1C) “and regulatory services” after “police services”;

(d) by inserting after subsection (2A) the following subsection:

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

Powers and duties of members

5. Section 9 of the Principal Act is amended:

(a) by adding at the end of paragraph (1) (a) “and”;

Crimes Legislation Amendment No. 28, 1991

(b) by inserting after paragraph (1) (ba) the following paragraph:

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

Commissioner and Deputy Commissioner

6. Section 17 of the Principal Act is amended by re-numbering subsection (4A) (second occurring) as subsection (4B).

Absence etc. of Commissioner or Deputy Commissioner

7. Section 19 of the Principal Act is amended by omitting subsection (1A) and substituting the following subsections:

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

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

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

Remuneration and allowances

8. Section 20 of the Principal Act is amended by omitting from subsection (3) “*Tribunals*” and substituting “*Tribunal*”.

Leave of absence

9. Section 21 of the Principal Act is amended:

(a) by omitting “or a Deputy Commissioner”;

(b) by adding at the end the following subsection:

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

Termination of appointment

10. Section 22 of the Principal Act is amended by omitting from paragraph (2) (b) “by the Minister” and substituting “under section 21”.

11. After section 26B of the Principal Act the following section is inserted:

Members may be directed to perform certain staff member functions etc.

“26BA. The Commissioner may, at any time, in writing signed by the Commissioner, direct a member who is a commissioned police officer or a non-commissioned police officer to perform the specified functions and duties of a staff member during the period specified in the direction, or until the direction is revoked.”.

Term of appointments

12. Section 26D of the Principal Act is amended by omitting subsection (4) and substituting the following subsection:

“(4) Where:

- (a) a person’s appointment ends under section 26E; and
- (b) the person is re-appointed for a term starting immediately after the end of that appointment;

the person’s service is taken to be continuous.”.

Undertakings and oaths or affirmations

13. Section 28 of the Principal Act is amended:

- (a) by omitting from subsection (2) “under Division 1” and substituting “as the Commissioner”;
- (b) by inserting after subsection (2) the following subsection:

“(2A) A person appointed as a Deputy Commissioner must, before starting to perform his or her duties, take or make the prescribed oath or affirmation before the Commissioner.”;

- (c) by omitting from subsection (3) “a person authorized by the Minister” and substituting “the Commissioner or a person authorised by the Commissioner”.

Special leave of absence

14. Section 34 of the Principal Act is amended by omitting from subsection (2) “Minister” and substituting “Commissioner”.

15. After section 35 of the Principal Act the following section is inserted:

Transfers

“35A. Where a person is transferred, the person’s appointment does not end, but is, on and after the day when the transfer takes effect, taken to be an appointment to the position within the rank, or at the level, to which the person is transferred.”.

Promotion

16. Section 36 of the Principal Act is amended by inserting in subsection (3) “does not end, but” after “person’s appointment”.

Review by Merit Protection and Review Agency of non-appellable promotion decisions

17. Section 36B of the Principal Act is amended by omitting subsections (8) and (8A) and substituting the following subsections:

“(8) Where a person’s promotion is cancelled:

- (a) the person must, for all purposes, be treated as having held the position to which he or she was promoted during the period beginning when the promotion took effect and ending when it was cancelled; and
- (b) on the cancellation, the Commissioner must transfer the person to a position of member or staff member, as the case requires, within a rank or at a level that is the same as, or equivalent to the position and rank or level held by the person immediately before the promotion took effect.

“(8A) The Commissioner must create a position, or make a new determination under section 24, if it is necessary to do so in order to comply with paragraph (8) (b) in a particular case.”.

18. After section 36B of the Principal Act the following section is inserted:

Review by Merit Protection and Review Agency in certain other cases

“36C. (1) This section has effect where, whether before, on or after the commencing day, a position of member within a prescribed rank and a corresponding position of staff member at a prescribed level are advertised.

“(2) Where:

- (a) a member is, on or after the commencing day, promoted to the position of member under section 25 or 26; and
- (b) the promotion is a non-appellable promotion; and
- (c) the position of staff member is not filled as a result of the promotion;

a staff member who applied unsuccessfully for either position may apply to the Agency under section 36B for a review of the member’s promotion and that section has effect as if the staff member had applied unsuccessfully for the non-appellable promotion.

“(3) Where:

- (a) a staff member is, on or after that day, promoted to the position of staff member under section 26B; and
- (b) the promotion is a non-appellable promotion; and
- (c) the position of member is not filled as a result of the promotion;

a member who applied unsuccessfully for either position may apply to the Agency under section 36B for a review of the staff member’s

Crimes Legislation Amendment No. 28, 1991

promotion and that section has effect as if the member had applied unsuccessfully for the non-appellable promotion.

“(4) Where:

- (a) a promotion under section 25, 26 or 26B to one of those positions would be a non-appellable promotion; and
- (b) a member is, on or after the commencing day, appointed under section 26B to the position of staff member; and
- (c) the position of member is not filled as a result of that appointment;

a staff member or member who applied unsuccessfully for either position may apply to the Agency under section 36B for review of the member’s appointment and that section (other than paragraph 36B (8) (b) and subsection 36B (8A)) has effect as if:

- (d) the member’s appointment were a non-appellable promotion; and
- (e) the unsuccessful staff member or member were an unsuccessful applicant for such a promotion.

“(5) Where:

- (a) a promotion under section 25, 26 or 26B to one of those positions would be a non-appellable promotion; and
- (b) a staff member is, on or after the commencing day, appointed under section 25 or 26 to the position of member; and
- (c) the position of staff member is not filled as a result of that appointment;

a member or staff member who applied unsuccessfully for either position may apply to the Agency under section 36B for review of the staff member’s appointment and that section (other than paragraph 36B (8) (b) and subsection 36B (8A)) has effect as if:

- (d) the staff member’s appointment were a non-appellable promotion; and
- (e) the unsuccessful member or staff member were an unsuccessful applicant for such a promotion.

“(6) On the cancellation of a person’s appointment under section 36B, the Commissioner must appoint the person to a position of member or staff member, as the case requires, within a rank or at a level that is the same as, or equivalent to, the position, and rank or level, held by the person immediately before the cancelled appointment took effect.

“(7) The service of a person appointed under subsection (6) is taken to be continuous with the person’s immediately preceding service.

“(8) The Commissioner must create a position, or make a new determination under section 24, if it is necessary to do so in order to comply with subsection (6).

