



AUSTRALIAN CAPITAL TERRITORY

# **National Crime Authority (Territory Provisions) Act 1991**

**No. 75 of 1991**

## **TABLE OF PROVISIONS**

Section	
1.	Short title
2.	Commencement
3.	Interpretation
4.	Application to the Crown
5.	Functions under laws of the Territory
6.	Performance of functions
7.	Members may have concurrent functions and powers under laws of the Territory
8.	Limitation on challenges to validity of references
9.	Co-operation with law enforcement agencies
10.	Incidental powers of Authority
11.	Arrangements for Authority to obtain information or intelligence
12.	Search warrants
13.	Application by telephone for search warrants
14.	Order for delivery to Authority of passport of witness
15.	Hearings
16.	Power to summon witnesses and take evidence
17.	Power to obtain documents
18.	Failure of witnesses to attend and answer questions
19.	Warrant for arrest of witness
20.	Applications to Federal Court of Australia
21.	Applications to Supreme Court of a State
22.	False or misleading evidence
23.	Protection of witnesses
24.	Contempt of Authority

**TABLE OF PROVISIONS—continued**

Section

- 25.        Double jeopardy
- 26.        Powers of acting members of Authority
- 27.        Administrative arrangements with the Commonwealth
- 28.        Protection of members
- 29.        Secrecy
- 30.        Report to be laid before Assembly
- 31.        Regulations



AUSTRALIAN CAPITAL TERRITORY

# National Crime Authority (Territory Provisions) Act 1991

No. 75 of 1991

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## An Act to make provision for the operation of the National Crime Authority in the Territory

[Notified in ACT Gazette S 134: 6 December 1991]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

### Short title

1. This Act may be cited as the *National Crime Authority (Territory Provisions) Act 1991*.

### Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day fixed by the Attorney-General by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

**Interpretation**

**3. (1)** In this Act, unless the contrary intention appears—

“Commonwealth Act” means the *National Crime Authority Act 1984* of the Commonwealth;

“Commonwealth Minister” means the Minister of State of the Commonwealth administering the Commonwealth Act;

“hearing” means a hearing for the purposes of a special investigation;

“Registrar”, in relation to a court, includes the proper officer, however described, of that court;

“special function” means a special function referred to in subsection 5 (5);

“special investigation” means an investigation that the Authority is conducting in the performance of its special functions.

**(2)** Expressions used in this Act that are also used in the Commonwealth Act have in this Act, unless the contrary intention appears, the same respective meanings as those expressions have in the Commonwealth Act.

**(3)** Where the Authority suspects that an offence that is not a relevant offence as defined in subsection 4 (1) of the Commonwealth Act may be directly or indirectly connected with, or may be a part of, a course of activity involving the commission of a relevant offence as so defined, whether or not the Authority has identified the nature of that relevant offence, the first-mentioned offence shall, for so long only as the Authority so suspects, be deemed, for the purposes of this Act, to be a relevant offence.

**Application to the Crown**

**4. (1)** This Act binds the Crown.

**(2)** Nothing in this Act renders the Crown liable to be prosecuted for an offence.

**Functions under laws of the Territory**

**5. (1)** The Attorney-General may, with the approval of the Inter-Governmental Committee, by notice in writing, refer to the Authority a matter relating to a relevant criminal activity for investigation in so far as the relevant offence is, or the relevant offences are or include, an offence or offences against a law of the Territory.

**(2)** Where a matter has been so referred to the Authority, the Authority is not precluded by any law of the Territory from investigating that matter.

**(3)** A notice referred to in subsection (1) referring a matter to the Authority shall—

(a) describe the general nature of the circumstances or allegations constituting the relevant criminal activity;

- (b) state that the relevant offence is, or the relevant offences are or include, an offence or offences against a law of the Territory but need not specify the particular offence or offences; and
- (c) set out the purpose of the investigation.

(4) The Attorney-General may, with the approval of the Inter-Governmental Committee—

- (a) in a notice under subsection (1) referring a matter to the Authority, state that the reference is related to another reference; or
- (b) in a notice in writing to the Authority, state that a reference already made to the Authority by him or her is related to another reference.

(5) Where a reference to the Authority under subsection (1) is in force in respect of a matter relating to a relevant criminal activity, it is a special function of the Authority to investigate the matter in so far as the relevant offence is, or the relevant offences are or include, an offence or offences against a law of the Territory.

