



Investigation and Prosecution Measures Act 2018

No. 37, 2018

**An Act to amend the law relating to the
Independent Commission Against Corruption of
New South Wales and the prosecution of offences
on Norfolk Island, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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**An Act to amend the law relating to the
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[Assented to 22 May 2018]

The Parliament of Australia enacts:

1 Short title

This Act is the *Investigation and Prosecution Measures Act 2018*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	22 May 2018
2. Schedule 1	The later of: (a) the day this Act receives the Royal Assent; and (b) the day the <i>Independent Commission Against Corruption Amendment Act 2016</i> (NSW) commences. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	22 May 2018 (paragraph (a) applies)
3. Schedules 2 and 3	The day after this Act receives the Royal Assent.	23 May 2018

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Independent Commission Against Corruption of New South Wales

Part 1—Definitions

1 Definitions

In this Schedule:

new Commission means the Independent Commission Against Corruption of New South Wales, as constituted by the *Independent Commission Against Corruption Act 1988* (NSW) on and after the commencement of the *Independent Commission Against Corruption Amendment Act 2016* (NSW).

old Commission means the Independent Commission Against Corruption of New South Wales, as constituted by the *Independent Commission Against Corruption Act 1988* (NSW) before the commencement of the *Independent Commission Against Corruption Amendment Act 2016* (NSW).

Part 2—Telecommunications (Interception and Access) Act 1979

Division 1—Amendments

Telecommunications (Interception and Access) Act 1979

2 Subsection 5(1) (subparagraph (e)(i) of the definition of certifying officer)

Omit “the Commissioner, or an Assistant Commissioner,”, substitute “the Chief Commissioner, a Commissioner or an Assistant Commissioner”.

3 Subsection 5(1) (paragraph (e) of the definition of chief officer)

Omit “the Commissioner”, substitute “the Chief Commissioner”.

4 Subsection 5AC(6)

Omit “The Commissioner”, substitute “The Chief Commissioner”.

5 Paragraph 68(ea)

Omit “the Commissioner”, substitute “the Chief Commissioner”.

Division 2—Transitional provisions

6 Transitional—warrants issued to the old Commission

A warrant that:

- (a) was issued to the old Commission under the *Telecommunications (Interception and Access) Act 1979*; and
- (b) was issued before the commencement of this Schedule; and
- (c) was in force immediately before that commencement;

continues in force (and may be dealt with) on and after that commencement as if it had been issued to the new Commission.

7 Transitional—authorisations made by an authorised officer of the old Commission

An authorisation that:

- (a) was made by an authorised officer of the old Commission under Division 4 of Part 4-1 of the *Telecommunications (Interception and Access) Act 1979*; and
- (b) was issued before the commencement of this Schedule; and
- (c) was in force immediately before that commencement;

continues in force (and may be dealt with) on and after that commencement as if it had been made by an authorised officer of the new Commission.

8 Transitional—preservation notices given by the old Commission

A domestic preservation notice that:

- (a) was given by the old Commission under the *Telecommunications (Interception and Access) Act 1979*; and
- (b) was issued before the commencement of this Schedule; and
- (c) was in force immediately before that commencement;

continues in force (and may be dealt with) on and after that commencement as if it had been given by the new Commission.

9 Transitional—evidentiary certificates issued by a certifying officer of the old Commission

A written certificate that:

- (a) was issued by a certifying officer of the old Commission under section 61, 107U, 130 or 185C of the *Telecommunications (Interception and Access) Act 1979*; and
- (b) was issued before the commencement of this Schedule; and
- (c) was in force immediately before that commencement;

continues in force (and may be dealt with) on and after that commencement as if it had been issued by a certifying officer of the new Commission.

10 Transitional—transfer of information or documents acquired under the *Telecommunications (Interception and Access) Act 1979*

- (1) This item applies to information and documents that:
 - (a) are acquired by the old Commission before, on or after the commencement of this Schedule; and

- (b) are information or documents of any of the following kinds:
 - (i) lawfully intercepted information;
 - (ii) interception warrant information;
 - (iii) lawfully accessed information;
 - (iv) preservation notice information;
 - (v) stored communications warrant information;
 - (vi) information or documents voluntarily disclosed to the old Commission in accordance with section 177 of the *Telecommunications (Interception and Access) Act 1979*;
 - (vii) information or documents disclosed under an authorisation made under Part 4-1 of that Act;
 - (viii) any other information or documents lawfully acquired by the old Commission under that Act.
- (2) Nothing in any law of the Commonwealth prevents the Commissioner of the old Commission from communicating that information or producing those documents to the new Commission on or after that commencement.