“(9) This section only applies to a person who is appointed, or who applied unsuccessfully for an appointment, under section 25, 26 or 26B to a position of member or staff member if the appointment is, or would have been, equivalent to a promotion, having regard to the personnel structure of the Australian Federal Police.

“(10) In this section:

‘Agency’ has the same meaning as in section 36B;

‘commencing day’ means the day on which section 18 of the *Crimes Legislation Amendment Act 1991* commences;

‘non-appellable promotion’ has the same meaning as in section 36B.”.

Regulations may provide for certain other terms and conditions

19. Section 40 of the Principal Act is amended:

(a) by inserting after paragraph (c) the following paragraph:

“(ca) appeals by members against prescribed appointments, or prescribed promotions, of staff members in such circumstances as are prescribed, including action to be taken as a result of any such appeal;”;

(b) by inserting after paragraph (d) the following paragraph:

“(daa) appeals by staff members against prescribed appointments, or prescribed promotions, of members in such circumstances as are prescribed, including action to be taken as a result of any such appeal;”.

PART 3—AMENDMENTS OF THE CASH TRANSACTION REPORTS ACT 1988

Principal Act

20. In this Part, “Principal Act” means the *Cash Transaction Reports Act 1988*².

Reports of suspect transactions

21. Section 16 of the Principal Act is amended:

(a) by inserting “, a customs officer (other than the Comptroller-General of Customs)” after “an AFP member” in the definition of “investigating officer” in subsection (6);

(b) by adding at the end of paragraphs (a) and (c) of the definition of “relevant authority” in subsection (6) “or”;

(c) by adding at the end of the definition of “relevant authority” in subsection (6) the following paragraph:

“(d) the Comptroller-General of Customs;”.

Special provisions in relation to reports of suspect transactions

22. Section 26 of the Principal Act is amended:

(a) by adding at the end of paragraph (1) (a) “or”;

- (b) by adding at the end of subsection (1) the following word and paragraph:
 - “; or (d) where the officer is a customs officer—the Comptroller-General of Customs”.

Access to CTR information

23. Section 27 of the Principal Act is amended:

- (a) by omitting from subsection (16) “State Drug Crime Commission of New South Wales” and substituting “New South Wales Crime Commission”;
- (b) by omitting from paragraph (17)(d) “State Drug Crime Commission of New South Wales” and substituting “New South Wales Crime Commission”.

PART 4—AMENDMENTS OF THE CRIMES ACT 1914

Principal Act

24. In this Part, “Principal Act” means the *Crimes Act 1914*³.

Interpretation

25. Section 3 of the Principal Act is amended by inserting “, staff member” after “a member” in paragraph (b) of the definition of “Commonwealth officer”.

Pecuniary penalties—natural persons and bodies corporate

26. Section 4B of the Principal Act is amended by inserting after subsection (3) the following subsection:

“(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).”.

27. After section 4K of the Principal Act the following section is inserted:

Specified defences not to preclude other defences

“4L. 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.”.

Search warrants

28. Section 10 of the Principal Act is amended by inserting in subsection (1) “Magistrate or” before “Justice of the Peace” (wherever occurring).

29. Section 76 of the Principal Act is repealed and the following section is substituted:

Obstructing etc. public officers

“76. (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.”.

Interpretation of Part

30. Section 85ZL of the Principal Act is amended:

- (a) by inserting after paragraph (b) of the definition of “law enforcement agency” the following paragraph:

“(ba) the Australian Customs Service;”;
- (b) by omitting paragraph (g) of the definition of “law enforcement agency” and substituting the following paragraph:

“(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;”;
- (c) by omitting “85ZP” from the definition of “spent” and substituting “85ZM”.

PART 5—AMENDMENTS OF THE CRIMES (PROTECTION OF AIRCRAFT) ACT 1973

Principal Act

31. In this Part, “Principal Act” means the *Crimes (Protection of Aircraft) Act 1973*⁴.

Long title

32. The title of the Principal Act is repealed and the following title is substituted:

“An Act to approve Australia’s ratification of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, and its accession to the supplementary Protocol, and to give effect to the Convention and the Protocol, and to create certain offences relating to unlawful acts against the safety of civil aviation and to acts of violence at airports”.

Interpretation

33. Section 3 of the Principal Act is amended:

- (a) by omitting “the Schedule” from the definition of “Convention” in subsection (1) and substituting “Schedule 1”;
- (b) by inserting “or 7 (2A) (a)” after “7 (2) (a)” in the definition of “Convention offence” in subsection (1);
- (c) by inserting in subsection (1) the following definition:
“‘Protocol’ means the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, being the Protocol the English text of which is set out in Schedule 2;”.

Approval of ratification of Convention and accession to Protocol

34. Section 6 of the Principal Act is amended by adding at the end the following subsection:

“(2) Australia’s accession to the Protocol is approved.”.

Offences

35. Section 7 of the Principal Act is amended:

- (a) by inserting after subsection (1) the following subsection:

“(1A) A person is guilty of an offence against this Act if the person:

- (a) unlawfully and intentionally uses a device, substance or weapon:
 - (i) to perform an act of violence against a person at a prescribed airport that causes, or is likely to cause, serious injury or death; or

Crimes Legislation Amendment No. 28, 1991

- (ii) to destroy or seriously damage the facilities of a prescribed airport; or
- (iii) to destroy or seriously damage any aircraft not in service that is at a prescribed airport; or
- (iv) to disrupt the services of a prescribed airport; and the act endangers, or is likely to endanger, the safe operation of the airport or the safety of persons at the airport; or
- (b) attempts to do an act described in paragraph (a); or
- (c) is an accomplice of a person who does or attempts to do an act described in paragraph (a); and the circumstances specified in paragraph (2A) (a) or (2A) (b), or both, are applicable.”;
- (b) by inserting after subsection (2) the following subsection:
 - “(2A) The circumstances mentioned in subsection (1A) are:
 - (a) where the Convention, read together with the Protocol, requires Australia to make the conduct concerned punishable; or
 - (b) if the conduct concerned is that described in subparagraph (1A) (a) (iii)—where the aircraft concerned is in Australia, or is an Australian Government aircraft, or where the conduct is that of an Australian citizen, whether in Australia or not.”;
- (c) by adding at the end of subsection (3) the following word and paragraphs:
 - “; or (c) in the case of conduct specified in subparagraph (1A) (a) (i) or conduct specified in paragraph (1A) (b) or (c) that relates to conduct specified in that subparagraph—imprisonment for a term not exceeding 15 years; or
 - (d) in the case of conduct specified in subparagraph (1A) (a) (ii), (iii) or (iv) or conduct specified in paragraph (1A) (b) or (c) that relates to conduct specified in any of those subparagraphs—imprisonment for a term not exceeding 10 years”;
- (d) by adding at the end the following subsection:
 - “(5) A person is not liable to be tried for an offence against this Act by virtue of paragraph (2A) (a) unless the offence is one over which Australia is required to establish its jurisdiction by Article 5 of the Convention, read together with the Protocol.”.

