



Australian Crime Commission Amendment (Special Operations and Special Investigations) Act 2022

No. 80, 2022

**An Act to amend the *Australian Crime Commission
Act 2002*, 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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No. 80, 2022

An Act to amend the *Australian Crime Commission Act 2002*, and for related purposes

[Assented to 9 December 2022]

The Parliament of Australia enacts:

No. 80, 2022

*Australian Crime Commission Amendment (Special Operations and
Special Investigations) Act 2022*

1

1 Short title

This Act is the *Australian Crime Commission Amendment (Special Operations and Special Investigations) Act 2022*.

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.	10 December 2022

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Amendments

Part 1—Amendments

Australian Crime Commission Act 2002

1 Subsection 4(1)

Insert:

federally relevant crime means a relevant crime that is:

- (a) an offence against a law of the Commonwealth or of a Territory; or
- (b) an offence against a law of a State that has a federal aspect.

2 Subsection 4(1) (definition of *federally relevant criminal activity*)

Repeal the definition.

3 Subsection 4(1) (definition of *Indigenous violence or child abuse*)

Omit “committed”.

4 Subsection 4(1) (definition of *intelligence operation*)

Omit “federally relevant criminal activity” (wherever occurring), substitute “a federally relevant crime”.

5 Subsection 4(1) (definition of *relevant crime*)

Repeal the definition, substitute:

relevant crime means a serious and organised crime or Indigenous violence or child abuse:

- (a) that may have been, may be being, or may in future be, committed; and

(b) that is an offence against a law of the Commonwealth, of a State or of a Territory.

Note: See also subsection (2) (which expands the meaning of *relevant crime* in certain circumstances).

6 Subsection 4(1) (definition of *relevant criminal activity*)

Repeal the definition.

7 Subsection 4(1) (definition of *special ACC investigation*)

Repeal the definition, substitute:

special ACC investigation means an investigation relating to a federally relevant crime that the Board has authorised to occur under subsection 7C(3).

Note: A special ACC investigation can occur only while a determination under subsection 7C(3) is in force (see subsection 7C(4F)).

8 Subsection 4(1) (definition of *special ACC operation*)

Repeal the definition, substitute:

special ACC operation means an intelligence operation that the Board has authorised to occur under subsection 7C(2).

Note: A special ACC operation can occur only while a determination under subsection 7C(2) is in force (see subsection 7C(4E)).

9 Subparagraphs 4A(2)(d)(i) and (ii)

Omit “relevant criminal activity that relates to”, substitute “relevant crime that is”.

10 Subparagraph 4A(2)(e)(i)

After “relating to”, insert “a relevant crime that is”.

11 Subparagraph 4A(2)(e)(ii)

Omit “operation is, or would be, incidental to the operation”, substitute “intelligence operation is, or would be, incidental to the intelligence operation”.

12 Subsection 4A(6) (definition of *intelligence operation*)

Omit all the words after “intelligence relating to”, substitute “a relevant crime, but that may involve undertaking investigations relating to a relevant crime”.

13 Paragraphs 7A(b) and (c)

Omit “when authorised by a determination made by the Board—”.

14 Paragraphs 7C(1)(c) and (d)

Repeal the paragraphs, substitute:

(c) to authorise, by determination made under subsection (2), an intelligence operation to occur;

(d) to authorise, by determination made under subsection (3), an investigation relating to a federally relevant crime to occur;

15 Subsection 7C(1) (note)

Omit “an intelligence operation or an investigation relating to federally relevant criminal activity”, substitute “a special ACC operation or a special ACC investigation”.

16 Subsection 7C(2)

Omit “a special ACC operation”, substitute “an intelligence operation”.

17 Subsection 7C(2) (before note 1)

Insert:

Note 1A: An intelligence operation that the Board has authorised to occur under this subsection is a special ACC operation (see the definition of *special ACC operation* in subsection 4(1)).

18 Subsection 7C(3)

Omit “a special ACC investigation”, substitute “an investigation relating to a federally relevant crime”.

19 Subsection 7C(3) (before note 1)

Insert:

Note 1A: An investigation relating to a federally relevant crime that the Board has authorised to occur under this subsection is a special ACC investigation (see the definition of *special ACC investigation* in subsection 4(1)).

20 Subsection 7C(4)

Omit “criminal activity”, substitute “crime”.

21 Paragraph 7C(4)(a)

Omit “relevant criminal activities”, substitute “federally relevant crimes”.

22 Paragraph 7C(4)(c)

Omit “crime”, substitute “federally relevant crimes”.

23 Subsection 7C(4A)

Omit “the special ACC operation or special ACC investigation”, substitute “an intelligence operation, or an investigation relating to a federally relevant crime,”.

24 Paragraphs 7C(4B)(a) and (b)

Omit “criminal activity”, substitute “crimes”.

25 Paragraph 7C(4B)(c)

Omit “some part of the federally relevant criminal activity”, substitute “any or all of the federally relevant crimes”.