Part 3—Surveillance Devices Act 2004

Division 1—Amendments

Surveillance Devices Act 2004

11 Subsection 6A(7) (table item 10)

Repeal the item, substitute:

10	Independent Commission Against Corruption of New South Wales	the Chief Commissioner of the Commission	an officer of the Commission (within the meaning of the <i>Independent Commission Against Corruption Act 1988</i> (NSW))	(a) the Chief Commissioner; or (b) a Commissioner; or (c) an Assistant Commissioner; or (d) an executive level officer of the Commission whom the chief officer authorises under subsection (5)
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Division 2—Transitional provisions

12 Transitional—warrants issued to a law enforcement officer of the old Commission

A warrant that:

- (a) was issued under the *Surveillance Devices Act 2004* to a law enforcement officer who belonged to or was seconded to the old Commission; and
- (b) was issued before the commencement of this Schedule; and
- (c) was in force immediately before that commencement;

continues in force (and may be dealt with) on and after that commencement as if it had been issued to a law enforcement officer who belonged to or was seconded to the new Commission.

13 Transitional—authorisations given by an appropriate authorising officer of the old Commission

An emergency authorisation or tracking device authorisation that:

- (a) was given under the *Surveillance Devices Act 2004* by an appropriate authorising officer of the old Commission; and
- (b) was given before the commencement of this Schedule; and
- (c) was in force immediately before that commencement;

continues in force (and may be dealt with) on and after that commencement as if it had been given by an appropriate authorising officer of the new Commission.

14 Transitional—evidentiary certificates issued by an appropriate authorising officer of the old Commission

A written certificate that:

- (a) was issued under section 62 of the *Surveillance Devices Act 2004* by an appropriate authorising officer of the old Commission, or by a person assisting an appropriate authorising officer of the old Commission; and
- (b) was issued before the commencement of this Schedule; and
- (c) was in force immediately before that commencement;

continues in force (and may be dealt with) on and after that commencement as if it had been issued by an appropriate authorising officer of the new Commission.

15 Transitional—transfer of information or documents acquired under the *Surveillance Devices Act 2004*

- (1) This item applies to information and documents that:
 - (a) are acquired by the old Commission before, on or after the commencement of this Schedule; and
 - (b) are information or documents of any of the following kinds:
 - (i) protected information;
 - (ii) any other information or documents lawfully acquired by the old Commission under the *Surveillance Devices Act 2004*.
- (2) Nothing in any law of the Commonwealth prevents the Commissioner of the old Commission from communicating that information or

producing those documents to the new Commission on or after that commencement.

Part 4—General transitional provisions

16 Transitional—things done or not done by, or in relation to, the old Commission

- (1) For the purposes of a law of the Commonwealth, anything done or not done before the commencement of this Schedule by, or in relation to, a person mentioned in column 1 of an item of the following table, has effect on and after that commencement as if it had been done or not done by, or in relation to, a person mentioned in column 2 of that item of the table.

Things done or not done by, or in relation to, the old Commission		
Item	Column 1	Column 2
1	The old Commission	The new Commission
2	The Commissioner of the old Commission	The Chief Commissioner of the new Commission
3	An Assistant Commissioner of the old Commission	A Commissioner of the new Commission

- (2) To avoid doubt, a report that is required to be prepared or given under a law of the Commonwealth:
- (a) on or after the commencement of this Schedule; and
 - (b) about a thing done or not done by, or in relation to, a person mentioned in column 2 of an item of the table;
- must, to the extent (if any) that the period to be covered by the report occurs before that commencement, cover such a thing done or not done by, or in relation to, a person mentioned in column 1 of that item of the table.
- (3) Division 2 of Part 2 and Division 2 of Part 3 of this Schedule do not limit, and are not limited by, this item.

17 Transitional—transfer of other information or documents

- (1) This item applies to information and documents that are lawfully acquired by the old Commission before, on or after the commencement of this Schedule.

- (2) Nothing in any law of the Commonwealth prevents the Commissioner of the old Commission from communicating that information or producing those documents to the new Commission on or after that commencement.
- (3) Items 10 and 15 of this Schedule do not limit, and are not limited by, this item.