Evidence of certain matters

36. Section 22 of the Principal Act is amended:

- (a) by omitting subsection (1) and substituting the following subsection:

Crimes Legislation Amendment No. 28, 1991

“(1) All courts must take judicial notice that:

- (a) the Convention entered into force under paragraph 3 of Article 15 of the Convention on 28 January 1973; and
 - (b) the Protocol entered into force under paragraph 1 of Article VI of the Protocol on 6 August 1989.”;
- (b) by inserting in paragraph (2) (a) “or the Protocol, as the case may be,” after “Convention”;
- (c) by inserting in paragraph (2) (b) “or the Protocol, as the case may be,” after “Convention”;
- (d) by inserting in subsection (4) “in relation to the Convention or the Protocol” after “paragraph (2) (a)”;
- (e) by adding at the end of subsection (4) “or the Protocol, as the case may be”.

Regulations

37. Section 23 of the Principal Act is amended by omitting “or the Convention” and substituting “, the Convention or the Protocol”.

Schedule

38. The Schedule to the Principal Act is amended by omitting “SCHEDULE” and substituting “SCHEDULE 1”.

Schedule 2

39. The Principal Act is amended by adding at the end the Schedule set out in Schedule 1 to this Act.

PART 6—AMENDMENTS OF THE DIRECTOR OF PUBLIC PROSECUTIONS ACT 1983

Principal Act

40. In this Part, “Principal Act” means the *Director of Public Prosecutions Act 1983*.

Interpretation

41. Section 3 of the Principal Act is amended:

- (a) by inserting in subsection (1) the following definition:
“‘Associate Director’ means the Associate Director of Public Prosecutions;”;
- (b) by omitting paragraph (4) (a) and substituting the following paragraphs:
 - “(a) the Associate Director; or
 - (aa) a member of the staff mentioned in subsection 27 (1); or
 - (ab) a person employed under subsection 27 (3); or”.

Office of the Director of Public Prosecutions

42. Section 5 of the Principal Act is amended by adding at the end of subsection (2) “and an Associate Director of Public Prosecutions”.

Powers of Director

43. Section 9 of the Principal Act is amended:

(a) by inserting after subsection (5) the following subsection:

“(5A) Where the Director is carrying on a proceeding instituted by another person, being a proceeding of the kind mentioned in paragraph (5) (a) or (b), the Director may decline to carry it on further even if the Director has not taken it over under subsection (5).”;

(b) by omitting subsection (6C) and substituting the following subsection:

“(6C) In subsection (6B):

‘State or Territory proceedings’ means:

(a) proceedings in a State or Territory:

(i) for an offence against, or for the recovery of a pecuniary penalty under, a law of that State or Territory; or

(ii) in respect of a forfeiture order under a law of that State or Territory; or

(b) proceedings in a State or Territory by way of a coronial inquest or inquiry under a law of that State or Territory; or

(c) proceedings in a State or Territory before a prescribed authority or a prescribed body established under a law of that State or Territory.”.

Director may request assistance of Commissioner of Police

44. Section 13 of the Principal Act is amended by inserting “, or staff members (or both),” after “members”.

45. After section 18 of the Principal Act the following sections are inserted:

Appointment etc. of Associate Director

“18A. (1) The Associate Director must be appointed by the Governor-General.

“(2) The Associate Director holds office for the period, not longer than 7 years, specified in the instrument of appointment, but is eligible for re-appointment.

“(3) A person must not be appointed as the Associate Director unless he or she is a legal practitioner and has been a legal practitioner for at least 5 years.

“(4) A person who has turned 65 must not be appointed as the Associate Director and a person must not be appointed for a period that ends after the day on which the person will turn 65.

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

Exercise of powers and functions by Associate Director

“18B. (1) Subject to any directions of the Director, the Associate Director has all the powers and functions of the Director, except the Director’s powers of delegation under section 31.

“(2) A power or function that is exercised or performed by the Associate Director is taken, for the purposes of this Act, to have been exercised or performed by the Director.

“(3) Where, under this Act, the exercise of a power or performance of a function by the Director depends on the opinion, belief or state of mind of the Director in relation to a matter, the power or function may be exercised or performed by the Associate Director depending on the opinion, belief or state of mind of the Associate Director in relation to that matter.”.

Remuneration and allowances

46. Section 19 of the Principal Act is amended by inserting after subsection (2) the following subsections:

“(2A) The Associate Director is to be paid such remuneration as is determined by the Remuneration Tribunal, but if no determination of that remuneration by the Tribunal is in operation, the Associate Director is to be paid such remuneration as is prescribed.

“(2B) The Associate Director is to be paid allowances that are the same as the Director’s allowances.”.

Leave of absence

47. Section 20 of the Principal Act is amended by adding at the end the following subsection:

“(2) The Director may grant the Associate Director leave of absence from duty on the terms and conditions, as to remuneration or otherwise, determined by the Director.”.

Resignation

48. Section 21 of the Principal Act is amended by inserting “or the Associate Director” after “Director”.

Director or Associate Director not to undertake other work

49. Section 22 of the Principal Act is amended by omitting “shall not—” and substituting “or the Associate Director must not:”.

Termination of appointment

50. Section 23 of the Principal Act is amended:

- (a) by inserting in subsection (1) “or Associate Director” after “Director”;
- (b) by omitting from subsection (2) “If the Director—” and substituting “If the Director or Associate Director:”;
- (c) by omitting from paragraph (2) (b) “by the Attorney-General” and substituting “under section 20”;
- (d) by adding at the end of subsection (2) “or Associate Director, as the case may be”.

Disclosure of interests

51. Section 24 of the Principal Act is amended by adding at the end the following subsection:

“(2) The Associate Director must give written notice to the Attorney-General of all direct and indirect pecuniary interests that the Associate Director has or acquires in any business, whether in Australia or anywhere else, or in any body corporate carrying on any such business.”.

Oath or affirmation of office

52. Section 25 of the Principal Act is amended by inserting in subsection (1) “or the Associate Director” after “Director”.

