



# **Crimes and Other Legislation Amendment Act 1997**

**No. 20, 1997**

**An Act to amend various Acts relating to crimes  
and other matters, and for related purposes**



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## Contents

1	Short title.....	1
2	Commencement.....	1
3	Schedule(s).....	2
<b>Schedule 1—Amendment of Acts</b>		<b>3</b>
	<i>Australian Federal Police Act 1979</i>	<b>3</b>
	<i>Crimes Act 1914</i>	<b>4</b>
	<i>Crimes (Superannuation Benefits) Act 1989</i>	<b>4</b>
	<i>Customs Act 1901</i>	<b>6</b>
	<i>Extradition Act 1988</i>	<b>6</b>
	<i>Proceeds of Crime Act 1987</i>	<b>7</b>
	<i>Witness Protection Act 1994</i>	<b>9</b>
<b>Schedule 2—Amendments to remove requirement for consent to proceedings for offences</b>		<b>10</b>
	<i>Australian Bicentennial Authority Act 1980</i>	<b>10</b>
	<i>Banks (Shareholdings) Act 1972</i>	<b>10</b>
	<i>Crimes (Taxation Offences) Act 1980</i>	<b>10</b>
	<i>Financial Corporations Act 1974</i>	<b>10</b>
	<i>Foreign Acquisitions and Takeovers Act 1975</i>	<b>10</b>
	<i>Insurance Contracts Act 1984</i>	<b>10</b>
	<i>Prices Surveillance Act 1983</i>	<b>10</b>
	<i>Public Accounts Committee Act 1951</i>	<b>11</b>
	<i>Public Works Committee Act 1969</i>	<b>11</b>





# Crimes and Other Legislation Amendment Act 1997

No. 20, 1997

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## **An Act to amend various Acts relating to crimes and other matters, and for related purposes**

[Assented to 7 April 1997]

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Crimes and Other Legislation  
Amendment Act 1997*.

### **2 Commencement**

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

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- (2) Items 21, 22, 23 and 27 of Schedule 1 are taken to have commenced on 28 August 1995, immediately after the commencement of the Schedule to the *International War Crimes Tribunals (Consequential Amendments) Act 1995*.

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

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Amendment of Acts**

### ***Australian Federal Police Act 1979***

#### **1 Section 41 (definition of *sentence*)**

Repeal the definition, substitute:

*sentence* includes a suspended sentence, but does not include a sentence passed, or an order made, under subsection 20AB(1) of the *Crimes Act 1914*.

#### **2 Subsection 45(1)**

Repeal the subsection, substitute:

- (1) If the DPP is authorised to apply for a superannuation order in respect of a person who is taken to have been convicted of an offence because of paragraph 42C(1)(b), the DPP must make that application to the appropriate court.

(1A) If:

- (a) the DPP is authorised to apply for a superannuation order in respect of a person who is convicted of 1 or more offences; and
- (b) the person is sentenced to imprisonment for life in respect of the offence, or any of the offences, or:
  - (i) if there is only 1 offence—to imprisonment for a term longer than 12 months; or
  - (ii) if there are 2 or more offences—to imprisonment for a single term longer than 12 months, or to cumulative terms that together add up to longer than 12 months, in respect of all or any of them;

the DPP must make that application to the appropriate court.

#### **3 Subsection 45(2)**

Omit “subsection (1)”, substitute “this section”.

#### **4 Paragraph 47B(1)(b)**

Repeal the paragraph, substitute:

- (b) the person's sentence is so reduced or otherwise changed that it would no longer support the making of an application for a superannuation order under subsection 45(1A); or

**5 Paragraph 47B(1)(c)**

Omit all the words after "that offence," substitute "does not receive a sentence that would support the making of an application for a superannuation order under subsection 45(1A)".

**6 Paragraph 49B(1)(b)**

Omit "is one of imprisonment for life or for a term longer than 12 months", substitute "would support the making of an application for a superannuation order under subsection 45(1A)".

