



Western Australia

# **Criminal Investigation (Extra-territorial Offences) Act 1987**



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Western Australia

## **Criminal Investigation (Extra-territorial Offences) Act 1987**

**An Act to provide powers to investigate in this State certain offences  
against the law of other places, and for related purposes.**

*[Long title inserted by No. 59 of 2006 s. 31.]*

## **Part 1 — Preliminary**

*[Heading inserted by No. 59 of 2006 s. 32(1).]*

### **1. Short title**

This Act may be cited as the *Criminal Investigation (Extra-territorial Offences) Act 1987*<sup>1</sup>.

### **2. Commencement**

This Act shall come into operation on a day to be fixed by proclamation<sup>1</sup>.

## Part 2 — Search warrants

[Heading inserted by No. 59 of 2006 s. 32(2).]

### 3. Terms used in this Part

(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 Commissioner of Police in relation to the Police Force of this State;
- (b) in relation to the Australian Capital Territory — the Commissioner of the Australian Federal Police;

**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 period commencing at 7 p.m. in each evening and ending at 7 a.m. the following morning;

**offence to which this Part 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 this State, would attract criminal liability under the law of this State);

**owner**, of an object, includes a person entitled to possession of the object;

**premises** means a building, structure or place (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 —

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

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- (b) in relation to which arrangements are in force under section 7;

***search warrant*** means a warrant under this Part, authorising a search of premises.

- (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;
- (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.

- (3) The Governor may, by proclamation, declare a law of another State, or of a Territory, of the Commonwealth to be a corresponding law and may, by subsequent proclamation, vary or revoke any such declaration.

*[Section 3 amended by No. 59 of 2006 s. 33(1).]*

**4. Issue of search warrants**

- (1) Where, upon the application of a member of the Police Force, a justice 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 in any premises an object relevant to the investigation of that offence,

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

- (2) The grounds of an application for a search warrant must be verified by evidence in writing under oath.

- (3) A justice by whom a search warrant is issued shall file the warrant, or a copy of the warrant, and the evidence verifying the grounds on which the application for the warrant was made, in the Magistrates Court at Perth.

*[Section 4 amended by No. 59 of 2004 s. 141; No. 84 of 2004 s. 80; No. 59 of 2006 s. 33(2).]*

**5. Authority conferred by, and other incidents of, a search warrant**

- (1) A search warrant authorises any member of the Police Force, with such assistants as he 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 justice authorising execution of a search warrant at night, or during specified hours of the night, it shall not be executed at night.
- (3) A member of the Police Force, or a person assisting him, may use such force as is reasonably necessary for the execution of a search warrant.
- (4) A member of the Police Force executing a search warrant may seize and remove any object that he 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 subsection (4) shall be dealt with in accordance with arrangements in force under section 7.
- (6) A member of the Police Force who executes a search warrant —
- (a) shall prepare a notice in the prescribed form containing —
    - (i) his own name and rank;
    - (ii) the name of the justice who issued the warrant and the date and time of its issue; and

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- (iii) a description of any objects seized and removed in pursuance of the warrant;
  - and
  - (b) shall, as soon as practicable after execution of the warrant, give the notice to the occupier of the premises in respect of which the warrant was issued or leave it for him in a prominent position on those premises.
- (7) A search warrant, if not executed at the expiration of one month from the date of its issue, shall then expire.

**6. Offence of hindering execution of search warrant**

A person who, without lawful excuse, hinders a member of the Police Force, or a person assisting him, in the execution of a search warrant shall be guilty of a summary offence.

Penalty: \$2 000.