Acting appointments—Director

53. Section 26 of the Principal Act is amended:

- (a) by inserting after subsection (1) the following subsection:

“(1A) The Associate Director is to act in the office of Director:

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

except when a person appointed under subsection (1) is acting in that position.”;

- (b) by omitting subsection (3) and substituting the following subsection:

“(3) The Attorney-General may:

- (a) determine the terms and conditions, including remuneration and allowances, if any, on which a person is to act under this section; and

Crimes Legislation Amendment No. 28, 1991

- (b) terminate an appointment under this section at any time.”;
- (c) by omitting from subsection (4) “in accordance with” and substituting “during a period mentioned in”;
- (d) by adding at the end the following subsection:

“(9) The validity of anything done by or in relation to the Associate Director while purporting to act in the office of Director is not invalid merely because the occasion to act had not arisen or had ceased.”.

54. After section 26 of the Principal Act the following section is inserted:

Acting appointments—Associate Director

“26A. (1) The Attorney-General may appoint a person who is eligible for appointment as the Associate Director to act in the office of Associate Director:

- (a) during a vacancy in that office, whether or not an appointment has previously been made to it; or
- (b) during any period, or during all periods, when the Associate Director is absent from duty or from Australia or is, for any reason, unable to perform the functions of the office;

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

“(2) Sections 20, 24 and 25 apply to a person appointed under this section to act in the office of Associate Director in the same way as they apply to the Associate Director.

“(3) Anything done by or in relation to a person purporting to act under such an appointment is not invalid merely because:

- (a) the occasion for the appointment had not arisen; or
- (b) there was a defect or irregularity in connection with the appointment; or
- (c) the appointment had ceased to have effect; or
- (d) the occasion to act had not arisen or had ceased.”.

Staff

55. Section 27 of the Principal Act is amended:

- (a) by omitting subsection (2) and substituting the following subsection:

“(2) The Director has all the powers of, or exercisable by, a Secretary under the *Public Service Act 1922* so far as those powers relate to the branch of the Australian Public Service comprising the staff mentioned in subsection (1) as if that branch were a separate Department of the Service.”;

- (b) by omitting from subsection (3) “and with the approval of the Attorney-General or a person authorised in writing by the Attorney-General to grant approvals under this subsection”;
- (c) by omitting from subsection (4) “subsection (1)” and substituting “subsection (3)”;
- (d) by omitting from subsection (4) “, with the approval of the Public Service Board”.

Delegation by Director

56. Section 31 of the Principal Act is amended by inserting in subsection (1) “(other than the Associate Director)” after “Office”.

PART 7—AMENDMENTS OF THE PROCEEDS OF CRIME ACT 1987

Principal Act

57. In this Part, “Principal Act” means the *Proceeds of Crime Act 1987*.

Interpretation

58. (1) Section 4 of the Principal Act is amended:

- (a) by inserting “Australian Capital Territory and the” after “includes the” in the definition of “State” in subsection (1);
- (b) by inserting “Australian Capital Territory or the” after “include the” in the definition of “Territory” in subsection (1).

(2) Despite subsection (1), where, immediately before the commencing day:

- (a) an order or warrant under the Principal Act was in force; or
- (b) an application for such an order or warrant had been made but not finally dealt with;

and the indictable offence (or alleged or suspected indictable offence) concerned was an offence against a law of the Australian Capital Territory, the Principal Act continues to apply, on and after that day, in relation to:

- (c) the order, warrant or application; and
- (d) the offence, or alleged or suspected offence; and
- (e) any person convicted of the offence, or any person alleged to have committed it or suspected of having committed it;

as if subsection (1) had not been enacted.

(3) Despite subsection (1), Part VI of the Principal Act continues to apply, on and after the commencing day, in relation to interstate restraining orders and interstate forfeiture orders registered in the Supreme Court of the Australian Capital Territory before that day as

if references in that Part to a Territory included the Australian Capital Territory.

(4) In this section:

“commencing day” means the day on which this section commences.

Charge on property subject to restraining order

59. Section 50 of the Principal Act is amended by omitting from paragraph (3) (b) “an” and substituting “and”.

**PART 8—AMENDMENTS OF THE TELECOMMUNICATIONS
(INTERCEPTION) ACT 1979**

Principal Act

60. In this Part, “Principal Act” means the *Telecommunications (Interception) Act 1979*.

Interpretation

61. (1) Section 5 of the Principal Act is amended:

- (a) by omitting “or” (last occurring) from subparagraph (a) (iii) of the definition of “permitted purpose” in subsection (1);
- (b) by adding at the end of paragraph (a) of that definition the following word and subparagraph:
 - “; or (v) the keeping of records by the agency under Part VIII, or by the eligible authority under provisions of a law of the State that impose on the chief officer of the authority requirements corresponding to those imposed on the Chairman of the Authority by subsections 80 (2), 81 (2) and 81 (3);”.

(2) Section 5 of the Principal Act is amended:

- (a) by omitting “Drug” (wherever occurring) from paragraph (d) of the definition of “certifying officer” in subsection (1);
- (b) by omitting “Drug” (wherever occurring) from paragraph (d) of the definition of “chief officer” in subsection (1);
- (c) by omitting “Drug” from paragraph (b) of the definition of “eligible authority” in subsection (1);
- (d) by omitting “Drug” (wherever occurring) from paragraph (d) of the definition of “officer” in subsection (1);
- (e) by omitting “Drug” (wherever occurring) from paragraph (d) of the definition of “prescribed investigation” in subsection (1);
- (f) by omitting “Drug” from paragraph (d) of the definition of “relevant offence” in subsection (1);
- (g) by omitting from subsection (1) the definitions of “Drug Crime Commission”, “Drug Crime Commission Act”, “member of the

Crimes Legislation Amendment No. 28, 1991

Drug Crime Commission” and “member of the staff of the Drug Crime Commission”;

(h) by inserting in subsection (1) the following definitions:

“‘**Crime Commission**’ means the New South Wales Crime Commission;

‘**Crime Commission Act**’ means the New South Wales Crime Commission Act 1985 of New South Wales;

‘**member of the Crime Commission**’ means a person who is, or who is acting in the office of, the Chairperson, or a member, of the Crime Commission;

‘**member of the staff of the Crime Commission**’ means a person who is, for the purposes of the Crime Commission Act, a member of the staff of the Crime Commission;”.