18 Transitional—Minister may make rules

- (1) The Minister may, by legislative instrument, make rules prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to:
 - (a) the amendments or repeals made by this Schedule; or
 - (b) the abolition of the old Commission (so far as it is relevant to an Act amended by this Schedule); or
 - (c) the establishment of the new Commission (so far as it is relevant to an Act amended by this Schedule).
- (2) To avoid doubt, the rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act.

Schedule 2—Functions and powers of the Director of Public Prosecutions in relation to Norfolk Island

Part 1—Amendment of the Director of Public Prosecutions Act 1983

Director of Public Prosecutions Act 1983

1 Subsection 3(1) (paragraph (b) of the definition of *law of the Commonwealth*)

Repeal the paragraph.

2 Subsection 3(1) (paragraph (c) of the definition of *law of the Commonwealth*)

Omit “paragraph (aa), (a) or (b)”, substitute “paragraph (aa) or (a)”.

Part 2—References to a law of a Territory

3 References to a law of a Territory

To avoid doubt, in the *Director of Public Prosecutions Act 1983* and any instrument made under that Act, a reference to a law of a Territory includes a reference to a law in force in Norfolk Island at any time, whether before or after the commencement of this item.

Part 3—Validation of things done under the Director of Public Prosecutions Amendment (Norfolk Island) Regulations 2017

4 Validation

- (1) This item applies if any amendment made by the *Director of Public Prosecutions Amendment (Norfolk Island) Regulations 2017* is found to be invalid.
- (2) The *Director of Public Prosecutions Regulations 1984*, as those regulations were purportedly amended by the *Director of Public Prosecutions Amendment (Norfolk Island) Regulations 2017*, are as valid and effective as they would have been if the amendment had been valid.

Schedule 3—Procedure in criminal and civil matters relating to Norfolk Island

Norfolk Island Act 1979

1 Subsection 4(1)

Insert:

civil matter means any matter that may be determined by the Supreme Court other than in the exercise of its criminal jurisdiction.

constable means:

- (a) a member or special member of the Australian Federal Police; or
- (b) a member of the Police Force of Norfolk Island.

host jurisdiction:

- (a) in Subdivision B of Division 1 of Part VIIA—has the meaning given by subsection 60B(3); and
- (b) in Division 2 of Part VIIA—has the meaning given by subsection 60P(3).

Magistrate of the Territory means a person appointed as a magistrate under a law in force in the Territory.

prison includes a lock-up or other place of lawful detention.

Registrar means the Registrar, or the Deputy Registrar, of the Supreme Court.

Sheriff means the Sheriff, or the Deputy Sheriff, of the Territory.

2 Section 59

Omit “Subject to regulations referred to in paragraph 67(1)(a),”, substitute “Except as provided under this Act,”.

3 After Part VII

Insert:

Part VIIA—Procedure in criminal and civil matters

Division 1—Criminal matters

Subdivision A—No limitation period on prosecution of sex offences

60A No limitation period on prosecution of sex offences

- (1) A prosecution for an offence against a law of the Territory may be commenced at any time after the commission of the offence if that law is listed in Schedule 5.

Note: See section 60M for the meaning of an *offence against a law of the Territory*.

- (2) Subsection (1) applies even if:
- (a) but for that subsection, the offence would be subject to a shorter limitation period, including a shorter limitation period that has expired (either before the commencement of this section or before the commencement of the prosecution); or
 - (b) an immunity from prosecution in relation to the offence has arisen because a shorter limitation period has expired (either before the commencement of this section or before the commencement of the prosecution).
- (3) Schedule 5 has effect.

Subdivision B—Hearing criminal matters in another jurisdiction

60B Commonwealth may enter into arrangements with host jurisdictions

- (1) The Commonwealth may enter into arrangements with the government or an authority of any of the following for the purposes of the effective application of the provisions of this Subdivision relating to sittings of the Supreme Court in that jurisdiction in the exercise of the Supreme Court's criminal jurisdiction:
- (a) a State;

- (b) the Australian Capital Territory;
 - (c) the Northern Territory.
- (2) No power is conferred, or duty or function imposed, on an officer of a State under this Subdivision unless:
 - (a) an arrangement has been entered into with the government or an authority of that State under subsection (1); and
 - (b) the conferral of the power or imposition of the duty or function is in accordance with that arrangement.
- (3) Each of the following is referred to as a *host jurisdiction* in this Subdivision:
 - (a) a State in relation to which an arrangement has been entered into under subsection (1);
 - (b) the Australian Capital Territory;
 - (c) the Northern Territory.

