



# Crimes (Investigation of Commonwealth Offences) Amendment Act 1991

No. 59 of 1991

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# Crimes (Investigation of Commonwealth Offences) Amendment Act 1991

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## An Act to amend the *Crimes Act 1914*

[Assented to 9 May 1991]

The Parliament of Australia enacts:

### Short title etc.

1. (1) This Act may be cited as the *Crimes (Investigation of Commonwealth Offences) Amendment Act 1991*.

(2) In this Act, “Principal Act” means the *Crimes Act 1914*<sup>1</sup>.

### Commencement

2. (1) Sections 1 and 2 commence on the day on which this Act receives the Royal Assent.

(2) Subject to subsection (3), the remaining provisions of this Act commence on a day or days to be fixed by Proclamation.

(3) If a provision referred to in subsection (2) does not commence under that subsection 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.

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3. After Part IB of the Principal Act the following Part is inserted:

**“PART IC—INVESTIGATION OF COMMONWEALTH  
OFFENCES**

**Application of Part**

“23A. (1) Any law of the Commonwealth in force immediately before the commencement of this Part, and any rule of the common law, has no effect so far as it is inconsistent with this Part.

“(2) This Part does not exclude or limit the operation of a law of a State or Territory so far as it can operate concurrently with this Part.

“(3) In subsection (2):

‘**law of a State or Territory**’ includes such a law that is given a particular application by a law of the Commonwealth.

“(4) Where a law of a State or Territory would, apart from this subsection, require the electronic recording of confessional evidence in relation to a Commonwealth offence (whether or not expressed as a condition of the admissibility of that evidence), that requirement ceases to apply on the commencement of this Part.

“(5) The provisions of this Part, so far as they protect the individual, are in addition to, and not in derogation of, any rights and freedoms of the individual under a law of the Commonwealth or of a State or Territory.

“(6) If an offence against a law of the Australian Capital Territory is punishable by imprisonment for a period exceeding 12 months and the investigating official concerned is a member or special member of the Australian Federal Police, this Part applies to that offence as if:

- (a) references to Commonwealth offences included references to that offence; and
- (b) references to a law of the Commonwealth included references to a law of that Territory.

**Definitions**

“23B. (1) In this Part:

‘**Aboriginal legal aid organisation**’ means an organisation that provides legal assistance to Aboriginal persons and Torres Strait Islanders, being an organisation identified in the regulations for the purposes of this definition;

‘**Aboriginal person**’ means a person of the Aboriginal race of Australia; ‘**arrested**’ or ‘**under arrest**’ has the meaning given by subsections (2), (3) and (4), and ‘**arrest**’ has a corresponding meaning;

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**'Commonwealth offence'** means an offence against a law of the Commonwealth, other than an offence that is a service offence for the purposes of the *Defence Force Discipline Act 1982*;

**'investigating official'** means:

- (a) a member or special member of the Australian Federal Police;  
or
- (b) a member of the police force of a State or Territory; or
- (c) a person who holds an office the functions of which include the investigation of Commonwealth offences and who is empowered by a law of the Commonwealth because of the holding of that office to make arrests in respect of such offences;

**'investigation period'** means the investigation period prescribed by section 23C;

**'magistrate'** includes a justice of the peace;

**'question'** has the meaning given by subsection (6);

**'tape recording'** includes audio recording and video recording;

**'Torres Strait Islander'** means a descendant of an indigenous inhabitant of the Torres Strait Islands.

“(2) Subject to subsections (3) and (4), a reference in this Part to a person who is arrested includes a reference to a person who is in the company of an investigating official for the purpose of being questioned, if:

- (a) the official believes that there is sufficient evidence to establish that the person has committed a Commonwealth offence that is to be the subject of the questioning; or
- (b) the official would not allow the person to leave if the person wished to do so; or
- (c) the official has given the person reasonable grounds for believing that the person would not be allowed to leave if he or she wished to do so;

but a person is not treated as being arrested only because of this subsection if:

- (d) the official is performing functions in relation to persons or goods entering Australia and the official does not believe that the person has committed a Commonwealth offence; or
- (e) the official is exercising a power under a law of the Commonwealth to:
  - (i) detain and search the person; or
  - (ii) to require the person to provide information or to answer questions.

“(3) Where a person who has been arrested for a Commonwealth offence is remanded by a magistrate in respect of that offence, the

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person ceases to be treated, for the purposes of this Part, as being under arrest for that offence.