**7 Paragraph 49P(1)(b)**

Repeal the paragraph, substitute:

- (b) the defendant is convicted of the offence, but does not receive a sentence that would support the making of an application for a superannuation order under subsection 45(1A);

**8 Subparagraph 51(3)(b)(ii)**

Repeal the subparagraph, substitute:

- (ii) the person is convicted of the offence, but does not receive a sentence that would support the making of an application for a superannuation order under subsection 45(1A);

***Crimes Act 1914***

**9 Subsection 4AA(1) (definition of *penalty unit*)**

Omit "\$100", substitute "\$110".

***Crimes (Superannuation Benefits) Act 1989***

**10 Subsection 2(1) (definition of *sentence*)**

Repeal the definition, substitute:

*sentence* does not include:



- (a) a sentence that is wholly suspended; or
- (b) a sentence passed, or an order made, under subsection 20AB(1) of the *Crimes Act 1914*.

### **11 Subsection 17(1)**

Repeal the subsection, substitute:

- (1) If the DPP is authorised to apply for a superannuation order in respect of a person who is taken to have been convicted of an offence because of paragraph 6(1)(b), the DPP must make that application to the appropriate court.

(1A) If:

- (a) the DPP is authorised to apply for a superannuation order in respect of a person who is convicted of 1 or more offences; and
- (b) the person is sentenced to imprisonment for life in respect of the offence, or any of the offences; or:
  - (i) if there is only 1 offence—to imprisonment for a term longer than 12 months; or
  - (ii) if there are 2 or more offences—to imprisonment for a single term longer than 12 months, or to cumulative terms that together add up to longer than 12 months, in respect of all or any of them;

the DPP must make that application to the appropriate court.

### **12 Subsection 17(2)**

Omit “subsection (1)”, substitute “this section”.

### **13 Paragraph 23(1)(b)**

Repeal the paragraph, substitute:

- (b) the person’s sentence is so reduced or otherwise changed that it would no longer support the making of an application for a superannuation order under subsection 17(1A); or

### **14 Paragraph 23(1)(c)**

Omit all the words after “that offence.”, substitute “does not receive a sentence that would support the making of an application for a superannuation order under subsection 17(1A)”.

**15 Paragraph 25(1)(b)**

Omit “is one of imprisonment for life or for a term longer than 12 months”, substitute “would support the making of an application for a superannuation order under subsection 17(1A)”.

**16 Paragraph 37(1)(b)**

Repeal the paragraph, substitute:

- (b) the defendant is convicted of the offence, but does not receive a sentence that would support the making of an application for a superannuation order under subsection 17(1A);

***Customs Act 1901***

**17 Subparagraph 208DA(3)(b)(ii)**

Repeal the subparagraph, substitute:

- (ii) apply the proceeds of the sale or disposition in accordance with subsection (3A); and

**18 After subsection 208DA(3)**

Insert:

- (3A) The proceeds of the sale or disposition of condemned goods transferred to the Official Trustee under subsection (2) must be applied in payment of:
  - (a) the Official Trustee’s remuneration; and
  - (b) the other costs, charges and expenses of the kind referred to in section 243P that are payable to, or incurred by, the Official Trustee in connection with the sale or disposition; and
  - (c) if the goods were seized by, or delivered into the custody of, a member of the Australian Federal Police under a seizure warrant, or under section 203B, 203C or 204—the costs, charges and expenses incurred by, or on behalf of, the Commonwealth in connection with the transportation, storage, custody and control of the goods before their transferral to the Official Trustee.

***Extradition Act 1988***

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**19 Subsection 15(3)**

Repeal the subsection, substitute:

- (3) If a person is remanded in custody after making an application for bail, the person cannot make another application for bail during that remand unless there is evidence of a change of circumstances that might justify bail being granted.

**20 Subsection 49(2)**

Repeal the subsection, substitute:

- (2) The police officer must, as soon as practicable, take the person before a magistrate.
- (3) If the magistrate is satisfied that the person has escaped from custody authorised by this Act, the magistrate may issue a warrant authorising any police officer to return the person to the custody referred to in subsection (1).

***Proceeds of Crime Act 1987***

**21 Paragraph 23(1)(b)**

Omit “46”, substitute “45”.