(6) Where a matter has been referred to the Authority under subsection (1), the Attorney-General may at any time, by notice in writing to the Authority, withdraw the reference.

### **Performance of functions**

6. (1) Where in carrying out a special function the Authority obtains evidence of an offence against a law of the Commonwealth or of a State or Territory, being evidence that would be admissible in a prosecution for the offence, the Authority must assemble the evidence and give it to:

- (a) the Attorney-General of the Territory, the Commonwealth or the State, as the case requires; or
- (b) the relevant law enforcement agency; or
- (c) any person or authority (other than a law enforcement agency) who is authorised by or under a law of the Commonwealth or of the State or Territory to prosecute the offence.

(2) Where any evidence is obtained of an offence against a law of the Commonwealth or of a State or Territory, being evidence that:

- (a) is obtained in the course of a special function; and
- (b) would be admissible in a prosecution for the offence;

the Authority must do its best to ensure that the evidence is assembled and given to:

- (c) the Attorney-General of the Territory, the Commonwealth or the State, as the case requires; or
- (d) the relevant law enforcement agency; or

- (e) any person or authority (other than a law enforcement agency) who is authorised by or under a law of the Commonwealth or of the State or Territory to prosecute the offence.

(3) The Authority shall, in performing a special function, co-operate and consult with the Australian Bureau of Criminal Intelligence.

(4) Where, as a result of the performance of a special function, the Authority considers that a recommendation should be made to the Attorney-General, to the Commonwealth Minister or to the appropriate Minister of a participating State, being a recommendation for reform of—

- (a) the law relating to relevant offences, including—
  - (i) evidence and procedure applicable to the trials of relevant offences;
  - (ii) relevant offences in relation to, or involving, corporations;
  - (iii) taxation, banking or financial frauds;
  - (iv) reception by Australian courts of evidence obtained in foreign countries as to relevant offences; and
  - (v) maintenance and preservation of taxation, banking and financial records;
- (b) administrative practices; or
- (c) administration of the courts in relation to trials of relevant offences;

the Authority may make the recommendation to the Attorney-General, to the Commonwealth Minister or to the Minister of that participating State, as the case may be.

(5) In relation to the performance by the Authority of a special function, nothing in this Act (other than section 16) shall be taken to confer on—

- (a) a member, or on a member of the staff of the Authority (other than a member of the Australian Federal Police or a member of the Police Force of a State), a power to interview a person in relation to an offence that the person is suspected of having committed, except in a case where the person has been served, as prescribed, with a summons to appear as a witness at a hearing before the Authority and has not yet so appeared; or
- (b) a member of the staff of the Authority who is a member of the Australian Federal Police or the Police Force of a State a power to interview a person that the member of the staff of the Authority does not have in his or her capacity as a member of the Australian Federal Police or of the Police Force of that State, as the case may be.

(6) Nothing in paragraph (5) (a) shall be taken to affect a power of a member, or of a member of the staff of the Authority, to interview a person otherwise than in relation to an offence that the person is suspected of having committed.

(7) Where the Authority has obtained particular information or intelligence in the course of performing a special function, nothing in this Act prevents the Authority from making use of the information or intelligence in the performance of any of its other functions.

**Members may have concurrent functions and powers under laws of the Territory**

**7. If—**

- (a) with the consent of the Inter-Governmental Committee, a function or power in relation to the investigation of matters relating to a relevant criminal activity is conferred on a member or members by the Executive; and
- (b) the Commonwealth Minister informs the member or members in writing that the Commonwealth Minister is satisfied that that function or power may conveniently be performed or exercised in conjunction with the performance or exercise by the Authority of its functions or powers under the Commonwealth Act;

then, notwithstanding anything contained in any other provision of this Act, the member or members shall perform the function, or may exercise the power, in conjunction with the performance or exercise by the Authority of its functions or powers under this Act, the Commonwealth Act or a corresponding Act of a State, and the members of the staff of the Authority may be employed by the Authority in assisting the member or members referred to in paragraph (a) in the performance of the function or the exercise of the power referred to in that paragraph.

**Limitation on challenges to validity of references**

8. Where, with the approval of the Inter-Governmental Committee, the Attorney-General refers a matter to the Authority for investigation, then, except in a proceeding instituted by the Attorney-General or by the Attorney-General of the Commonwealth or of a State, any act or thing done by the Authority in pursuance of the reference shall not be challenged, reviewed, quashed or called in question in a court of the Territory on the ground that a necessary approval of the Inter-Governmental Committee or consent of the Commonwealth Minister has not been obtained or was not lawfully given.