“(4) Where:

- (a) a person is under arrest for a Commonwealth offence; and
- (b) an investigating official believes on reasonable grounds that the person voluntarily takes part in covert investigations described in subsection (5);

the person is taken, for all purposes, to cease to be under arrest for the offence, but this subsection does not prevent the person from being re-arrested for the offence.

“(5) Subsection (4) applies to covert investigations conducted by the investigating official for the purpose of investigating whether a person other than the arrested person has been involved in the commission of an offence or suspected offence (whether a Commonwealth offence or not).

“(6) In this Part, a reference to questioning a person is a reference to questioning the person, or carrying out an investigation (in which the person participates), to investigate the involvement (if any) of the person in any Commonwealth offence (including an offence for which the person is not under arrest).

**Period of arrest**

“23C. (1) If a person is lawfully arrested for a Commonwealth offence, the following provisions apply.

“(2) The person may be detained for the purpose of investigating whether the person committed the offence or any other Commonwealth offence, but must not be detained for that purpose, or for purposes that include that purpose, after the end of the investigation period prescribed by this section.

“(3) The person must be:

- (a) released (whether unconditionally or on bail) within the investigation period; or
- (b) brought before a magistrate within that period or, if it is not practicable to do so within that period, as soon as practicable after the end of that period.

“(4) For the purposes of this section, but subject to subsections (6) and (7), the investigation period begins when the person is arrested, and ends at a time thereafter that is reasonable, having regard to all the circumstances, but does not extend beyond:

- (a) if the person is or appears to be under 18, an Aboriginal person or a Torres Strait Islander—2 hours; or
- (b) in any other case—4 hours;

after the arrest, unless the period is extended under section 23D.

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“(5) In ascertaining any period of time for the purposes of this section, regard shall be had to the number and complexity of matters being investigated.

“(6) If the person has been arrested more than once within any period of 48 hours, the investigation period for each arrest other than the first is reduced by so much of any earlier investigation period or periods that occurred within that 48 hours.

“(7) In ascertaining any period of time for the purposes of subsection (4) or (6), the following times are to be disregarded:

- (a) the time (if any) that is reasonably required to convey the person from the place at which the person is arrested to the nearest premises at which the investigating official has access to facilities for complying with this Part;
- (b) any time during which the questioning of the person is suspended or delayed to allow the person, or someone else on the person’s behalf, to communicate with a legal practitioner, friend, relative, parent, guardian, interpreter or other person as provided by this Part;
- (c) any time during which the questioning of the person is suspended or delayed to allow such a legal practitioner, friend, relative, parent, guardian, interpreter or other person to arrive at the place where the questioning is to take place;
- (d) any time during which the questioning of the person is suspended or delayed to allow the person to receive medical attention;
- (e) any time during which the questioning of the person is suspended or delayed because of the person’s intoxication;
- (f) any time during which the questioning of the person is suspended or delayed to allow for an identification parade to be arranged and conducted;
- (g) the time (if any) that is reasonably required to make and dispose of an application under section 23D;
- (h) any reasonable time during which the questioning of the person is suspended or delayed to allow the person to rest or recuperate.

“(8) In any proceedings, the burden lies on the prosecution to prove that:

- (a) the person was brought before a magistrate as soon as practicable; or
- (b) any particular time was covered by a provision of subsection (7).

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**Extension of investigation period**

“23D. (1) If a person is under arrest for a serious offence, an investigating official may, at or before the end of the investigation period, apply for an extension of the investigation period.

“(2) The application must be made to:

- (a) a magistrate; or
- (b) if it cannot be made at a time when a magistrate is available—  
a justice of the peace employed in a court of a State or Territory or a bail justice; or
- (c) if it cannot be made when any of the foregoing is available—  
any justice of the peace.

“(3) The application may be made before the judicial officer, or in writing, or as prescribed by section 23E, and the person or his or her legal representative may make representations to the judicial officer about the application.

“(4) Subject to subsection (5), the judicial officer may extend the investigation period if satisfied that:

- (a) the offence is a serious offence; and
- (b) further detention of the person is necessary to preserve or obtain evidence or to complete the investigation into the offence or into another serious offence; and
- (c) the investigation into the offence is being conducted properly and without delay; and
- (d) the person, or his or her legal representative, has been given the opportunity to make representations about the application.

“(5) The investigation period may be extended for a period not exceeding 8 hours, and must not be extended more than once.

“(6) In this section:

‘**serious offence**’ means a Commonwealth offence that is punishable by imprisonment for a period exceeding 12 months.

