



Criminal Code Amendment (Impersonating a Commonwealth Body) Act 2018

No. 44, 2018

An Act to amend the *Criminal Code*, 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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Criminal Code Amendment (Impersonating a Commonwealth Body) Act 2018

No. 44, 2018

An Act to amend the *Criminal Code*, and for related purposes

[Assented to 21 June 2018]

The Parliament of Australia enacts:

1 Short title

This Act is the *Criminal Code Amendment (Impersonating a Commonwealth Body) Act 2018*.

No. 44, 2018

*Criminal Code Amendment (Impersonating a Commonwealth Body)
Act 2018*

1

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. The whole of this Act	The day after this Act receives the Royal Assent.	22 June 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Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Impersonating a Commonwealth body

Criminal Code Act 1995

1 Part 7.8 of the *Criminal Code* (heading)

Repeal the heading, substitute:

Part 7.8—Causing harm to or obstructing Commonwealth public officials and impersonating Commonwealth public officials or bodies

2 At the end of Part 7.8 of the *Criminal Code*

Add:

Division 150—False representations in relation to a Commonwealth body

Subdivision A—Offences

150.1 False representations in relation to a Commonwealth body

- (1) A person commits an offence if:
 - (a) the person engages in conduct; and
 - (b) the conduct results in, or is reasonably capable of resulting in, a representation that the person:
 - (i) is a Commonwealth body; or
 - (ii) is acting on behalf of, or with the authority of, a Commonwealth body; and
 - (c) the person is not:
 - (i) the Commonwealth body; or
 - (ii) acting on behalf of, or with the authority of, the Commonwealth body.

Penalty: Imprisonment for 2 years.

- (2) A person commits an offence if:
- (a) the person engages in conduct; and
 - (b) the conduct results in, or is reasonably capable of resulting in, a representation that the person:
 - (i) is a Commonwealth body; or
 - (ii) is acting on behalf of, or with the authority of, a Commonwealth body; and
 - (c) the person engages in the conduct with the intention of:
 - (i) obtaining a gain; or
 - (ii) causing a loss; or
 - (iii) influencing the exercise of a public duty or function; and
 - (d) the person is not:
 - (i) the Commonwealth body; or
 - (ii) acting on behalf of, or with the authority of, the Commonwealth body.

Penalty: Imprisonment for 5 years.

- (3) For the purposes of this section, it is immaterial whether the Commonwealth body exists or is fictitious.
- (4) If the Commonwealth body is fictitious, subsection (1) or (2) does not apply unless a person would reasonably believe that the Commonwealth body exists.
- (5) Without limiting section 15A of the *Acts Interpretation Act 1901*, this section does not apply to the extent (if any) that it would infringe any constitutional doctrine of implied freedom of political communication.
- (6) Section 15.3 (extended geographical jurisdiction—category C) applies to each offence against this section.
- (7) In this section:
- Commonwealth body** means:
- (a) a Commonwealth entity; or

- (b) a Commonwealth company (within the meaning of the *Public Governance, Performance and Accountability Act 2013*); or
- (c) a service, benefit, program or facility for some or all members of the public that is provided by or on behalf of the Commonwealth, whether under a law of the Commonwealth or otherwise.

conduct does not include conduct engaged in solely for genuine satirical, academic or artistic purposes.

Subdivision B—Injunctions

150.5 Injunctions

Enforceable provisions

- (1) Section 150.1 is enforceable under Part 7 of the Regulatory Powers Act.

Note: Part 7 of the Regulatory Powers Act creates a framework for using injunctions to enforce provisions.

Authorised person

- (2) For the purposes of Part 7 of the Regulatory Powers Act, any person whose interests have been, or would be, affected by conduct mentioned in subsection 150.1(1) or (2) is an authorised person in relation to section 150.1.

Relevant court

- (3) For the purposes of Part 7 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to section 150.1:
 - (a) the Federal Court of Australia;
 - (b) the Federal Circuit Court of Australia;
 - (c) the Supreme Court of a State or Territory;
 - (d) the District Court (or equivalent) of a State or Territory.

Extension to external Territories etc.

- (4) Part 7 of the Regulatory Powers Act, as that Part applies in relation to section 150.1, extends to:

Schedule 1 Impersonating a Commonwealth body

- (a) every external Territory; and
- (b) conduct outside Australia; and
- (c) conduct that results in, or is reasonably capable of resulting in, a representation outside Australia; and
- (d) conduct that is intended to result in a gain, a loss or influence outside Australia.

3 Dictionary in the *Criminal Code*

Insert:

Regulatory Powers Act means the *Regulatory Powers (Standard Provisions) Act 2014*.

[*Minister's second reading speech made in—
House of Representatives on 13 September 2017
Senate on 7 February 2018*]

(201/17)