**Co-operation with law enforcement agencies**

9. (1) In performing its special functions the Authority shall, so far as practicable, work in co-operation with law enforcement agencies.

(2) In performing its functions under this Act the Authority may coordinate its activities with the activities of authorities and persons in other countries performing functions similar to functions of the Authority.

**Incidental powers of Authority**

10. The Authority has power to do all things necessary to be done for or in connection with, or reasonably incidental to, the performance of its special functions, and a specific power conferred on the Authority by this Act shall not be taken to limit by implication the generality of this section.

**Arrangements for Authority to obtain information or intelligence**

11. The Attorney-General may make an arrangement with the Commonwealth Minister for the Authority to be given by the Territory, or by an authority of the Territory, information or intelligence relating to relevant criminal activities.

**Search warrants**

12. (1) A member of the Authority may apply to a Judge for the issue of a warrant under subsection (2) if the member—

- (a) has reasonable grounds for suspecting that, on a particular day (in this section referred to as the “relevant day”), being the day on which, or a particular day within one month after the day on which, the application is made, there may be, upon any land or upon or in any premises, vessel, aircraft or vehicle, a thing or things of a particular kind connected with a matter relating to a relevant criminal activity, being a matter into which the authority is conducting a special investigation (in this section referred to as “things of the relevant kind”); and
- (b) believes on reasonable grounds that, if a summons were issued for the production of the thing or things, the thing or things might be concealed, lost, mutilated or destroyed.

(2) Where an application under subsection (1) is made to a Judge, the Judge may issue a warrant authorising a member of the Australian Federal Police or of the Police Force of a State, or any other person, named in the warrant, with such assistance as the member or person thinks necessary and if necessary by force—

- (a) to enter upon the land or upon or into the premises, vessel, aircraft or vehicle;
- (b) to search the land, premises, vessel, aircraft or vehicle for things of the relevant kind; and
- (c) to seize any things of the relevant kind found upon the land or upon or in the premises, vessel, aircraft or vehicle and deliver things so seized to the Authority.

(3) A Judge shall not issue a warrant under subsection (2) unless—

- (a) an affidavit has been furnished to the Judge setting out the grounds on which the issue of the warrant is being sought;
- (b) the applicant or some other person has given to the Judge, whether orally or by affidavit, such further information, if any, as the Judge requires concerning the grounds on which the issue of the warrant is being sought; and
- (c) the Judge is satisfied that there are reasonable grounds for issuing the warrant.

(4) Where a Judge issues a warrant under this section, he or she shall record on the affidavit referred to in paragraph 3 (a) which of the grounds specified in that affidavit has been relied on to justify the issue of the warrant and particulars of any other grounds relied on to justify the issue of the warrant.

(5) A warrant issued under this section shall—

- (a) include a statement of the purpose for which it is issued, which shall include a reference to the matter relating to a relevant criminal activity into which the Authority is conducting a special investigation and with which the things of the relevant kind are connected;
- (b) state whether entry is authorised to be made at any time of the day or night or during specified hours of the day or night;
- (c) include a description of the kind of things authorised to be seized; and
- (d) specify a date, not being later than 1 month after the date of issue of the warrant, upon which the warrant ceases to have effect.

(6) A warrant issued under this section may be executed, in accordance with its terms, at any time during the period commencing on the relevant day and ending on the date specified in the warrant as the date upon which it ceases to have effect.

(7) Where, in the course of searching, in accordance with the terms of a warrant issued under this section, for things of the relevant kind, the person executing it finds a thing that he or she believes on reasonable grounds to be evidence that would be admissible in the prosecution of a person for an offence against a law of the Territory, the Commonwealth, a State or another Territory, and the first-mentioned person believes on reasonable grounds that it is necessary to seize the thing in order to prevent its concealment, loss, mutilation or destruction, or its use in committing such an offence, that person may seize the thing and, if the thing is so seized, it shall be deemed, for the purposes of this Act, to have been seized pursuant to the warrant.