**Applications by telephone etc.**

“23E. (1) An application under section 23D for extension of the investigation period may be made by telephone, radio or radio-telephone in accordance with this section.

“(2) Before making the application, the investigating official must tell the person under arrest that he or she, or his or her legal representative, may make representations to the judicial officer about the application.

“(3) The judicial officer must, if satisfied as required by subsection 23D (4):

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- (a) complete and sign a written authority to extend the investigation period, recording the following particulars:
  - (i) the date and time of granting the authority;
  - (ii) the reasons for granting it;
  - (iii) the terms of the extension; and
- (b) inform the investigating official of those particulars.

“(4) As soon as practicable after receiving the authority, the investigating official must:

- (a) complete a form of authority and write on it the name of the judicial officer and the particulars given by the judicial officer; and
- (b) forward it to the judicial officer.

“(5) If the form of authority completed by the investigating official does not, in all material respects, accord with the terms of the authority signed by the judicial officer, the authority granted by the judicial officer is taken to have had no effect.

“(6) In any proceedings, if the authority signed by the judicial officer is not produced in evidence, the burden lies on the prosecution to prove that the authority was granted.

“(7) In this section:

**‘judicial officer’** means the magistrate or justice of the peace, as the case may be, to whom the application is made under section 23D.

**Cautioning person under arrest**

“23F. (1) Subject to subsection (3), if a person is under arrest for a Commonwealth offence, an investigating official must, before starting to question the person, caution the person that he or she does not have to say or do anything, but that anything the person does say or do may be used in evidence.

“(2) The caution must be given in, or translated into, a language in which the person is able to communicate with reasonable fluency, but need not be given in writing.

“(3) Subsections (1) and (2) do not apply so far as another law of the Commonwealth requires the person to answer questions put by, or do things required by, the investigating official.

**Right to communicate with friend, relative and legal practitioner**

“23G. (1) Subject to section 23L, if a person is under arrest for a Commonwealth offence, an investigating official must, before starting to question the person, inform the person that he or she may:

- (a) communicate, or attempt to communicate, with a friend or relative to inform that person of his or her whereabouts; and



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- (b) communicate, or attempt to communicate, with a legal practitioner of the person's choice and arrange, or attempt to arrange, for a legal practitioner of the person's choice to be present during the questioning;

and the investigating official must defer the questioning for a reasonable time to allow the person to make, or attempt to make, the communication and, if the person has arranged for a legal practitioner to be present, to allow the legal practitioner to attend the questioning.

“(2) Subject to section 23L, if a person under arrest for a Commonwealth offence wishes to communicate with a friend, relative or legal practitioner, the investigating official holding the person under arrest must:

- (a) as soon as practicable, give the person reasonable facilities to enable the person to do so; and
- (b) in the case of a communication with a legal practitioner—allow the legal practitioner or a clerk of the legal practitioner to communicate with the person in circumstances in which, as far as practicable, the communication will not be overheard.

“(3) Subject to section 23L, if a person under arrest for a Commonwealth offence arranges for a legal practitioner to be present during the questioning, the investigating official holding the person under arrest must:

- (a) allow the person to consult with the legal practitioner in private and provide reasonable facilities for that consultation; and
- (b) allow the legal practitioner to be present during the questioning and to give advice to the person, but only while the legal practitioner does not unreasonably interfere with the questioning.

**Aboriginal persons and Torres Strait Islanders**

“23H. (1) Subject to section 23L, if the investigating official in charge of investigating a Commonwealth offence believes on reasonable grounds that a person who is under arrest and whom it is intended to question about the offence is an Aboriginal person or a Torres Strait Islander, then, unless the official is aware that the person has arranged for a legal practitioner to be present during the questioning, the official must:

- (a) immediately inform the person that a representative of an Aboriginal legal aid organisation will be notified that the person is under arrest for the offence; and
- (b) notify such a representative accordingly.

“(2) Subject to subsection (7) and section 23L, if an investigating official:

- (a) suspects that a person may have committed a Commonwealth

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offence, or is of the opinion that information received by investigating officials may implicate a person in the commission of a Commonwealth offence, and believes on reasonable grounds that the person is an Aboriginal person or a Torres Strait Islander; or

- (b) believes on reasonable grounds that a person under arrest for a Commonwealth offence is an Aboriginal person or a Torres Strait Islander;

the official must not question the person unless:

- (c) an interview friend is present while the person is being questioned and, before the start of the questioning, the official has allowed the person to communicate with the interview friend in circumstances in which, as far as practicable, the communication will not be overheard; or
- (d) the person has expressly and voluntarily waived his or her right to have such a person present.

