

Passed by both Houses



New South Wales

Crimes (Forensic Procedures) Amendment Bill 2007

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2007*



New South Wales

Crimes (Forensic Procedures) Amendment Bill 2007

Act No , 2007

An Act to amend the *Crimes (Forensic Procedures) Act 2000* to make further provision with respect to the carrying out of forensic procedures.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

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- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.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