60C Supreme Court may sit in a host jurisdiction

- (1) Subject to this section, the Supreme Court, in the exercise of its criminal jurisdiction, may sit in a host jurisdiction if to do so would not be contrary to the interests of justice.
- (2) The Supreme Court may, at any time after prosecution for an offence against a law of the Territory commences and before the jury has returned its verdict, if it is satisfied that the interests of justice require it, order:
 - (a) if the trial of the offence has not begun—that the trial be held in a host jurisdiction, and at a time and place, specified in the order; and
 - (b) if the trial of the offence has begun—that the trial be discontinued, the jury be discharged and a new trial be held in a host jurisdiction, and at a time and place, specified in the order.
- (3) The Supreme Court may make an order under subsection (2) at a sittings of the Court in the Territory or in a host jurisdiction.
- (4) The Supreme Court may make an order under subsection (2) at a sittings of the Court in a host jurisdiction whether or not the accused is present but, if the accused is not present, the Court must only make the order if:

- (a) the accused is represented; and
 - (b) the Court is satisfied that the accused understands the effect of the order.
- (5) Where the Supreme Court makes an order under subsection (2), the Court may order that:
- (a) on the warrant of the Registrar, a Magistrate of the Territory or such other person as the Supreme Court directs (being a person who holds an office in relation to the Court), the accused be removed to the place specified in the order, and held there, for the purposes of the trial of that person and for any related proceedings; and
 - (b) on the summons of the Registrar, all persons required to attend to give evidence in the trial or proceedings attend at the place specified in the order.
- (6) When exercising its criminal jurisdiction in a host jurisdiction, the Supreme Court has, and may exercise, all the powers that it would have if it were exercising its criminal jurisdiction in the Territory.
- (7) A power exercised by the Supreme Court under subsection (6) is taken to have been exercised by the Court at a sittings of the Court in the Territory.
- (8) Where the Supreme Court is sitting in a host jurisdiction for the purpose of a trial in that jurisdiction, the Court may, if it is satisfied that the interests of justice require it, order that, for the purpose of viewing a place, or taking evidence from a person, in the Territory, or for a prescribed purpose:
- (a) the trial be adjourned for such time as the Court considers reasonable and necessary, and be continued in the Territory for so long as is necessary for that purpose; and
 - (b) on the warrant of the Registrar, the accused be returned to the Territory for the purposes of the continuation of the trial and any related proceedings; and
 - (c) the jurors empanelled for the trial go to the Territory and remain there for such time as the Court directs for the purpose of continuing to attend as jurors in the trial.
- (9) A person who appears as a witness in the Supreme Court in a trial, or in related proceedings, held wholly or partly in a host jurisdiction, must be paid by the Commonwealth such fees and

allowances as would be payable to the person if the person had appeared as a witness in a trial held in the Territory.

(10) Where:

- (a) the Supreme Court, when exercising its criminal jurisdiction in a host jurisdiction, makes an order, issues a warrant or summons or gives a judgment; and
- (b) a person fails to comply with that order, warrant, summons or judgment; and
- (c) that failure would have constituted an offence against a law of the Territory if it had occurred there;

the person commits an offence against this Act punishable by a penalty that is the same as the penalty for the offence referred to in paragraph (c).

60D Juries outside the Territory

(1) Subject to this section and the regulations, the laws in force in a host jurisdiction relating to each of the following:

- (a) the qualification of jurors;
- (b) the preparation of jury lists and jury panels;
- (c) the summoning, attendance and empanelling of juries;
- (d) the number of jurors;
- (e) the right of challenge;
- (f) the discharge of juries;
- (g) the disagreement of jurors;
- (h) the remuneration of jurors;
- (i) other matters concerning jurors (other than matters dealt with under section 60E) after they have been summoned, appointed or sworn;

that apply for the purposes of the trial of a criminal matter in the Supreme Court of that jurisdiction sitting at a place in that jurisdiction, extend and are to be applied, with such changes as are necessary, for the purposes of the trial of a criminal matter in the Supreme Court of the Territory when sitting at that place.

(2) For the purposes of a trial in the Supreme Court held wholly or partly at a place in a host jurisdiction, the jury list that would be used for the purposes of a criminal trial in the Supreme Court of

that jurisdiction sitting in the same place is to be used as well for the purposes of the trial in the Supreme Court of the Territory.

