



New South Wales

Crimes (Forensic Procedures) Amendment Act 2007 No 71

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New South Wales

Crimes (Forensic Procedures) Amendment Act 2007 No 71

Act No 71, 2007

An Act to amend the *Crimes (Forensic Procedures) Act 2000* to make further provision with respect to the carrying out of forensic procedures. [Assented to 7 December 2007]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Crimes (Forensic Procedures) Amendment Act 2007*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

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- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.
- (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 11 Conditions under which police officer may request consent to forensic procedure

Omit “, or a non-intimate forensic procedure involving the taking of a sample of the suspect’s hair or the carrying out of a self-administered buccal swab” from section 11 (2).

[2] Section 11 (3)

Omit “(other than a procedure involving the taking of a sample of the suspect’s hair or the carrying out of a self-administered buccal swab)”.

[3] Section 20

Omit the section. Insert instead:

20 Matters to be considered by senior police officer before ordering non-intimate forensic procedure

A senior police officer may not order the carrying out of a non-intimate forensic procedure under section 18 (1) unless satisfied:

- (a) that the suspect is under arrest, and
- (b) that there are reasonable grounds to believe that the suspect has committed an offence, and
- (c) that there are reasonable grounds to believe that the procedure might produce evidence tending to confirm or disprove that the suspect has committed the offence referred to in paragraph (b), and
- (d) that the suspect is neither a child nor an incapable person, and
- (e) that the carrying out of such a procedure is justified in the circumstances.

[4] Section 24 Final order for carrying out forensic procedure

Omit section 24 (2) and (3). Insert instead:

- (2) In the case of an intimate forensic procedure:
 - (a) there must be reasonable grounds to believe that the suspect has committed a prescribed offence, and
 - (b) there must be reasonable grounds to believe that the procedure might produce evidence tending to confirm or

disprove that the suspect has committed the offence referred to in paragraph (a).

- (3) In the case of a non-intimate forensic procedure:
- (a) there must be reasonable grounds to believe that the suspect has committed an offence, and
 - (b) there must be reasonable grounds to believe that the procedure might produce evidence tending to confirm or disprove that the suspect has committed the offence referred to in paragraph (a).

[5] Section 88 Destruction of forensic material after 12 months

Omit section 88 (2) (c). Insert instead:

- (c) proceedings for an offence in respect of the act or omission in relation to which the forensic material was taken have not been instituted against the suspect, or have been discontinued,

[6] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Crimes (Forensic Procedures) Amendment Act 2007

[Agreement in principle speech made in Legislative Assembly on 24 October 2007
Second reading speech made in Legislative Council on 28 November 2007]

BY AUTHORITY