Investigation of an offence

62. Section 6A of the Principal Act is amended by omitting from paragraph (1) (c) “Drug”.

Relevant proceedings

63. Section 6L of the Principal Act is amended by omitting from paragraph (2) (b) “Drug”.

Telecommunications not to be intercepted

64. Section 7 of the Principal Act is amended by omitting from subparagraph (2) (a) (ii) “section”.

Reports to be made to Attorney-General on results of interception

65. Section 17 of the Principal Act is amended by omitting “10” and substituting “10.”.

Preconditions for declaration

66. Section 35 of the Principal Act is amended by omitting from paragraph (1) (d) “2 months” and substituting “3 months”.

Agency may apply for warrant

67. Section 39 of the Principal Act is amended by omitting from paragraph (2) (d) “Drug” (wherever occurring).

Issue of warrant for entry on premises

68. Section 48 of the Principal Act is amended:

(a) by omitting from subsection (3) “using equipment” and substituting “the use of equipment or a line”;

(b) by omitting from paragraph (4) (a) “used to intercept” and substituting “or a line used in the interception of”;

(c) by adding at the end of paragraph (4) (b) “or line”.

Managing Director of carrier to be informed of issue or revocation of certain warrants

69. Section 60 of the Principal Act is amended:

- (a) by omitting from paragraph (1) (d) “certifying” and substituting “prescribed”;
- (b) by adding at the end the following subsection:

“(4) In this section:

‘prescribed officer’, in relation to an agency means:

- (a) in any case—a certifying officer of the agency; and
- (b) in the case of the Australian Federal Police—a member of the Australian Federal Police whose rank is that of Assistant Commissioner; and
- (c) in the case of the Authority—a member of the staff of the Authority (being a Senior Executive Service officer appointed or employed under the *Public Service Act 1922*) who is authorised in writing by the Chairman of the Authority for the purposes of this paragraph; and
- (d) in the case of the Police Force of a State—an officer of that Police Force whose rank is equivalent to that of Assistant Commissioner of the Australian Federal Police.”.

Further dealing by recipient of certain information

70. Section 73 of the Principal Act is amended by omitting “or 67” and substituting “67”.

Other records to be kept by Commonwealth agencies in connection with interceptions

71. Section 81 of the Principal Act is amended:

- (a) by inserting in subsection (1) “or by means of a computer” after “recorded in writing”;
- (b) by inserting in subsection (2) “or by means of a computer” after “recorded in writing”.

Commonwealth agencies to report to Minister about applications and warrants under Parts IV and VI

72. Section 94 of the Principal Act is amended by omitting from subsection (3) “2 months” and substituting “3 months”.

Savings

73. (1) The section 34 declaration in force immediately before the commencing day continues to have effect on and after that day as if:

- (a) it had been made under section 34 of the Principal Act, as amended by this Act; and
- (b) it declared the New South Wales Crime Commission to be an agency for the purposes of the Principal Act as so amended.

Crimes Legislation Amendment No. 28, 1991

(2) Any warrant or other document given or issued under the Principal Act, and in force immediately before the commencing day, continues to have effect on and after that day as if it had been given or issued under the Principal Act, as amended by this Act, and for that purpose:

- (a) references in the warrant or document to the State Drug Crime Commission of New South Wales are taken to be references to the New South Wales Crime Commission; and
- (b) references in the warrant or document to the chief officer or Chairperson of the State Drug Crime Commission of New South Wales are taken to be references to the chief officer or Chairperson of the New South Wales Crime Commission; and
- (c) references in the warrant or document to a member, or member of the staff, of the State Drug Crime Commission of New South Wales are taken to be references to a member, or member of the staff, of the New South Wales Crime Commission.

(3) This section does not prevent the Minister from revoking under section 37 of the Principal Act, as amended by this Act, a declaration to which subsection (1) of this section applies.

(4) In this section:

“**commencing day**” means the day on which subsection 61 (2) of this Act commences;

“**section 34 declaration**” means a declaration made under section 34 of the Principal Act declaring the State Drug Crime Commission of New South Wales to be an agency for the purposes of that Act.

PART 9—AMENDMENTS OF OTHER ACTS

Amendments of other Acts

74. (1) The Acts specified in Part 1 of Schedule 2 are amended as set out in that Part.

(2) The Act specified in Part 2 of Schedule 2 is amended as set out in that Part.

(3) The Act specified in Part 3 of Schedule 2 is amended as set out in that Part.

SCHEDULE 1

Section 39

**NEW SCHEDULE 2 TO BE ADDED TO THE CRIMES
(PROTECTION OF AIRCRAFT) ACT 1973**

SCHEDULE 2

Section 3

PROTOCOL

**for the Suppression of Unlawful Acts of Violence at Airports Serving
International Civil Aviation, Supplementary to the Convention for the
Suppression of Unlawful Acts against the Safety of Civil Aviation,
Done at Montreal on 23 September 1971**

THE STATES PARTIES TO THIS PROTOCOL

CONSIDERING that unlawful acts of violence which endanger or are likely to endanger the safety of persons at airports serving international civil aviation or which jeopardize the safe operation of such airports undermine the confidence of the peoples of the world in safety at such airports and disturb the safe and orderly conduct of civil aviation for all States;

CONSIDERING that the occurrence of such acts is a matter of grave concern to the international community and that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

CONSIDERING that it is necessary to adopt provisions supplementary to those of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971, to deal with such unlawful acts of violence at airports serving international civil aviation;

HAVE AGREED AS FOLLOWS:

Article I

This Protocol supplements the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971 (hereinafter referred to as "the Convention"), and, as between the Parties to this Protocol, the Convention and the Protocol shall be read and interpreted together as one single instrument.

Article II

1. In Article 1 of the Convention, the following shall be added as new paragraph 1 *bis*:

"1 *bis*. Any person commits an offence if he unlawfully and intentionally, using any device, substance or weapon:

SCHEDULE 1—continued

- (a) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or
 - (b) destroys or seriously damages the facilities of an airport serving international civil aviation or aircraft not in service located thereon or disrupts the services of the airport,
- if such an act endangers or is likely to endanger safety at that airport.”

2. In paragraph 2 (a) of Article 1 of the Convention, the following words shall be inserted after the words “paragraph 1”:

“or paragraph 1 *bis*”.

Article III

In Article 5 of the Convention, the following shall be added as paragraph 2 *bis*:

“2 *bis*. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offences mentioned in Article 1, paragraph 1 *bis*, and in Article 1, paragraph 2, in so far as that paragraph relates to those offences, in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to the State mentioned in paragraph 1 (a) of this Article.”

Article IV

This Protocol shall be open for signature at Montreal on 24 February 1988 by States participating in the International Conference on Air Law held at Montreal from 9 to 24 February 1988. After 1 March 1988, the Protocol shall be open for signature to all States in London, Moscow, Washington and Montreal, until it enters into force in accordance with Article VI.