- (3) The precept for a jury is to be issued by the Registrar, or such other person holding an office in relation to the Supreme Court as the Court directs, and the Sheriff or such other person as the Court directs must prepare the jury panels and summon jurors.
- (4) The person who has custody of the jury list referred to in subsection (2) in the host jurisdiction where the Supreme Court is holding a trial must:
 - (a) give a copy of that list to the person directed by the Court to prepare a jury panel; and
 - (b) indicate on that copy the names of the persons who, to that person's knowledge, would not, if summoned at the time the copy is given, be liable to serve as jurors under the law in force in that jurisdiction.
- (5) The Commonwealth must pay any reasonable fee demanded for a copy of a list referred to in paragraph (4)(a).
- (6) Any remuneration required to be paid to a person who serves, or is summoned to serve, on a jury in a trial in the Supreme Court held wholly or partly in a host jurisdiction must be paid by the Commonwealth.
- (7) Where a law applied by this Act for the purposes of a trial in the Supreme Court requires an act or thing to be done by a person specified in that law, the Court may, if it is necessary to do so for the purpose of the effective application of the law, order that a person who holds a specified office in relation to the Court do that act or thing, and the law is taken to apply to that person accordingly.
- (8) The regulations may provide that the provisions of a law referred to in subsection (1) that are specified in the regulations have effect with any modifications specified in the regulations.
- (9) In this section, **jury list** means the roll, list, or book on or in which the names of persons liable to serve as jurors appear.

60E Offences in relation to jurors

- (1) A person who is served with a summons to attend as a juror in a trial in the Supreme Court held wholly or partly in a host jurisdiction must not:
- (a) fail to attend in accordance with the summons; or
 - (b) having so attended, withdraw from the presence of the Court, without the permission of the Sheriff, before being discharged or excused by a judge of the Court or the Sheriff.

Penalty: Imprisonment for 1 month.

- (2) Subsection (1) does not apply if the person has a reasonable excuse.

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

- (3) A person must not impersonate a person who is a juror with the intention of sitting on a jury.

Penalty: Imprisonment for 6 months.

- (4) A person must not:

- (a) engage in conduct that results in the corruption of a juror; or
- (b) make or promise a payment to a juror, or confer or promise to confer any other benefit on a juror in relation to the person's service as a juror, other than a payment of the ordinary remuneration of the juror's employment; or
- (c) being a juror, accept such a payment or benefit.

Penalty: Imprisonment for 5 years.

- (5) In this section:

juror includes a person whose name is on a jury panel.

60F Removal of accused to host jurisdiction to stand trial

- (1) Where the Supreme Court makes an order under paragraph 60C(5)(a) in relation to an accused, the Registrar, a Magistrate of the Territory or a person directed by the Court under that paragraph, may:

- (a) by warrant directed to all constables, require them to convey the accused in custody from the Territory to the prison specified in the warrant and to deliver the accused into the custody of the officer for the time being in charge of that prison; and
 - (b) by warrant directed to that officer, require that officer to detain the accused in that prison under this section.
- (2) A warrant directed to all constables may be executed by any constable.
- (3) An accused delivered into custody at a prison in a host jurisdiction under a warrant under subsection (1) may, subject to any order of the Supreme Court, be detained in that prison or any other prison in that jurisdiction for so long as the accused's detention is necessary for the execution of the order.
- (4) An accused may, while in custody, be dealt with in the same manner, and is subject to the same laws, as if the warrant issued under subsection (1) had been issued under a law in force in the host jurisdiction relating to holding persons in custody pending the trial of those persons.
- (5) The Commonwealth is to pay to the host jurisdiction the reasonable expenses of maintaining an accused detained in a prison under a warrant under subsection (1).

60G Accused to be conveyed to Court

- (1) Where an accused has been removed to a host jurisdiction under this Act, a judge of the Supreme Court may order that the accused be conveyed to the Court for the purposes of trial in that jurisdiction, and any related proceedings.
- (2) Where a judge of the Supreme Court makes an order under subsection (1), the person who has the custody of the accused must release the accused to a constable to enable the accused to be conveyed to the Court in accordance with that order.

60H Return of accused to Territory

- (1) Where the Supreme Court makes an order under paragraph 60C(8)(b), the Registrar may, by warrant directed to all
-

constables, require them to convey the accused in custody from the host jurisdiction in which the Court made the order to the prison in the Territory specified in the warrant and to deliver the accused into the custody of the officer for the time being in charge of that prison.

