



New South Wales

Crimes (Forensic Procedures) Amendment Act 2008 No 56

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Crimes (Forensic Procedures) Act 2000 No 59	2
4 Repeal of Act	2
Schedule 1 Amendments	3



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Crimes (Forensic Procedures) Amendment Act 2008 No 56

Act No 56, 2008

An Act to amend the *Crimes (Forensic Procedures) Act 2000* with respect to the matching of DNA profiles and the sharing of DNA information with other jurisdictions; and for other purposes. [Assented to 1 July 2008]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Crimes (Forensic Procedures) Amendment Act 2008*.

2 Commencement

This Act commences on the date of assent to this Act.

3 Amendment of Crimes (Forensic Procedures) Act 2000 No 59

The *Crimes (Forensic Procedures) Act 2000* is amended as set out in Schedule 1.

4 Repeal of Act

- (1) This Act is repealed on the day following the day on which this Act commences.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendments

(Section 3)

[1] Section 93 Permissible matching of DNA profiles

Omit section 93 (1) and (2) (including the table to section 93 (2)).

Insert instead:

- (1) A matching of a DNA profile on an index of the DNA database system specified at the top of a column of the table to this subsection with a DNA profile on an index of the system specified in column 1 of a row of the table:
 - (a) is not permitted by this Part if “no” is shown at the intersection of the relevant row and column, and
 - (b) is permitted by this Part if “yes” is shown at the intersection of the relevant row and column, and
 - (c) is permitted by this Part in connection with the volunteers (limited purposes) index if “only if within purpose” is shown at the intersection of the relevant row and column, but only if the matching is for a purpose for which the relevant DNA profile was placed on that index.

Index of profile to be matched	Is matching permitted?							
	column 1	column 2	column 3	column 4	column 5	column 6	column 7	column 8
	crime scene		suspects	volunteers (limited purposes)	volunteers (unlimited purposes)	offenders	missing persons	unknown deceased persons
crime scene	yes	yes	yes	only if within purpose	yes	yes	yes	yes
suspects	yes	yes	yes	no	no	yes	yes	yes
volunteers (limited purposes)	only if within purpose	no	no	no	no	only if within purpose	only if within purpose	only if within purpose
volunteers (unlimited purposes)	yes	no	no	no	no	yes	yes	yes
offenders	yes	yes	yes	only if within purpose	yes	yes	yes	yes

Index of profile to be matched	Is matching permitted?							
	column 1	column 2	column 3	column 4	column 5	column 6	column 7	column 8
missing persons	yes	yes	only if within purpose	yes	yes	yes	yes	yes
unknown deceased persons	yes	yes	only if within purpose	yes	yes	yes	yes	yes

[2] Section 95 Definitions

Omit the definition of *responsible authority*. Insert in alphabetical order:

CrimTrac means the Commonwealth agency of that name.

responsible authority, in relation to a participating jurisdiction, means any one or more of the following:

- (a) the Minister having responsibility for a corresponding law within that jurisdiction,
 - (b) a public authority that administers a corresponding law within that jurisdiction,
 - (c) a person or body prescribed by the regulations,
- and includes, in relation to the Commonwealth, CrimTrac.

[3] Section 97 Database information

Omit section 97 (1) and (1A). Insert instead:

- (1) The Minister may enter into arrangements for any of the purposes set out in subsection (1A) with the responsible authority of one or more participating jurisdictions under which:
 - (a) information from the DNA database of this State may be transmitted to any jurisdiction that is a party to the arrangements, and
 - (b) information from any such jurisdiction may be transmitted to this State.
- (1A) Information that is transmitted under this section must not be used except for the following purposes:
 - (a) the investigation of, or the conduct of proceedings for, an offence against the law of this State or the law of a jurisdiction that is a party to the arrangements,
 - (b) the identification of missing or deceased persons,

- (c) if arrangements are entered into with CrimTrac—CrimTrac comparing the transmitted information with information transmitted from a participating jurisdiction and then notifying this State and that jurisdiction of any matches that it finds.

[4] Section 97 (1B)

Omit “Such an arrangement”.

Insert instead “Arrangements under this section”.

[5] Section 109 Disclosure of information

Omit “(1) or (1A)” from section 109 (2) (c1).

[6] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Crimes (Forensic Procedures) Amendment Act 2008

[7] Schedule 2, Part 5

Insert after Part 4:

Part 5 Provisions consequent on enactment of Crimes (Forensic Procedures) Amendment Act 2008

12 Ministerial arrangements under section 97

Each of the following arrangements is taken to have been validly entered into under section 97 (1), as substituted by the *Crimes (Forensic Procedures) Amendment Act 2008*, on and from the date the arrangement was entered into:

- (a) the arrangement entitled “Section 97 (1) New South Wales/Commonwealth Arrangement” signed by the Attorney General and the Minister for Justice and Customs of the Commonwealth and dated 25 November 2003,
- (b) the arrangement entitled “Crimes (DNA Database) (Reciprocal Access—New South Wales and Queensland) Arrangement” signed by the Attorney General and the Minister for Police and Corrective Services of Queensland and dated 16 May 2005,
- (c) the arrangement entitled “Arrangement for the Transmission of DNA Database Information to and from New South Wales and the CrimTrac Agency of the

Commonwealth” signed by the Attorney General and the Chief Executive Officer of CrimTrac and dated 28 February 2007,

- (d) the arrangement entitled “New South Wales and Western Australia Ministerial Arrangement for the Transmission of DNA Database Information” signed by the Attorney General and the Minister for Police and Emergency Services of Western Australia and dated 19 July 2007,
- (e) the arrangement entitled “New South Wales and Australian Capital Territory Ministerial Arrangement for the Transmission of DNA Database Information” signed by the Attorney General and the Attorney General of the Australian Capital Territory and dated 20 July 2007,
- (f) the arrangement entitled “New South Wales and Victoria Ministerial Arrangement for the Transmission of DNA Database Information” signed by the Attorney General and the Attorney General of Victoria and dated 13 August 2007,
- (g) the arrangement entitled “New South Wales and Tasmania Ministerial Arrangement for the Transmission of DNA Database Information” signed by the Attorney General and the Minister for Justice and Workplace Relations of Tasmania and dated 17 September 2007,
- (h) the arrangement entitled “New South Wales and South Australia Ministerial Arrangement for the Transmission of DNA Database Information” signed by the Attorney General and the Attorney General of South Australia and dated 19 February 2008.

[Agreement in principle speech made in Legislative Assembly on 18 June 2008
Second reading speech made in Legislative Council on 25 June 2008]

BY AUTHORITY