*[Section 6 amended by No. 50 of 2003 s. 52(2).]*

**7. Ministerial arrangements for transmission and return of objects seized under this Part, or under a corresponding law**

- (1) The Minister may enter into arrangements with a Minister to whom the administration of a corresponding law is committed under which —
- (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
    - (ii) when no longer required for the purposes of any such investigation or proceedings, are (unless

disposed of by order or direction of a court) to be returned to the Commissioner of Police;

and

- (b) objects seized under the corresponding law that may be relevant to the investigation of an offence against the law of this State —
  - (i) are to be transmitted to the Commissioner of Police; and
  - (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.
- (2) The owner of an object returned to the Commissioner of Police in pursuance of arrangements under subsection (1) is entitled to the return of the object.
- (3) The right conferred by subsection (2) is enforceable by action in detinue in any court of competent jurisdiction.

*[Section 7 amended by No. 59 of 2006 s. 33(3).]*

## **Part 3 — Searching vehicles**

*[Heading inserted by No. 59 of 2006 s. 34.]*

### **8.        Vehicle in WA used to commit offence outside WA**

- (1) In this section —  
**vehicle** means any thing capable of transporting people or things by air, road, rail or water, and it does not matter how the thing is moved or propelled.
- (2) If a member of the Police Force reasonably suspects that a vehicle in this State is being or may be used for a journey to a place outside this State for the purpose of doing or attempting to do an act that, if it were done in this State, would be an element of an offence, he —
- (a) may stop, detain, enter and search the vehicle;
  - (b) may search any person on board; and
  - (c) while he reasonably suspects that the journey may be commenced or continued for that purpose —
    - (i) may take charge of the vehicle and detain it at any place he thinks fit; or
    - (ii) may take any reasonably necessary action to prevent the vehicle from commencing or continuing its journey.
- (3) Sections 18 and 19 of the *Criminal Investigation Act 2006*, with any necessary changes, apply to and in respect of the power in subsection (2)(a) to stop a vehicle.
- (4) A member of the Police Force who has detained a vehicle under subsection (2)(c), or a person aggrieved by any action of such a member under subsection (2)(c), may apply to the Magistrates Court for an order under subsection (5).

- (5) On such an application, the Magistrates Court may do any or all of the following —
- (a) order that the vehicle be released —
    - (i) unconditionally; or
    - (ii) on conditions imposed by the court;
  - (b) order that the vehicle be detained for a period set by the court or until the court makes a further order;
  - (c) make an order as to the payment of expenses incurred or to be incurred by the Police Force in relation to the stopping, detaining or safe keeping of the vehicle;
  - (d) make an order as to the costs of the application.
- (6) An order made under subsection (5)(a)(ii) may —
- (a) impose conditions that not only relate to the release of the vehicle but also to the use that may be made of the vehicle during a period set by the court and specified in the order;
  - (b) require a person to enter into an undertaking, with or without sureties, to comply with the order.
- (7) The amount of any expenses or costs ordered to be paid under subsection (5) may be recovered as a judgment debt in a court of competent jurisdiction from the person ordered to pay them.
- (8) For the purposes of subsection (7) a registrar of the Magistrates Court may issue a certified copy of the order and that order may be registered in a court of competent jurisdiction.

*[Section 8 inserted by No. 59 of 2006 s. 34.]*

## **Part 4 — Arrest powers**

*[Heading inserted by No. 59 of 2006 s. 34.]*

### **8A. Arrest power for foreign offence**

- (1) In this section —

**foreign offence** means an offence against the law of the Commonwealth or of a place outside this State (whether in or outside Australia) that, if committed in this State, would have a statutory penalty that is or includes imprisonment for 12 months or more or life.

- (2) A member of the Police Force may arrest a person in this State for a foreign offence if he reasonably suspects that the person has committed or is committing the offence.
- (3) A person arrested under subsection (2) must be taken to the Magistrates Court or, if he or she is under 18 years of age, the Children's Court, as soon as practicable after being arrested.
- (4) The court to which the arrested person is taken may —
- (a) discharge the person from custody; or
  - (b) order that the person be kept in custody until, and brought before the court on, a date set by the court (the **return date**) that is not less than 7 days after the day on which the person was arrested unless before that date a warrant for the person's arrest is executed under a law of the Commonwealth.
- (5) A court that makes an order under subsection (4)(b) may grant the person bail to appear before the court on the return date.
- (6) If the arrested person is brought or appears before the court on the return date, the court must discharge the person from custody unless the court is presented with a warrant for the person's arrest that may be executed under a law of the Commonwealth.