- (2) A warrant referred to in subsection (1) may be executed by any constable.

60J Person taken to be prisoner under *Removal of Prisoners (Territories) Act 1923*

- (1) This section applies if:
- (a) a person has been tried in relation to an indictable offence against a law of the Territory by the Supreme Court sitting in a host jurisdiction; and
 - (b) the person is convicted of that offence and sentenced to imprisonment.
- (2) The person is taken:
- (a) to be a prisoner within the meaning of the *Removal of Prisoners (Territories) Act 1923*; and
 - (b) to have been removed to that jurisdiction under that Act.
- (3) The provisions of that Act apply (so far as they are capable of applying) in relation to the person accordingly.

60K Person taken to be criminal lunatic under *Removal of Prisoners (Territories) Act 1923*

- (1) This section applies if a person who has been removed to a host jurisdiction under this Act:
- (a) is found to have been insane at the time of the commission of the offence; or
 - (b) is found or certified, or otherwise lawfully proved, to be unfit, on the ground of insanity, to be tried for the offence; or
 - (c) is convicted of an offence and afterwards certified, or otherwise lawfully proved, to be insane.
- (2) The person is taken:

- (a) to be a criminal lunatic within the meaning of the *Removal of Prisoners (Territories) Act 1923*; and
 - (b) to have been removed to that jurisdiction under that Act.
- (3) Sections 9 and 10A of that Act apply (so far as they are capable of applying) in relation to the person accordingly.

60L Repatriation of person tried in a host jurisdiction

Where:

- (a) a person has been removed to a host jurisdiction under this Act; and
- (b) the trial of the person in the Supreme Court sitting in that jurisdiction has concluded; and
- (c) the person is acquitted (other than on the ground of insanity) or is not, after the date on which the trial concludes, required to serve a sentence of imprisonment;

the Commonwealth must, on application by the person to the Secretary, provide the person with means to enable the person to return to the Territory.

Subdivision C—Historical offences, conduct and engaging in conduct

60M Historical offences

In this Division, a reference to an offence against a law of the Territory:

- (a) includes a reference to an offence against a law in force in the Territory at the time the conduct constituting the offence is alleged to have occurred; and
- (b) includes a reference to an offence against a law mentioned in paragraph (a), even if that law has subsequently been amended or repealed.

60N Meanings of *conduct* and *engage in conduct*

In this Division:

conduct has the same meaning as in the Commonwealth's *Criminal Code*.

engage in conduct has the same meaning as in the Commonwealth's *Criminal Code*.

Division 2—Civil matters

60P Commonwealth may enter into arrangements with host jurisdictions

- (1) The Commonwealth may enter into arrangements with the government or an authority of any of the following for the purposes of the effective application of the provisions of this Division relating to sittings of the Supreme Court in that jurisdiction in the exercise of the Supreme Court's jurisdiction in civil matters:
 - (a) a State;
 - (b) the Australian Capital Territory;
 - (c) the Northern Territory.
- (2) No power is conferred, or duty or function imposed, on an officer of a State under this Division unless:
 - (a) an arrangement has been entered into with the government or an authority of that State under subsection (1); and
 - (b) the conferral of the power or imposition of the duty or function is in accordance with that arrangement.
- (3) Each of the following is referred to as a *host jurisdiction* in this Division:
 - (a) a State in relation to which an arrangement has been entered into under subsection (1);
 - (b) the Australian Capital Territory;
 - (c) the Northern Territory.

60Q Supreme Court may sit in a host jurisdiction

- (1) The Supreme Court, in the exercise of its jurisdiction in civil matters, may sit in a host jurisdiction under this section if to do so would not be contrary to the interests of justice.
- (2) If a civil matter is before the Supreme Court for hearing at a sitting of the court, the court may order that the hearing of the matter be

adjourned and continued at a sitting of the court in a host jurisdiction, and at a time and place, specified in the order.