(8) Where a thing is seized pursuant to a warrant under this section—

- (a) the Authority may retain the thing if, and for so long as, retention of the thing by the Authority is reasonably necessary for the purposes of a special investigation to which the thing is relevant; and
- (b) if the retention of the thing by the Authority is not, or ceases to be, reasonably necessary for such purposes, a member shall cause the thing to be delivered to—
  - (i) if the thing may be used in evidence in proceedings of a kind referred to in subsection (13)—the person responsible for taking the proceedings; or
  - (ii) if subparagraph (i) does not apply—the person who appears to the Authority to be entitled to the possession of the thing;

unless the Authority has furnished the thing to the Attorney-General, to the Attorney-General of the Commonwealth or of a State, or to a law enforcement agency, in accordance with this Act, the Commonwealth Act or an Act of a State.

(9) A member may, instead of delivering a thing in accordance with subparagraph (8) (b) (ii), deliver the thing to the Attorney-General, the Attorney-General of the Commonwealth or of a State, or to a law enforcement agency, for the purpose of assisting in the investigation of criminal offences, where the member is satisfied that the thing is likely to be useful for that purpose.

(10) Nothing in this section affects a right of a person to apply for, or the power of a person to issue, a warrant, being a right or power existing otherwise than by virtue of this section.

(11) A reference in this section to a Judge of a prescribed court shall include a reference to—

- (a) a Judge of the Federal Court; or
- (b) a Judge of the Supreme Court.

(12) In this section—

“thing” includes a document.

**(13)** Without limiting the generality of paragraph (1) (a), a reference in this section to a thing connected with a matter relating to a relevant criminal activity, being a matter into which the Authority is conducting a special investigation, includes a reference to a thing that may be used in evidence in proceedings for the taking, by or on behalf of the Territory, of civil remedies in respect of a matter connected with, or arising out of, an offence to which the relevant criminal activity relates.

### **Application by telephone for search warrants**

**13. (1)** Where, by reason of circumstances of urgency, a member considers it necessary to do so, the member may make application by telephone for a warrant under section 12.

**(2)** Before making an application under subsection (1), the member shall prepare an affidavit that sets out the grounds on which the issue of the warrant is being sought, but may, if it is necessary to do so, make the application before the affidavit has been sworn.

**(3)** Where a Judge issues a warrant under section 12 upon an application made by telephone, he or she shall—

- (a) complete and sign the warrant;
- (b) inform the member who made the application of the terms of the warrant and the date on which and the time at which it was signed;
- (c) record on the warrant the reasons for issuing it; and
- (d) send a copy of the warrant to the Authority.

**(4)** Where a warrant is issued under section 12 upon an application made by telephone, a member of the staff of the Authority or a member of the Australian Federal Police or of the Police Force of a State may complete a form of warrant in the terms indicated by the Judge under subsection (3) and, where a form of warrant is so completed, shall write on it the name of the Judge who issued it and the date on which and the time at which it was signed.

**(5)** Where a person completes a form of warrant in accordance with subsection (4), he or she shall, not later than the next day following the date of expiry of the warrant, send to the Judge who signed it the form of warrant completed by the person and the affidavit duly sworn in connection with the warrant.

**(6)** Upon receipt of the documents referred to in subsection (5), the Judge shall attach them to the warrant signed by him or her and shall deal with the documents in the manner in which he or she would have dealt with the affidavit if the application for the warrant had been made to the Judge in accordance with section 12.

**(7)** A form of warrant duly completed in accordance with subsection (4) shall be deemed to be a warrant issued under section 12.

**Order for delivery to Authority of passport of witness**

**14. (1)** Where, on application by a member, a Judge of the Federal Court sitting in chambers is satisfied by evidence on oath that—

- (a) in connection with a special investigation, a summons has been issued under this Act requiring a person to appear before the Authority at a hearing (whether or not the summons has been served), or a person has appeared before the Authority at a hearing, to give evidence or to produce documents or other things;
- (b) there are reasonable grounds for believing that the person may be able to give to the Authority evidence or further evidence that is, or to produce to the Authority documents or other things or further documents or other things that are, relevant to the matter in respect of which the Authority is conducting the investigation and could be of particular significance to the investigation; and
- (c) there are reasonable grounds for suspecting that the person intends to leave Australia and has possession, custody or control of a passport issued or purported to be issued to the person;

the Judge may make an order requiring the person to appear before the Federal Court on a day, and at a time and place, specified in the order to show cause why the person should not be ordered to deliver the passport to the Authority.