“(3) An interview friend may be excluded from the questioning if he or she unreasonably interferes with it.

“(4) In any proceedings, the burden lies on the prosecution to prove that an Aboriginal person or Torres Strait Islander has waived the right referred to in subsection (2), and the burden is not discharged unless the court is satisfied that the person voluntarily waived that right, and did so with full knowledge and understanding of what he or she was doing.

“(5) In any proceedings, the burden lies on the prosecution to prove that, at the relevant time, a person under arrest for a Commonwealth offence had, to the knowledge of the investigating official concerned, made an arrangement of the kind referred to in subsection (1).

“(6) The rights conferred by this section are in addition to those conferred by section 23G but, to the extent (if any) that compliance with this section results in compliance with section 23G, the requirements of section 23G are satisfied.

“(7) If the person is under 18, subsection (2) does not apply and section 23K applies.

“(8) An investigating official is not required to comply with subsection (1) or (2) in respect of a person if the official believes on reasonable grounds that, having regard to the person’s level of education and understanding, the person is not at a disadvantage in respect of the questioning referred to in that subsection in comparison with members of the Australian community generally.

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“(9) In this section:

‘**interview friend**’, in relation to a person to whom subsection (2) applies, means:

- (a) a relative or other person chosen by the person; or
- (b) a legal practitioner acting for the person; or
- (c) a representative of an Aboriginal legal aid organisation; or
- (d) a person whose name is included in the relevant list maintained under subsection 23J (1).

**Lists of interview friends and interpreters**

“23J. (1) The Minister must, so far as is reasonably practicable, establish and update at such intervals as the Minister thinks appropriate, a list, in relation to a region where there are likely to be persons under arrest and under investigation for Commonwealth offences, of the names of persons (not being constables) who:

- (a) are suitable to help Aboriginal persons or Torres Strait Islanders under arrest and under investigation for Commonwealth offences; and
- (b) are willing to give such help in that region.

“(2) In establishing and maintaining a list in relation to a region, the Minister or his or her delegate must, from time to time, consult with any Aboriginal legal aid organisation providing legal assistance to Aboriginal persons or Torres Strait Islanders in that region.

“(3) The Minister must, so far as is reasonably practicable, establish and update at such intervals as the Minister thinks appropriate, a list, in relation to such a region, of the names of persons who are able and willing to act as interpreters for Aboriginal persons or Torres Strait Islanders who:

- (a) because of inadequate knowledge of the English language, or a physical disability, are unable to communicate orally with reasonable fluency in that language; and
- (b) are under arrest and under investigation in that region for Commonwealth offences.

“(4) The list of names referred to in subsection (3) must, so far as is reasonably practicable, specify the languages that each person on the list is able to understand and converse in.

“(5) The Minister may, in writing, delegate to an officer of the Department all or any of the powers of the Minister under this section.

**Persons under 18**

“23K. (1) Subject to section 23L, if an investigating official:

- (a) suspects that a person may have committed a Commonwealth offence, or is of the opinion that information received by investigating officials may implicate a person in the commission

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of a Commonwealth offence, and also believes on reasonable grounds that the person is under 18; or

- (b) believes on reasonable grounds that a person under arrest for a Commonwealth offence is under 18;

the official must not question the person unless an interview friend is present while the person is being questioned and, before the start of the questioning, the official has allowed the person to communicate with the interview friend in circumstances in which, as far as practicable, the communication will not be overheard.

“(2) An interview friend may be excluded from the questioning if he or she unreasonably interferes with it.

“(3) In this section:

‘**interview friend**’, in relation to a person to whom subsection (1) applies, means:

- (a) a parent or guardian of the person or a legal practitioner acting for the person; or
- (b) if none of the previously mentioned persons is available—a relative or friend of the person who is acceptable to the person; or
- (c) if the person is an Aboriginal person or a Torres Strait Islander and none of the previously mentioned persons is available—a person whose name is included in the relevant list maintained under subsection 23J (1); or
- (d) if no person covered by paragraph (a), (b) or (c) is available—an independent person.

“(4) The rights conferred by this section are in addition to those conferred by section 23G but, so far as compliance with this section results in compliance with section 23G, the requirements of section 23G are satisfied.