- (3) If a civil matter is not before the Supreme Court for hearing, a Judge may order that the matter be heard or continued at a sitting of the court in a host jurisdiction, and at a time and place, specified in the order.
- (4) When exercising its jurisdiction in a civil matter in a host jurisdiction, the Supreme Court has, and may exercise, all the powers that it would have if it were exercising its jurisdiction in that matter in the Territory.
- (5) A power exercised by the Supreme Court under subsection (4) is taken to have been exercised by the Court at a sittings of the Court in the Territory.
- (6) A person who appears as a witness in the Supreme Court in the hearing of a civil matter, or in related proceedings, held wholly or partly in a host jurisdiction, must be paid by the Commonwealth such fees and allowances as would be payable to the person if the person had appeared as a witness in the hearing of the matter held in the Territory.
- (7) Where:
 - (a) the Supreme Court, when exercising its jurisdiction in a civil matter in a host jurisdiction, makes an order, issues a warrant or summons or gives a judgment; and
 - (b) a person fails to comply with that order, warrant, summons or judgment; and
 - (c) that failure would have constituted an offence against a law of the Territory if it had occurred there;the person commits an offence against this Act punishable by a penalty that is the same as the penalty for the offence referred to in paragraph (c).
- (8) An order made under subsection (2) or (3) to hear or continue a matter in a host jurisdiction, may:
 - (a) if the matter is before the Supreme Court for hearing at a sitting of the court—be revoked by the court and replaced with an order that the hearing of the matter be adjourned and

continued at a sitting of the court in the Territory, and at a time and place, specified in the order; and

- (b) if the matter is not before the Supreme Court for hearing—be revoked by a judge of the Court and replaced with an order that the matter be heard or continued at a sitting of the court in the Territory, and at a time and place, specified in the order.

- (9) An order (made under subsection (8) or otherwise) to hear or continue a civil matter at a sitting of the Supreme Court in the Territory may be revoked and be replaced with an order under subsection (2) or (3).

4 Paragraph 67(a)

Repeal the paragraph, substitute:

- (a) prescribing circumstances in which the prosecution for an offence against a law of the Territory (as defined for the purposes of Division 1 of Part VIIA) is taken to have commenced for the purposes of subsection 60C(2); and

5 At the end of the Act

Add:

Schedule 5—No limitation period on prosecution of sexual offences

Note: See section 60A.

1 Offences against certain provisions of the *Crimes Act 1900* of Norfolk Island

- (1) Each of the following provisions of the *Crimes Act 1900* of Norfolk Island is listed for the purposes of section 60A:
- (a) sections 62 to 81;
 - (b) sections 86 to 91D;
 - (c) a provision of Part IIIA;
 - (d) a provision of Part IX, as it relates to an offence against one of the provisions mentioned in paragraphs (a) to (c).
- (2) In this clause:

Crimes Act 1900 of Norfolk Island means the *Crimes Act 1900* of the State of New South Wales, as amended before 16 December 1936 and applied in Norfolk Island, subject to any modifications made from time to time under laws that were in force in the Territory before 1 January 2008.

2 Offences against the *Criminal Code of Norfolk Island*

- (1) Each provision of the following Parts of the *Criminal Code of Norfolk Island* is listed for the purposes of section 60A:
 - (a) Part 3.6;
 - (b) Part 3.7;
 - (c) Part 3.9;
 - (d) Part 3.10;
 - (e) Part 2.4, as it relates to an offence against any provision of one of the Parts mentioned in paragraphs (a) to (d).
- (2) In this clause:

Criminal Code of Norfolk Island means the *Criminal Code 2007* of Norfolk Island, as in force from time to time on and after 1 January 2008.

6 Application of amendments

Trial of criminal matters

- (1) To avoid doubt, Subdivision B of Division 1 of Part VIIA of the *Norfolk Island Act 1979*, inserted by item 3 of this Schedule, applies in relation to the trial of an offence even if the trial has begun before the Subdivision commences.

Hearing civil matters

- (2) An order that was made under a provision of the *Norfolk Island Regulations 2017* (the ***Regulations***) described in column 1 of an item of the following table and was in force immediately before the commencement of Division 2 of Part VIIA of the *Norfolk Island Act 1979* (the ***Act***), inserted by item 3 of this Schedule, has effect on and after that commencement as if it were an order described in column 2 of the item.

Continuation of orders made under the Regulations		
Item	Column 1	Column 2
1	An order under section 8 of the Regulations	An order under subsection 60Q(2) of the Act
2	An order under subparagraph 9(a)(i) of the Regulations	An order under subsection 60Q(3) of the Act
3	An order under subparagraph 9(a)(ii) of the Regulations	An order under paragraph 60Q(8)(b) of the Act

*[Minister's second reading speech made in—
House of Representatives on 13 September 2017
Senate on 13 February 2018]*

(222/17)