**22 Paragraph 23(2)(b)**

Omit “46”, substitute “45”.

**23 Subsection 23A(1A)**

Omit “46”, substitute “45”.

**24 Paragraph 30(1)(d)**

Repeal the paragraph, substitute:

- (d) the restraining order is in force at the end of:
  - (i) the period of 6 months starting on the day of the conviction; or
  - (ii) if an order under section 30A is in force at the end of that period—the end of the extended period;

**25 At the end of subsection 30(1)**

Add “, or that extended period, as the case may be”.

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**26 After section 30**

Insert:

**30A Extension of waiting period**

(1) If:

- (a) a person (the *defendant*) is convicted of a serious offence;  
and
- (b) a restraining order is or was granted in reliance on:
  - (i) the defendant's conviction of the offence; or
  - (ii) the charging or proposed charging of the defendant with the offence or a related offence; and
- (c) a person makes a section 48 application in relation to the restraining order;

the person mentioned in paragraph (c) may apply to the court for an order extending the waiting period in relation to the defendant's conviction.

- (2) Subsection (1) does not apply if the person is taken to have been convicted of the serious offence because of paragraph 5(1)(d).
- (3) An application under this section must be made before the end of the waiting period concerned.
- (4) Subject to subsection (5), the court may, on an application made under this section, extend the waiting period for such further period as the court specifies. The further period must not, however, be longer than 9 months from the end of the waiting period concerned.
- (5) The court must not grant an application under this section unless satisfied that the applicant made the section 48 application without undue delay, and has since diligently prosecuted that application.
- (6) If the court extends a waiting period, the extended period ends:
  - (a) when the period specified by the court ends; or
  - (b) when the section 48 application is finally determined;whichever happens first.
- (7) If:
  - (a) the court makes an order under this section; and

(b) the section 48 application is finally determined within the period of 6 months starting on the day of the defendant's conviction;

the order under this section stops being in force on the day the section 48 application is finally determined.

(8) In this section:

*section 48 application* means an application under subsection 48(2), (3) or (4).

*waiting period*, in relation to a person's conviction of an offence, means the period of 6 months mentioned in subparagraph 30(1)(d)(i).

## **27 Subparagraph 34C(1)(a)(ii)**

Omit "46", substitute "45".

## **28 Subsection 85(2)**

Repeal the subsection, substitute:

(2) Any conduct engaged in on behalf of a body corporate by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority is taken, for the purposes of a prosecution for an offence against this Act, to have been engaged in also by the body corporate, unless it establishes that it took reasonable precautions and exercised due diligence to avoid the conduct.

## ***Witness Protection Act 1994***

### **29 Subsection 22(2)**

After "disclosure", insert "or the disclosure is made for the purpose of making a complaint, or providing information, to the Ombudsman under the *Ombudsman Act 1976* or the *Complaints (Australian Federal Police) Act 1981*".

## **Schedule 2—Amendments to remove requirement for consent to proceedings for offences**

### *Australian Bicentennial Authority Act 1980*

#### **1 Subsection 22(7)**

Repeal the subsection.

### *Banks (Shareholdings) Act 1972*

#### **2 Section 16**

Repeal the section.

### *Crimes (Taxation Offences) Act 1980*

#### **3 Subsection 9(4)**

Repeal the subsection.

### *Financial Corporations Act 1974*

#### **4 Section 29**

Repeal the section.

### *Foreign Acquisitions and Takeovers Act 1975*

#### **5 Section 33**

Repeal the section.

### *Insurance Contracts Act 1984*

#### **6 Subsection 75(8)**

Repeal the subsection.

### *Prices Surveillance Act 1983*

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**7 Subsection 40(4)**

Repeal the subsection.

***Public Accounts Committee Act 1951***

**8 Subsection 21(4)**

Repeal the subsection.

***Public Works Committee Act 1969***

**9 Section 34**

Repeal the section.

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*[Minister's second reading speech made in—  
House of Representatives on 4 December 1996  
Senate on 24 February 1997]*

(186/96)

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