26 Subsection 7C(4C)

Repeal the subsection, substitute:

- (4C) A determination under subsection (2) or (3) must, to the extent that the Board reasonably considers appropriate having regard to the level of generality at which it is authorising an intelligence operation, or an investigation relating to a federally relevant crime, to occur, set out the purposes of the operation or investigation.

- (4CA) To avoid doubt, a determination under subsection (2) or (3) authorising an intelligence operation, or an investigation relating to a federally relevant crime, to occur is not required to specify:
- (a) any particular offence or offences; or
 - (b) any particular conduct, transaction or person to which the investigation or operation relates; or
 - (c) any timeframe within which:
 - (i) any federally relevant crime may have been, may be being, or may in future be, committed; or
 - (ii) the investigation or operation must commence or be completed.

27 Subsections 21(1) and (2)

Omit “criminal activities”, substitute “crimes”.

28 Paragraph 55A(2)(a)

Repeal the paragraph, substitute:

- (a) the function of undertaking an investigation relating to a relevant crime in so far as the relevant crime is an offence against a law of the State (irrespective of whether that offence has a federal aspect);

29 Paragraph 55A(3)(a)

Omit “criminal activity”, substitute “crime”.

30 Paragraph 55A(4)(a)

Repeal the paragraph, substitute:

- (a) relates to an investigation relating to a relevant crime in so far as the relevant crime is an offence against a law of the State (irrespective of whether that offence has a federal aspect); and

31 Paragraph 55A(5A)(a)

Omit “criminal activity”, substitute “crime”.

32 Paragraph 55A(5B)(a)

Repeal the paragraph, substitute:

- (a) relates to an investigation relating to a relevant crime in so far as the relevant crime is an offence against a law of the State (irrespective of whether that offence has a federal aspect); and

33 Subsection 55A(9)

Omit “criminal activities”, substitute “crimes”.

34 Subsection 55A(14) (definition of *intelligence operation*)

Omit “criminal activity”, substitute “crime”.

35 Paragraph 55B(1)(a)

Omit “federally relevant criminal activity”, substitute “a federally relevant crime”.

36 Paragraph 55C(1)(c)

Omit “criminal activity that is not a federally relevant criminal activity”, substitute “crime that is not a federally relevant crime”.

37 Subsection 55C(2)

Omit “to a relevant criminal activity”, substitute “to a relevant crime”.

38 Paragraph 55C(2)(a)

Repeal the paragraph, substitute:

- (a) the relevant crime is not a federally relevant crime; or

***Parliamentary Joint Committee on Law Enforcement Act
2010***

39 Section 3

Insert:

relevant crime has the same meaning as in the *Australian Crime Commission Act 2002*.

40 Section 3 (definition of *relevant criminal activity*)

Repeal the definition.

41 Paragraph 7(2)(a)

Omit “criminal activity”, substitute “crime”.

Telecommunications (Interception and Access) Act 1979

42 Subsection 5(1)

Repeal the following definitions:

- (a) definition of *federally relevant criminal activity*;
- (b) definition of *special investigation*.

43 Paragraph 5D(1)(f)

Omit “an ACC special investigation”, substitute “a special ACC investigation”.

Part 2—Application and saving provisions

44 Definitions

In this Part:

ACC Act means the *Australian Crime Commission Act 2002*.

amending Part means Part 1 of this Schedule.

commencement time means the commencement of this Schedule.

45 Application—subsections 7C(2) to (4CA) of the ACC Act

Subsections 7C(2) to (4CA) of the ACC Act, as amended or inserted by the amending Part, apply in relation to a determination made after the commencement time.

46 Saving—existing determinations

- (1) This item applies in relation to a determination if:
 - (a) the determination was made under subsection 7C(2) or (3) of the ACC Act before the commencement time; and
 - (b) immediately before the commencement time, the determination is still in force.
- (2) The determination continues in force, after the commencement time, as if:
 - (a) the determination had been made under subsection 7C(2) or (3) of the ACC Act (as the case may be), as amended by the amending Part; and
 - (b) any reference in the determination to federally relevant criminal activity were a reference to federally relevant crime within the meaning of the ACC Act, as amended by the amending Part; and
 - (c) any reference in the determination to relevant crime, or relevant criminal activity, were a reference to relevant crime within the meaning of the ACC Act, as amended by the amending Part.

47 Saving—existing arrangements

If:

- (a) an arrangement was made under subsection 21(1) or (2) of the ACC Act before the commencement time; and
- (b) immediately before the commencement time, the arrangement is still in effect;

the arrangement continues in effect, after the commencement time, as if it had been made under subsection 21(1) or (2) of the ACC Act (as the case may be), as amended by the amending Part.

48 Saving—warrants

- (1) This item applies in relation to a warrant if:
 - (a) the warrant was issued under section 46, 46A or 48 of the *Telecommunications (Interception and Access) Act 1979* before the commencement time; and
 - (b) immediately before the commencement time, the warrant is still in force.
- (2) The warrant continues in force, after the commencement time, as if any reference in the warrant to an ACC special investigation were a reference to a special ACC investigation (within the meaning of the ACC Act, as amended by the amending Part).

[*Minister's second reading speech made in—
House of Representatives on 26 October 2022
Senate on 21 November 2022*]

(70/22)