Article V

1. This Protocol shall be subject to ratification by the signatory States.

2. Any State which is not a Contracting State to the Convention may ratify this Protocol if at the same time it ratifies or accedes to the Convention in accordance with Article 15 thereof.

3. Instruments of ratification shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America or with the International Civil Aviation Organization, which are hereby designated the Depositaries.

SCHEDULE 1—continued

Article VI

1. As soon as ten of the signatory States have deposited their instruments of ratification of this Protocol, it shall enter into force between them on the thirtieth day after the date of the deposit of the tenth instrument of ratification. It shall enter into force for each State which deposits its instrument of ratification after that date on the thirtieth day after the deposit of its instrument of ratification.

2. As soon as this Protocol enters into force, it shall be registered by the Depositaries pursuant to Article 102 of the Charter of the United Nations and pursuant to Article 83 of the Convention on International Civil Aviation (Chicago, 1944).

Article VII

1. This Protocol shall, after it has entered into force, be open for accession by any non-signatory State.

2. Any State which is not a Contracting State to the Convention may accede to this Protocol if at the same time it ratifies or accedes to the Convention in accordance with Article 15 thereof.

3. Instruments of accession shall be deposited with the Depositaries and accession shall take effect on the thirtieth day after the deposit.

Article VIII

1. Any Party to this Protocol may denounce it by written notification addressed to the Depositaries.

2. Denunciation shall take effect six months following the date on which notification is received by the Depositaries.

3. Denunciation of this Protocol shall not of itself have the effect of denunciation of the Convention.

4. Denunciation of the Convention by a Contracting State to the Convention as supplemented by this Protocol shall also have the effect of denunciation of this Protocol.

Article IX

1. The Depositaries shall promptly inform all signatory and acceding States to this Protocol and all signatory and acceding States to the Convention:

- (a) of the date of each signature and the date of deposit of each instrument of ratification of, or accession to, this Protocol, and
- (b) of the receipt of any notification of denunciation of this Protocol and the date thereof.

SCHEDULE 1—continued

2. The Depositories shall also notify the States referred to in paragraph 1 of the date on which this Protocol enters into force in accordance with Article VI.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their Governments, have signed this Protocol.

DONE at Montreal on the twenty-fourth day of February of the year One Thousand Nine Hundred and Eighty-eight, in four originals, each being drawn up in four authentic texts in the English, French, Russian and Spanish languages.

SCHEDULE 2

Section 74

AMENDMENTS OF OTHER ACTS

PART 1

Audit Act 1901

Section 2AB:

Add at the end the following subsection:

“(5) Subsection (1) applies in relation to the Australian Federal Police as if the reference to the Secretary were a reference to the Commissioner of Police and a reference to a Department were a reference to the Australian Federal Police.”.

After subsection 53A (2):

Insert the following subsection:

“(2A) For the purposes of subsection (1), the relevant authority in relation to the Australian Federal Police is the Minister administering the *Australian Federal Police Act 1979*.”.

Subsection 70AA (1) (definition of “officer”):

Insert in paragraph (g) of the definition “, staff member” after “a member”.

Subsection 70AA (1) (definition of “Permanent Head”):

Insert in paragraph (g) of the definition, “, staff member” after “a member”.

SCHEDULE 2—continued

Australian Antarctic Territory Act 1954

Section 4:

Insert the following definition:

“ ‘**criminal laws**’ means any laws (whether written, unwritten, substantive or procedural) relating to offences, whether indictable or not, including laws about:

- (a) the investigation of offences; and
- (b) the punishment of offenders, including the penalties or loss of benefits to which offenders are liable; and
- (c) the forfeiture and confiscation of the proceeds of crime;

and any laws providing for the interpretation of such laws;”.

Subsection 6 (1):

After “the laws” insert “(other than the criminal laws)”.

Subsection 6 (2):

Omit the subsection, substitute the following subsections:

“(2) Subject to this Act, the criminal laws in force from time to time in the Jervis Bay Territory are, by virtue of this section (so far as they are applicable to the Territory and are not inconsistent with an Ordinance) in force in the Territory as if the Territory formed part of the Jervis Bay Territory.

“(3) Subsection (1) does not extend to a law in force in the Australian Capital Territory, if that law is an Act or a provision of an Act other than:

- (a) section 6 of the *Seat of Government Acceptance Act 1909*; and
- (b) sections 3, 4 and 12C of the *Seat of Government (Administration) Act 1910* and the Schedule to that Act.

“(4) Subsection (2) does not extend to a criminal law in force in the Jervis Bay Territory if that law is an Act or a provision of an Act.”.

Section 7:

Repeal the section, substitute the following section:

Powers and functions under applied laws

“7. (1) Subject to subsection (2), where a power or function is vested in a person or authority (other than a court) by a law in force in the Territory under section 6, the power or function is, in relation to the Territory, vested in, and may be exercised or performed by, that person or authority.

SCHEDULE 2—continued

“(2) The Governor-General may direct that a power or function of the kind mentioned in subsection (1) be vested in a different specified person or authority and, where such a direction is in force:

- (a) subsection (1) does not apply to the relevant power or function; and
- (b) the power or function is vested in, and may be exercised or performed by, the specified person or authority.”.

Section 10:

Repeal the section, substitute the following section:

A.C.T. courts to have jurisdiction in the Territory

“10. (1) The courts of the Australian Capital Territory have jurisdiction in and in relation to the Territory.

“(2) The *Australian Capital Territory Supreme Court Act 1933* and the practice and procedure of each court of the Australian Capital Territory in force from time to time apply in the Territory as if:

- (a) where the court is exercising its jurisdiction in relation to criminal laws in force in the Territory under section 6—the Territory formed part of the Jervis Bay Territory; and
- (b) in any other case—the Territory formed part of the Australian Capital Territory.

“(3) For the purposes of subsection (2), a reference in the *Australian Capital Territory Supreme Court Act 1933* to an Ordinance or enactment is a reference to an Ordinance or enactment, as the case may be, in force under this Act.”.

Australian Federal Police Legislation Amendment Act (No. 2) 1989

Subsection 2 (3):

Omit “1992”, substitute “1991”.

Canberra Water Supply (Googong Dam) Act 1974

Paragraph 23 (d):

After “a member” insert “, staff member”.

Complaints (Australian Federal Police) Act 1981

Subsection 21 (1) (definition of “enactment”):

- (a) After paragraph (b) of the definition insert the following paragraph:

“(ba) an enactment of Norfolk Island, other than an enactment relating to the powers, privileges or

SCHEDULE 2—continued

immunities of the Legislative Assembly of Norfolk Island;”.

