

NORTHERN TERRITORY OF AUSTRALIA

**CRIMINAL INVESTIGATION (EXTRA-TERRITORIAL OFFENCES)
ACT 1985**

As in force at 1 January 1986

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 January 1986

CRIMINAL INVESTIGATION (EXTRA-TERRITORIAL OFFENCES) ACT 1985

An Act to provide for the issue of search warrants for the investigation in the Territory of certain offences against the law of a State or the Australian Capital Territory, and for other purposes

1 Short title

This Act may be cited as the Criminal Investigation (*Extra-Territorial Offences*) Act 1985.

2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3 Interpretation

(1) In this Act:

appropriate authority means:

- (a) in relation to a State – an authority exercising in relation to the Police Force of that State functions corresponding to those of the Commissioner of Police in relation to the Police Force of the Northern Territory; or
- (b) in relation to the Australian Capital Territory – the Commissioner of the Australian Federal Police.

Commissioner means the Commissioner of Police appointed under the *Police Administration Act*.

corresponding law means a law of a State or of the Australian Capital Territory declared under subsection (3) to be a corresponding law;

object includes money and money's worth.

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, event or state of affairs which, if done or

occurring in the Territory, would attract criminal liability under the law of the Territory.

owner, in relation to 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 and vehicle.

reciprocating State means a State or the Australian Capital Territory, or another Territory:

- (a) in which a corresponding law is in force; and
- (b) in relation to which arrangements are in force under section 7.

search warrant means a warrant under this Act authorizing a search of premises or a person.

State means a State of the Commonwealth.

telephone includes any telecommunication device.

- (2) For the purposes of this Act:
 - (a) a thing 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) a thing that may afford evidence of the commission of an offence; or
 - (c) a thing intended to be used for the purpose of committing an offence,

is an object relevant to the investigation of the offence.

- (3) The Administrator may, by notice in the *Gazette*, declare a law of a State or of the Australian Capital Territory to be a corresponding law.

4 Issue of search warrants

- (1) Where, on the application of a member of the Police Force, a magistrate is satisfied that there are reasonable grounds to believe that:
 - (a) an offence to which this Act applies has been, is being or is intended to be, committed; and

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- (b) there is in or on premises, or on a person, an object relevant to the investigation of that offence,

the magistrate may issue a search warrant in respect of those premises or that person or both.

- (2) Subject to subsection (4), an application for the issue of a search warrant may be made either personally or by telephone.
- (3) The grounds of an application for a search warrant shall be verified by affidavit.
- (4) An application for the issue of a search warrant shall not be made by telephone unless, in the opinion of the applicant, it is impracticable for the applicant to make the application personally.
- (5) Where an application for the issue of a search warrant is made by telephone:
- (a) the applicant shall inform the magistrate of his name, and of his rank and number in the Police Force, and the magistrate, on receiving that information, is entitled to assume, without further inquiry, that the applicant is a member of the Police Force;
 - (b) the applicant shall inform the magistrate of the grounds on which he seeks the issue of the search warrant;
 - (c) if it appears to the magistrate from the information furnished by the applicant that there are proper grounds for the issue of a search warrant, he shall inform the applicant of the facts on which he relies as grounds for the issue of the warrant and shall not proceed to issue the warrant unless the applicant undertakes to make an affidavit verifying those facts;
 - (d) if the applicant gives such an undertaking, the magistrate may then make out, and sign a search warrant, noting on the warrant the facts on which he relies as grounds for the issue of the warrant;
 - (e) the search warrant shall be deemed to have been issued, and shall come into force, when signed by the magistrate;
 - (f) the magistrate shall inform the applicant of the terms of the search warrant; and
 - (g) the applicant shall, as soon as practicable after the issue of the search warrant, forward to the magistrate an affidavit verifying the facts referred to in paragraph (c).

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- (6) A magistrate who issues a search warrant under this section shall 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 court of summary jurisdiction.

