

Crimes (Amendment) Bill

No.

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LEGISLATIVE COUNCIL

Read 1° 14 April 1987

(Brought in by the Honourable J. H. Kennan)

A BILL

to amend the *Crimes Act* 1958 and for other purposes.

Crimes (Amendment) Act 1987

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

Purpose.

1. The purpose of this Act is—

- 5 (a) to provide for the issue of search warrants for the investigation in Victoria of certain offences against the law of other States or Territories;
- (b) to make miscellaneous other amendments to the *Crimes Act* 1958 and certain other Acts.

10 **Commencement.**

2. This Act comes into operation on a day or days to be proclaimed.

Principal Act.

3. In this Act, the *Crimes Act* 1958 is called the Principal Act.

No. 6231.
Reprinted to
No. 10098 and
amended by
Nos. 10152,
10233, 10244,
10249, 10260,
16/1986, 37/
1986, 101/1986,
102/1986, 110/
1986, 111/1986,
117/1986, 124/
1986, 127/1986.

PART 2—EXTRA-TERRITORIAL OFFENCES**New Part II.****4. After Part II. of the Principal Act insert—****“PART II.—EXTRA-TERRITORIAL OFFENCES”****Definitions.**

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‘340. (1) In this Part—

“Appropriate authority” means—

(a) in relation to another State of the Commonwealth, or a Territory of the Commonwealth (other than the Australian Capital Territory)—an authority exercising in relation to the police force of that State or Territory functions corresponding to those of the Chief Commissioner of Police for Victoria in relation to the police force of Victoria; 10

(b) in relation to the Australian Capital Territory—the Commissioner of the Australian Federal Police. 15

“Corresponding law” means a law of another State, or of a Territory, of the Commonwealth declared by Proclamation to be a corresponding law.

“Night” means the interval between 9 o’clock in the evening and 6 o’clock in the morning. 20

“Obstruct” includes assault, threaten, abuse, insult, intimidate, hinder and attempt to obstruct.

“Offence to which this Act applies” means an indictable offence against the law of a reciprocating State (being an offence arising from an act, omission or state of affairs which, if done or occurring in Victoria, would attract criminal liability under the law of Victoria). 25

“Owner”, of an object, includes a person entitled to possession of the object. 30

“Police force” means the police force of Victoria.

“Premises” means a building, structure or any place whatsoever (whether built upon or not and whether enclosed or unenclosed) and includes an aircraft, vessel or vehicle.

“Reciprocating State” means another State, or a Territory, of the Commonwealth— 35

(a) in which a corresponding law is in force; and

(b) in relation to which arrangements are in force under section 344.

“Search warrant” means a warrant under this Part authorising a search of premises. 40

(2) For the purposes of this Part—

(a) anything obtained by the commission of an offence, used for the purpose of committing an offence, or in respect of which an offence has been committed; or

5 (b) anything that may afford evidence of the commission of an offence; or

(c) anything intended to be used for the purpose of committing an offence—

is an object relevant to the investigation of the offence.

10 (3) The Governor in Council may, by proclamation published in the *Government Gazette*, declare a law of another State, or of a Territory, of the Commonwealth to be a corresponding law.’

Issue of search warrant.

15 “341. (1) If, upon the application of a member of the police force, a magistrate is satisfied that there are reasonable grounds to believe—

(a) that an offence to which this Part applies has been, or is intended to be, committed; and

(b) that there is at any premises an object relevant to the investigation of that offence—

20 the magistrate may issue a search warrant in respect of those premises.

(2) The grounds of an application for a search warrant must be verified by affidavit.

25 (3) A magistrate by whom a search warrant is issued must file the warrant, or a copy of the warrant, and the affidavit verifying the grounds on which the application for the warrant was made, in the Melbourne Magistrates’ Court.”

Authority conferred by and other incidents of a search warrant.

30 “342. (1) A search warrant authorises any member of the police force, with such assistants as he or she thinks necessary, to enter and search the premises to which the warrant relates, and anything in those premises.

(2) Subject to any direction by a magistrate authorising execution of a search warrant at night, or during specified hours of the night, it must not be executed at night.