- (b) Omit “of Norfolk Island or”.

Crimes (Aircraft) Act 1963

Subsection 7 (1):

- (a) Omit “Australian Capital Territory”, substitute “Jervis Bay Territory”.
- (b) Add at the end of paragraph (a) “or”.
- (c) Omit paragraph (c).

Subsection 7 (2):

Omit “Australian Capital Territory” (wherever occurring), substitute “Jervis Bay Territory”.

Section 8:

Omit “Australian Capital Territory” (wherever occurring), substitute “Jervis Bay Territory”.

Section 9:

- (a) Omit “other than a court in the Australian Capital Territory”, substitute “other than a court of the Australian Capital Territory exercising its jurisdiction in or in relation to the Jervis Bay Territory”.
- (b) Omit “Australian Capital Territory” (second occurring), substitute “Jervis Bay Territory”.
- (c) Omit “in the Australian Capital Territory” (last occurring), substitute “of the Australian Capital Territory exercising such jurisdiction”.

Crimes (Hijacking of Aircraft) Act 1972

Subsection 9 (1):

Omit “Australian Capital Territory”, substitute “Jervis Bay Territory”.

Subsection 9 (3):

Omit “Australian Capital Territory”, substitute “Jervis Bay Territory”.

Subsection 9 (4):

Omit “Australian Capital Territory” (wherever occurring), substitute “Jervis Bay Territory”.

SCHEDULE 2—continued

Subsection 9 (5):

- (a) Omit “Australian Capital Territory” (first occurring), substitute “Jervis Bay Territory”.
- (b) Omit “Court in the Australian Capital Territory”, substitute “court of the Australian Capital Territory exercising jurisdiction in or in relation to the Jervis Bay Territory”.
- (c) Omit “of that Territory”, substitute “in force in the Jervis Bay Territory”.

Crimes (Overseas) Act 1964

Paragraph 4 (c):

- (a) Omit “Australian Capital Territory”, substitute “Jervis Bay Territory”.
- (b) Omit subparagraph (iii), substitute the following subparagraph:
 - “(iii) the *Police Offences Act 1930* of the Australian Capital Territory, in its application to the Jervis Bay Territory, as amended or affected by Ordinances from time to time in force in the Jervis Bay Territory;”.

Section 5:

Omit “Australian Capital Territory” (wherever occurring), substitute “Jervis Bay Territory”.

Customs Act 1901

Subsections 243C (3) and (4):

Omit “the end of” (second occurring).

Defence Force Discipline Act 1982

Subsection 3 (1) (definition of “Territory offence”):

- (a) Omit from paragraph (a) of the definition “Australian Capital Territory”, substitute “Jervis Bay Territory”.
- (b) Omit from paragraph (b) of the definition “Australian Capital Territory”, substitute “Jervis Bay Territory”.
- (c) Omit paragraph (c) of the definition and all the words following that paragraph, substitute the following paragraph:
 - “(c) an offence against the *Police Offences Act 1930* of the Australian Capital Territory, in its application to the Jervis Bay Territory, as amended or affected by Ordinances from time to time in force in the Jervis Bay Territory”.

SCHEDULE 2—continued

Paragraph 12 (3) (d):

Omit “Australian Capital Territory”, substitute “Jervis Bay Territory”.

Subsection 61 (1):

Omit “Australian Capital Territory” (wherever occurring), substitute “Jervis Bay Territory”.

Subparagraph 63 (1) (a) (ii):

Omit “Australian Capital Territory”, substitute “Jervis Bay Territory”.

Subsection 72 (1):

Omit the subsection, substitute the following subsection:

“(1) Sections 16, 19A to 19AZD (other than section 19AH), 20, 20A and 20AA apply to a service tribunal that imposes a punishment of imprisonment for a specific period on a convicted person as if:

- (a) the service tribunal were a court exercising jurisdiction in or in relation to the Jervis Bay Territory; and
- (b) the person were convicted in that Territory.”.

Subsection 96 (4):

Omit “civil court in the Australian Capital Territory”, substitute “court exercising jurisdiction in or in relation to the Jervis Bay Territory”.

Subsection 134 (1):

Omit “Australian Capital Territory”, substitute “Jervis Bay Territory”.

Subsection 134 (2):

Omit “Australian Capital Territory”, substitute “Jervis Bay Territory”.

Paragraph 142 (1) (d):

Omit “in the Australian Capital Territory”, substitute “exercising jurisdiction in or in relation to the Jervis Bay Territory”.

Subsection 146 (1):

Omit the subsection, substitute the following subsection:

“(1) Subject to regulations in force under subsection (2), the rules of evidence in force in the Jervis Bay Territory apply to proceedings before a service tribunal as if:

- (a) the tribunal were a court exercising jurisdiction in or in relation to that Territory; and

SCHEDULE 2—continued

(b) the proceedings were criminal proceedings in such a court.”.

Evidence Act 1905

Paragraph 7J (4) (b):

After “sergeant” insert “, a staff member of the Australian Federal Police whose salary is at least equal to that of a sergeant in the Australian Federal Police,”.

Heard Island and McDonald Islands Act 1953

Section 2:

Insert the following definition:

“ ‘**criminal laws**’ means any laws (whether written, unwritten, substantive or procedural) relating to offences, whether indictable or not, including laws about:

- (a) the investigation of offences; and
 - (b) the punishment of offenders, including the penalties or loss of benefits to which offenders are liable; and
 - (c) the forfeiture and confiscation of the proceeds of crime;
- and any laws providing for the interpretation of such laws;”.

Subsection 5 (1):

- (a) After “the laws” insert “(other than the criminal laws)”.
- (b) After “to the Territory” insert “and not inconsistent with an Ordinance”.

Subsection 5 (2):

Omit the subsection, substitute the following subsections:

“(2) Subject to this Act, the criminal laws in force from time to time in the Jervis Bay Territory are, by virtue of this section (so far as they are applicable to the Territory and are not inconsistent with an Ordinance) in force in the Territory as if the Territory formed part of the Jervis Bay Territory.”.

“(3) Subsection (1) does not extend to a law in force in the Australian Capital Territory, if that law is an Act or a provision of an Act other than:

- (a) section 6 of the *Seat of Government Acceptance Act 1909*; and
- (b) sections 3, 4 and 12C of the *Seat of Government (Administration) Act 1910* and the Schedule to that Act.

