

South Australia

# Criminal Investigation (Extraterritorial Offences) Act 1984

An Act to provide for the issue of search warrants for the investigation in this State of certain offences against the law of other States or Territories of the Commonwealth; and for other purposes.

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## Legislative history

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### The Parliament of South Australia enacts as follows:

#### 1—Short title

This Act may be cited as the *Criminal Investigation (Extraterritorial Offences) Act 1984*.

#### 3—Interpretation

- (1) In this Act—

***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 South Australian police force;
- (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 o'clock in each evening and ending at 7 o'clock in the following morning;

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

**search warrant** means a warrant under this Act authorising a search of premises;

**telephone** includes any telecommunication device.

- (2) For the purposes of this Act—
  - (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; or
  - (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.

#### **4—Issue of search warrants**

- (1) Where upon the application of a member of the police force a magistrate is satisfied that there are reasonable grounds to believe—
  - (a) that an offence to which this Act 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 magistrate may issue a search warrant in respect of those premises.
- (2) 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 must 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 a search warrant is urgently required and there is insufficient time to make the application personally.

- (5) Where an application for the issue of a search warrant is made by telephone, the following provisions apply:
- (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 warrant;
  - (g) the applicant shall, as soon as practicable after the issue of the warrant, forward to the magistrate an affidavit verifying the facts referred to in paragraph (c).
- (6) A magistrate by whom a search warrant is issued 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 Adelaide Magistrates Court.

### **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 magistrate 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; and

- (ii) the name of the magistrate who issued the warrant and the date and time of its issue; and
    - (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: Two thousand dollars or imprisonment for six months.

## **7—Ministerial arrangements for transmission and return of objects seized under this Act 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 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 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.

## **8—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.

## Legislative history

### Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal Act

Year	No	Title	Assent	Commencement
1984	75	<i>Criminal Investigation (Extraterritorial Offences) Act 1984</i>	15.11.1984	14.4.1986 ( <i>Gazette 10.4.1986 p870</i> )

### Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>s 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	