35 (3) A member of the police force, or a person assisting him or her, may use such force as is reasonably necessary for the execution of a search warrant.

40 (4) A member of the police force executing a search warrant may seize and remove any object that he or she believes on reasonable grounds to be relevant to the investigation of the offence in relation to which the warrant was issued.

(5) An object seized and removed under sub-section (4) must be dealt with in accordance with arrangements in force under section 344.

(6) A member of the police force who executes a search warrant—

(a) must prepare a notice in the prescribed form containing—

(i) his or her own name and rank; 5

(ii) the name of the magistrate who issued the warrant and the date and time of its issue; and

(iii) a description of any objects seized and removed in pursuance of the warrant; and

(b) as soon as practicable, after the execution of the warrant, must give the notice to the occupier (if any) of the premises in respect of which the warrant was issued or leave it for him or her in a prominent position on those premises. 10

(7) A search warrant, if not executed at the expiration of one month from the date of its issue, then expires.” 15

Obstruction.

“343. A person must not, without lawful excuse, obstruct a member of the police force, or a person assisting a member of the police force, in the execution of a search warrant.

Penalty: 20 penalty units.” 20

Ministerial arrangements for transmission and return of seized objects.

“344. (1) The Minister may enter into arrangements with a Minister to whom the administration of a corresponding law is committed under which— 25

(a) objects seized under this Part that may be relevant to the investigation of an offence against the law of the State, or Territory in which the corresponding law is in force—

(i) are to be transmitted to the appropriate authority in that State or Territory for the purposes of investigation of, or proceedings in respect of, that offence; and 30

(ii) when no longer required for the purpose of any such investigation or proceedings, are (unless disposed of by order or direction of a court) to be returned to the Chief Commissioner of Police for Victoria; and 35

(b) objects seized under the corresponding law that may be relevant to the investigation of an offence against the law of Victoria—

(i) are to be transmitted to the Chief Commissioner of Police of Victoria; and 40

(ii) when no longer required for the purposes of investigation of an offence, or proceedings in respect of

an offence, are (unless disposed of by order or direction of a court) to be returned to the appropriate authority in the State or Territory in which they were seized.

- 5 (2) The owner of an object returned to the Chief Commissioner of Police in pursuance of arrangements under sub-section (1) is entitled to the return of the objects.

(3) The right referred to in sub-section (2) is enforceable by action in detinue in a court of competent jurisdiction."

Regulations.

- 10 "345. The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Part to be prescribed to give effect to this Part."

PART 3—MISCELLANEOUS AMENDMENTS

Handling stolen goods.

- 15 5. In section 88 (1) of the Principal Act—
(a) after "receives the goods" insert "or brings them into Victoria"; and
(b) after "assists" insert "in bringing them into Victoria or".

Repeal of superseded provision.

- 20 6. Section 472 of the Principal Act is repealed.

Amendment of *Summary Offences Act 1966*.

7. In section 26 of the *Summary Offences Act 1966*—

- (a) for "in any State or Territory of the Commonwealth" substitute "whether in or outside Victoria";
25 (b) for "in another State or in a Territory of the Commonwealth in circumstances amounting to the commission of a criminal offence in that State or Territory" substitute "in a place outside Victoria in circumstances amounting to the commission of a criminal offence in that place".

Amendment of *Corrections Act 1986*.

8. After Division 2 of Part 8 of the *Corrections Act 1986* insert—

No. 7405.
Reprinted to
No. 9928 and
amended by
Nos. 9945,
10012, 10087,
10094, 10262,
101/1986, 124/
1986 and 127/
1986.

No. 117/1986.

“Division 2A—Absence to give Evidence at Foreign Proceedings”**Arrangements with Commonwealth.**

“56A. (1) If, under the *Mutual Assistance in Criminal Matters Act 1987* of the Commonwealth, the Commonwealth Attorney-General makes arrangements for the travel of a prisoner to a foreign country to give evidence at a proceeding relating to a criminal matter, the Director-General may, by instrument, authorise the prisoner to be released from prison for the purpose of travelling to the foreign country to give evidence at the proceeding. 5

(2) An authority given by the Director-General under sub-section (1) may be subject to any conditions the Director-General thinks fit.”. 10