- (7) If under subsection (5) the court grants the person bail and the person enters into a bail undertaking under the *Bail Act 1982*, then —
- (a) if a warrant for the person's arrest is executed under a law of the Commonwealth before or on the date on which the person has undertaken to appear, the undertaking ceases to have effect when the warrant is executed;
  - (b) if paragraph (a) does not apply and the person does not appear in accordance with the undertaking, the *Bail Act 1982* applies and the person may be dealt with accordingly.
- (8) For the purposes of this section, the *Bail Act 1982* applies to and in respect of the arrested person as if the person had been charged with an offence against the law of this State.
- (9) Proceedings under this section form part of the criminal jurisdiction of the Magistrates Court or the Children's Court.

*[Section 8A inserted by No. 59 of 2006 s. 34; amended by No. 47 of 2011 s. 27.]*

*[Section 8A. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]*

**Part 5 — Miscellaneous**

*[Heading inserted by No. 59 of 2006 s. 32(3).]*

**9.        Regulations**

The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

## Notes

- <sup>1</sup> This is a compilation of the *Criminal Investigation (Extra-territorial Offences) Act 1987* and includes the amendments made by the other written laws referred to in the following table<sup>1M</sup>. The table also contains information about any reprint.

### Compilation table

| Short title  | Number and year | Assent      | Commencement   |
|--|-----------------|-------------|--|
| <i>Criminal Investigation (Extra-territorial Offences) Act 1987</i>  | 67 of 1987      | 22 Nov 1987 | s. 1 and 2: 22 Nov 1987;<br>Act other than s. 1 and 2:<br>5 May 1989 (see s. 2 and<br><i>Gazette</i> 5 May 1989 p. 1367) |
| <b>Reprint of the <i>Criminal Investigation (Extra-territorial Offences) Act 1987</i> as at 23 Aug 2002</b>                                    |                 |             |  |
| <i>Sentencing Legislation Amendment and Repeal Act 2003</i> s. 52  | 50 of 2003      | 9 Jul 2003  | 15 May 2004 (see s. 2 and<br><i>Gazette</i> 14 May 2004 p. 1445)   |
| <i>Courts Legislation Amendment and Repeal Act 2004</i> s. 141   | 59 of 2004      | 23 Nov 2004 | 1 May 2005 (see s. 2 and<br><i>Gazette</i> 31 Dec 2004 p. 7128)  |
| <i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 80  | 84 of 2004      | 16 Dec 2004 | 2 May 2005 (see s. 2 and<br><i>Gazette</i> 31 Dec 2004 p. 7129<br>(correction in <i>Gazette</i><br>7 Jan 2005 p. 53))    |
| <i>Criminal Investigation (Consequential Provisions) Act 2006</i> Pt. 6  | 59 of 2006      | 16 Nov 2006 | 1 Jul 2007 (see s. 2 and <i>Gazette</i><br>22 Jun 2007 p. 2838)  |
| <b>Reprint 2: The <i>Criminal Investigation (Extra-territorial Offences) Act 1987</i> as at 24 Aug 2007</b> (includes amendments listed above) |                 |             |  |
| <i>Statutes (Repeals and Minor Amendments) Act 2011</i> s. 27  | 47 of 2011      | 25 Oct 2011 | 26 Oct 2011 (see s. 2(b))  |

- <sup>1M</sup> Under the *Cross-border Justice Act 2008* section 14, in order to give effect to that Act, this Act must be applied with the modifications prescribed by the *Cross-border Justice Regulations 2009* Part 3 Division 7 as if this Act had been altered in that way. If a modification is to replace or insert a numbered provision, the new provision is identified by the superscript 1M appearing after the provision number. If a modification is to replace or insert a definition, the new definition is identified by the superscript 1M appearing after the defined term.