“(4) Subsection (2) does not extend to a criminal law in force in the Jervis Bay Territory if that law is an Act or a provision of an Act.”.

SCHEDULE 2—continued

Section 6:

Repeal the section, substitute the following section:

Powers and functions under applied laws

“6. (1) Subject to subsection (2), where a power or function is vested in a person or authority (other than a court) by a law in force in the Territory under section 5, the power or function is, in relation to the Territory, vested in, and may be exercised or performed by, that person or authority.

“(2) The Governor-General may direct that a power or function of the kind mentioned in subsection (1) be vested in a different specified person or authority and, where such a direction is in force:

- (a) subsection (1) does not apply to the relevant power or function; and
- (b) the power or function is vested in, and may be exercised or performed by, the specified person or authority.”.

Section 9:

Repeal the section, substitute the following section:

A.C.T. courts to have jurisdiction in the Territory

“9. (1) The courts of the Australian Capital Territory have jurisdiction in and in relation to the Territory.

“(2) The *Australian Capital Territory Supreme Court Act 1933* and the practice and procedure of each court of the Australian Capital Territory in force from time to time apply in the Territory as if:

- (a) where the relevant court is exercising its jurisdiction in relation to criminal laws in force in the Territory under section 5—the Territory formed part of the Jervis Bay Territory; and
- (b) in any other case—the Territory formed part of the Australian Capital Territory.

“(3) For the purposes of subsection (2), a reference in the *Australian Capital Territory Supreme Court Act 1933* to an Ordinance or enactment is a reference to an Ordinance or enactment, as the case may be, in force under this Act.”.

Jervis Bay Territory Acceptance Act 1915

Subsection 4D (1):

- (a) Omit “The Supreme Court”, substitute “Each court”.
- (b) Omit “that court”, substitute “each such court”.

SCHEDULE 2—continued

National Crime Authority Act 1984

Subsection 12 (1):

Omit the subsection, substitute the following subsections:

“(1) Where, in carrying out an investigation under paragraph 11 (1) (b) or subsection 11 (2), the Authority obtains evidence of an offence against a law of the Commonwealth or of a State or Territory, being evidence that would be admissible in a prosecution for the offence, the Authority must assemble the evidence and give it to:

- (a) the Attorney-General of the Commonwealth or the State, as the case requires; or
- (b) the relevant law enforcement agency; or
- (c) any person or authority (other than a law enforcement agency) who is authorised by or under a law of the Commonwealth or of the State or Territory to prosecute the offence.

“(1A) Where any evidence is obtained of an offence against a law of the Commonwealth or of a State or Territory, being evidence that:

- (a) is obtained in the course of investigations co-ordinated by the Authority under paragraph 11 (1) (d); and
- (b) would be admissible in a prosecution for the offence;

the Authority must do its best to ensure that the evidence is assembled and given to:

- (c) the Attorney-General of the Commonwealth or the State, as the case requires; or
- (d) the relevant law enforcement agency; or
- (e) any person or authority (other than a law enforcement agency) who is authorised by or under a law of the Commonwealth or of the State or Territory to prosecute the offence.”.

Privacy Act 1988

Subsection 6 (1) (definition of “Commonwealth officer”):

Insert in paragraph (d) of the definition “, staff member” after “a member”.

Paragraph 8 (1) (c):

After “a member” (wherever occurring) insert “, staff member”.

Paragraph 9 (2) (b):

After “a member” (wherever occurring) insert “, staff member”.

Paragraph 10 (2) (b):

After “a member” (wherever occurring) insert “, staff member”.

SCHEDULE 2—continued

Paragraph 11 (2) (c):

After “a member” (wherever occurring) insert “, staff member”.

Radiocommunications Act 1983

Subsection 3 (1) (definition of “Commonwealth officer”):

Omit paragraph (d) of the definition, substitute the following paragraph:

“(d) a member or staff member of the Australian Federal Police, or a member of the police force of a Territory;”.

PART 2

Crimes Legislation Amendment Act 1989

Section 15:

Add at the end “(first occurring)”.

PART 3

Intelligence and Security (Consequential Amendments) Act 1986

Section 25:

Omit “authorised in the interests of security or in connection with inquiries relating”, substitute “authorized in the interests of security or in connection with inquiries related”.

NOTES

1. No. 58, 1979, as amended. For previous amendments, see No. 155, 1979; No. 69, 1980; No. 22, 1981; Nos. 39 and 91, 1983; No. 117, 1984; No. 121, 1985; No. 35, 1986; Nos. 38, 87, 109, and 120, 1988; Nos. 71, 147 and 153, 1989; No. 11, 1990.
2. No. 64, 1988, as amended. For previous amendments, see No. 4, 1990.
3. No. 12, 1914, as amended. For previous amendments, see No. 6, 1915; No. 54, 1920; No. 9, 1926; No. 13, 1928; No. 30, 1932; No. 5, 1937; No. 6, 1941; No. 77, 1946; No. 80, 1950; No. 10, 1955; No. 11, 1959; No. 84, 1960; No. 93, 1966; Nos. 33 and 216, 1973; No. 56, 1975; No. 37, 1976; Nos. 19 and 155, 1979; No. 70, 1980; No. 122, 1981; Nos. 67, 80 and 153, 1982; Nos. 91, 114 and 136, 1983; Nos. 10, 63 and 165, 1984; No. 193, 1985; Nos. 76, 102 and 168, 1986; Nos. 73, 120 and 141, 1987; Nos. 63 and 108, 1989; Nos. 4 and 11, 1990.
4. No. 34, 1973, as amended. For previous amendments, see No. 37, 1976; No. 114, 1983; Nos. 5 and 63, 1988; No. 11, 1990.

Crimes Legislation Amendment No. 28, 1991

NOTES—continued

5. No. 113, 1983, as amended. For previous amendments, see Nos. 10 and 165, 1984; Nos. 64 and 166, 1985; No. 88, 1986; Nos. 86 and 141, 1987; Nos. 5 and 120, 1988; No. 108, 1989.
6. No. 87, 1987, as amended. For previous amendments, see No. 120, 1987; No. 120, 1988.
7. No. 114, 1979, as amended. For previous amendments, see No. 181, 1979; Nos. 114 and 116, 1983; Nos. 6 and 116, 1984; Nos. 8 and 63, 1985; No. 102, 1986; Nos. 89 and 120, 1987; Nos. 5, 65, 66, 99 and 121, 1988; No. 63, 1989; No. 11, 1990.

*[Minister's second reading speech made in—
House of Representatives on 13 February 1991
Senate on 19 February 1991]*