### **Exceptions**

“23L. (1) Subject to subsections (2), (3) and (4), if a requirement imposed on an investigating official by this Part is expressed as being subject to this section, the requirement does not apply if, and for so long as, the official believes on reasonable grounds that:

- (a) compliance with the requirement is likely to result in:
- (i) an accomplice of the person taking steps to avoid apprehension; or
- (ii) the concealment, fabrication or destruction of evidence or the intimidation of a witness; or
- (b) if the requirement relates to the deferral of questioning—the questioning is so urgent, having regard to the safety of other

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people, that it should not be delayed by compliance with that requirement.

“(2) If the application of subsection (1) results in:

- (a) preventing or delaying the person from communicating with a legal practitioner of his or her choice; or
- (b) preventing or delaying a legal practitioner of the person’s choice from attending at any questioning;

the investigating official must offer the services of another legal practitioner and, if the person accepts, make the necessary arrangements.

“(3) Where a requirement referred to in subsection (1) relates to things done by or in relation to a legal practitioner:

- (a) subsection (1) applies only in exceptional circumstances; and
- (b) if subsection (1) applies, the investigating official must comply with the requirement as soon as possible after subsection (1) ceases to apply.

“(4) Where a requirement referred to in subsection (1) relates to things done by or in relation to a legal practitioner, subsection (1) applies only if:

- (a) an officer of a police force of the rank of Superintendent or higher; or
- (b) the holder of an office prescribed for the purposes of this section, other than an office in a police force;

has authorised the application of subsection (1) and has made a record of the investigating officials’ grounds for belief.

**Provision of information relating to a person under arrest**

“23M. Subject to section 23L, if:

- (a) a person is under arrest for a Commonwealth offence; and
- (b) a relative, friend or legal representative of the person requests information as to the whereabouts of the person;

an investigating official must inform the person under arrest of the request and, after doing so, must provide that information to the person who made the request unless:

- (c) the person under arrest does not agree to the provision of that information; or
- (d) the investigating official believes on reasonable grounds that the person requesting the information is not a relative, friend or legal representative of the person under arrest.

**Right to interpreter**

“23N. Where an investigating official believes on reasonable grounds that a person under arrest for a Commonwealth offence is unable, because of inadequate knowledge of the English language or a physical

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disability, to communicate orally with reasonable fluency in that language, the official must, before starting to question the person, arrange for the presence of an interpreter and defer the questioning or investigation until the interpreter is present.

**Right of foreign national to communicate with consular office**

“23P. (1) Subject to section 23L, if a person under arrest for a Commonwealth offence is not an Australian citizen, the investigating official holding the person under arrest must, before starting to question the person:

- (a) inform the person that he or she may communicate with, or attempt to communicate with, the consular office of the country of which the person is a citizen; and
- (b) defer the questioning for a reasonable time to allow the person to make, or attempt to make, the communication.

“(2) Subject to section 23L, if the person wishes to communicate with a consular office, the investigating official holding the person under arrest must, as soon as practicable, give the person reasonable facilities to do so.

**Treatment of persons under arrest**

“23Q. A person who is under arrest must be treated with humanity and with respect for human dignity, and must not be subjected to cruel, inhuman or degrading treatment.

**No power to make arrests**

“23R. To avoid doubt, it is declared that this Part does not confer any power to arrest a person or to detain a person who has not been lawfully arrested.

**Right to remain silent etc. not affected**

“23S. Nothing in this Part affects:

- (a) the right of a person to refuse to answer questions or to participate in an investigation except where required to do so by or under an Act; or
- (b) the burden on the prosecution to prove the voluntariness of an admission or confession made by a person; or
- (c) the discretion of a court to exclude unfairly obtained evidence; or
- (d) the discretion of a court to exclude illegally or improperly obtained evidence.

**Acts authorised under other laws**

“23T. Nothing in this Part prevents an investigating official from asking or causing a person to do a particular thing that the official is authorised to ask or cause the person to do under:

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- (a) another law of the Commonwealth; or
- (b) a provision of a law of the Australian Capital Territory.

**Tape recording of information required to be given to person under arrest**

“23U. (1) If a person is under arrest for a Commonwealth offence, an investigating official who is required by this Part to give the person under arrest certain information (including a caution) must tape record, if practicable, the giving of that information and the person’s responses (if any).

“(2) In any proceedings, the burden lies on the prosecution to prove whether it was practicable to tape record the giving of that information and the person’s responses (if any).