5 Certain warrants not invalidated by misdescription, &c.

A search warrant issued as the result of an application by telephone shall be valid and effective notwithstanding a technical defect in the warrant, including:

- (a) a clerical error;
- (b) an evident material miscalculation of figures; and
- (c) an evident material mistake in the description of premises, a person or a thing.

6 Authority conferred by and other incidents of search warrant

- (1) A search warrant authorizes any member of the Police Force, with such assistance as he thinks necessary:
 - (a) to enter and search the premises to which the warrant relates and any thing in or on those premises; or
 - (b) to search any person to whom the warrant relates.
- (2) 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.
- (3) 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.
- (4) An object seized and removed under subsection (3) shall be dealt with in accordance with arrangements in force under section 7.
- (5) A member of the Police Force who executes a search warrant:
 - (a) shall prepare a notice, in the prescribed form, containing:
 - (i) his name and rank;
 - (ii) the name of the magistrate who issued the warrant and the date and time of its issue; and
 - (iii) a description of all objects seized and removed in pursuance of the warrant; and

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- (b) shall, as soon as practicable after execution of the warrant, give the notice to the occupier of the premises in relation to which the warrant was issued or leave it for him in a prominent position on those premises and where a person is searched in pursuance of the warrant, he shall give a copy of the notice to that person.
- (6) A search warrant, if not executed before the expiration of 28 days after the date of its issue or, in the case of a search warrant issued as the result of an application by telephone, 14 days after the date of its issue, shall on the expiration of that period expire.

7 Ministerial arrangements for transmission and return of objects seized under this Act or under corresponding law

The Minister may enter into arrangements with a minister responsible for the administration of a corresponding law under which objects seized under:

- (a) this Act 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 relation to, that offence; and
 - (ii) when no longer required for the purposes of such investigation or proceedings, are (unless disposed of by order or direction of a court) to be returned to the Commissioner; and
- (b) the corresponding law that may be relevant to the investigation of an offence against the law of the Territory:
- (i) are to be transmitted to the Commissioner; and
 - (ii) when no longer required for the purposes of investigation of an offence, or proceedings in relation to 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.

8 Returned objects

- (1) Where an object seized under this Act and transmitted to the appropriate authority under an arrangement referred to in section 7 is returned to the Commissioner in pursuance of that arrangement, the Commissioner shall, within 28 days after he received the object, by notice in writing, require the person from whom the object was

seized, or a person appearing to the Commissioner to be the owner of the object, to claim delivery to him of the object.

- (2) If no claim is made within 21 days after the service of the notice under subsection (1), or within the 28 days referred to in subsection (1) the person from whom the object was seized or person who appears to the Commissioner to be the owner cannot, after reasonable inquiry, be located the object is forfeited to the Territory.
- (3) Where a person served with a notice under subsection (1) makes a claim for the delivery to him of an object to which the notice relates the Commissioner shall:
 - (a) where the object is required by the Commissioner in connection with the investigation of an offence – retain the object for that purpose; and
 - (b) in any other case:
 - (i) return the object to the claimant; or
 - (ii) refer the claim to the court of summary jurisdiction,and advise the claimant, in writing, accordingly.
- (4) The court of summary jurisdiction may deal with a claim referred under subsection (3)(b)(ii) to it as if it were a claim made by a claimant of property under section 130B of the *Justices Act*.
- (5) All objects forfeited to the Territory under this section may be sold, destroyed or disposed of in such manner as is prescribed or, where no manner is prescribed, as the Commissioner thinks fit.

9 Protection of Commissioner

No action or proceeding, civil or criminal, shall lie against the Commissioner for or in respect of an act or thing done or omitted to be done in good faith by him in his capacity as Commissioner in the exercise or purported exercise of a power under section 8.

10 Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

ENDNOTES

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KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced

od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

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LIST OF LEGISLATION

Criminal Investigation (Extra-Territorial Offences) Act 1985 (Act No. 56, 1985)

Assent date	9 December 1985
Commenced	1 January 1986 (<i>Gaz S7</i> , 16 December 1985)