**Tape recording of confessions and admissions**

“23V. (1) If a person who is being interviewed as a suspect (whether under arrest or not) makes a confession or admission to an investigating official, the confession or admission is inadmissible as evidence against the person in proceedings for any Commonwealth offence unless:

- (a) if the confession or admission was made in circumstances where it was reasonably practicable to tape record the confession or admission—the questioning of the person and anything said by the person during that questioning was tape recorded; or
- (b) in any other case:
  - (i) at the time of the interview of the person or as soon as practicable afterwards, a record in writing was made, either in English or in another language used by the person in the interview, of the things said by or to the person in the course of the interview; and
  - (ii) as soon as practicable after the record was made, it was read to the person in the language used by him or her in the interview and a copy of the record was made available to the person; and
  - (iii) the person was given the opportunity to interrupt the reading at any time for the purpose of drawing attention to any error or omission that he or she claimed had been made in or from the record and, at the end of the reading, the person was given the opportunity to state whether he or she claimed that there were any errors in or omissions from the record in addition to any to which he or she had drawn attention in the course of the reading; and
  - (iv) a tape recording was made of the reading referred to in subparagraph (ii) and of everything said by or to the person as a result of compliance with subparagraph (iii),

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and the requirements of subsection (2) were observed in respect of that recording; and

- (v) before the reading referred to in subparagraph (ii), an explanation, in accordance with the form in the Schedule, was given to the person of the procedure that would be followed for the purposes of compliance with that subparagraph and subparagraphs (iii) and (iv).

“(2) If the questioning, confession or admission, or the confirmation of a confession or admission, of a person is recorded as required under this section, the investigating official must, without charge:

- (a) if the recording is an audio recording only or a video recording only—make the recording or a copy of it available to the person or his or her legal representative within 7 days after the making of the recording; and
- (b) if both an audio recording and a video recording were made—make the audio recording or a copy of it available to the person or his or her legal representative within 7 days after the making of the recording, and notify the person or his or her legal representative that an opportunity will be provided, on request, for viewing the video recording; and
- (c) if a transcript of the tape recording is prepared—make a copy of the transcript available to the person or his or her legal representative within 7 days after the preparation of the transcript.

“(3) Where a confession or admission is made to an investigating official who was, at the time when it was made, engaged in covert investigations under the orders of a superior, this section applies as if the acts required by paragraph (1) (b) and subsection (2) to be performed were required to be performed by the official at a time when they could reasonably be performed without prejudice to the covert investigations.

“(4) Despite any arrangement made under the *Commonwealth Places (Application of Laws) Act 1970* or the *Crimes at Sea Act 1979*, this section applies to any offence under a law applied by either of those Acts if the investigating official is a member or special member of the Australian Federal Police.

“(5) A court may admit evidence to which this section applies even if the requirements of this section have not been complied with, or there is insufficient evidence of compliance with those requirements, if, having regard to the nature of and the reasons for the non-compliance or insufficiency of evidence and any other relevant matters, the court is satisfied that, in the special circumstances of the case, admission of the evidence would not be contrary to the interests of justice.



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“(6) A court may admit evidence to which this section applies even if a provision of subsection (2) has not been complied with if, having regard to the reasons for the non-compliance and any other relevant matters, the court is satisfied that it was not practicable to comply with that provision.

“(7) If a judge permits evidence to be given before a jury under subsection (5) or (6), the judge must inform the jury of the non-compliance with the requirements of this section, or of the absence of sufficient evidence of compliance with those requirements, and give the jury such warning about the evidence as he or she thinks appropriate in the circumstances.

**Proof of belief**

“23W. In any proceedings, the burden lies on the prosecution to prove that an investigating official had a belief on reasonable grounds as to a matter referred to in this Part.”.

4. The Principal Act is amended by adding at the end the following Schedule:

**“SCHEDULE**

Section 23V

**FORM OF EXPLANATION UNDER SECTION 23V**

When you were interviewed by .....,  
I/we made a record in writing of what you said, and what we said to you, in the interview. I/We made the record \*at the time of the interview/\*as soon as practicable after the interview. It is in \*English/\*the language that you used in the interview. I/We will give you a copy.

I am now going to read it to you in the ..... language that you used in the interview.

You can interrupt the reading at any time if you think there is something wrong with the record. At the end of the reading you can tell me/us about anything else you think is wrong with the record, as well as the things you mentioned during the reading.

I/We will make a tape recording of reading the record and everything you say, or I/we say to you, during the reading and at the end. I/We will give you a copy of that tape recording and, if a transcript is made, a copy of that transcript.

\*Delete whichever is not applicable.”.

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**NOTE**

1. 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; and Nos. 63 and 108, 1989.

[*Minister's second reading speech made in—  
House of Representatives on 15 November 1990  
Senate on 14 February 1991*]