**(2)** Where a person appears before the Federal Court in pursuance of an order made under subsection (1), the Court may, if it thinks fit, make an order—

- (a) requiring the person to deliver to the Authority any passport issued or purported to be issued to the person that is in the possession, custody or control of the person; and
- (b) authorising the Authority to retain the passport until the expiration of such period (not exceeding one month) as is specified in the order.

**(3)** The Federal Court may, on application by a member, extend for a further period (not exceeding 1 month) or further periods (not exceeding 1 month in each case) the period for which the Authority is authorised to retain a passport in pursuance of an order made under subsection (2), but so that the total period for which the Authority is authorised to retain the passport does not exceed 3 months.

**(4)** The Federal Court may, at any time while the Authority is authorised in pursuance of an order made under this section to retain a passport issued to a person, upon application made by the person, revoke the order and, if the order is revoked, the Authority shall forthwith return the passport to the person.

**(5)** The Federal Court has jurisdiction with respect to matters arising under this section.

- (6) In this section—  
“Australia” includes the external Territories.

### **Hearings**

**15. (1)** For the purposes of a special investigation, the Authority may hold hearings.

(2) At a hearing, the Authority may be constituted by 1 or more members.

(3) Subject to subsection (2), section 46 of the Commonwealth Act applies, so far as it is capable of application, at a hearing before the Authority as if the hearing were a meeting of the Authority.

(4) The Chairman shall preside at all hearings at which the Chairman is present.

(5) If the Chairman is not present at a hearing at which there are 2 or more members, the members present shall elect 1 of their number to preside at that hearing.

(6) Questions arising at a hearing shall be determined by a majority of the votes of the members present.

(7) The person presiding at a hearing has a deliberative vote and, if necessary, also has a casting vote.

(8) The Authority may regulate the conduct of proceedings at a hearing as it thinks fit.

(9) At a hearing before the Authority—

- (a) a person giving evidence may be represented by a legal practitioner; and
- (b) if, by reason of the existence of special circumstances, the Authority consents to a person who is not giving evidence being represented by a legal practitioner, the person may be so represented.

(10) A hearing before the Authority shall be held in private and the Authority may give directions as to the persons who may be present during the hearing or a part of the hearing.

(11) Nothing in a direction given under subsection (10) by the Authority prevents the presence, when evidence is being taken at a hearing before the Authority, of—

- (a) a legal practitioner representing the person giving evidence; or
- (b) a legal practitioner representing, in pursuance of subsection (9), a person who, by reason of a direction given under subsection (10) by the Authority, is entitled to be present.

**(12)** Where a hearing before the Authority is being held, a person (other than a member or a member of the staff of the Authority approved by the Authority) shall not be present at the hearing unless the person is entitled to be present by reason of a direction given under subsection (10) by the Authority or by reason of subsection (11).

**(13)** At a hearing before the Authority for the purposes of a special investigation—

- (a) counsel assisting the Authority generally or in relation to the matter to which the investigation relates;
- (b) a person authorised by the Authority to appear before it at the hearing; or
- (c) a legal practitioner representing a person, in pursuance of subsection (9), at the hearing;

may, so far as the Authority thinks fit, examine or cross-examine a witness on any matter that the Authority considers relevant to the special investigation.

**(14)** The Authority may direct that—

- (a) evidence given before it;
- (b) the contents of a document, or a description of a thing, produced to the Authority or seized pursuant to a warrant issued under section 12;
- (c) information that might enable a person who has given evidence before the Authority to be identified; or
- (d) the fact that a person has given or may be about to give evidence at a hearing;

shall not be published, or shall not be published except in such manner, and to such persons, as the Authority specifies, and the Authority shall give such a direction if the failure to do so might, in its opinion, prejudice the safety or reputation of a person or prejudice the fair trial of a person who has been or may be charged with an offence.

**(15)** Subject to subsection (16), the Chairman may, in writing, vary or revoke a direction under subsection (14).

**(16)** The Chairman shall not vary or revoke a direction if to do so might prejudice the safety or reputation of a person or prejudice the fair trial of a person who has been or may be charged with an offence.

**(17)** Where—

- (a) a person has been charged with an offence before a court of the Territory; and

- (b) the court considers that it may be desirable in the interests of justice that particular evidence given before the Authority, being evidence in relation to which the Authority has given a direction under subsection (14), be made available to the person or to a legal practitioner representing the person;

the court may give to the Authority a certificate to that effect and, if the court does so, the Authority shall make the evidence available to the court.

**(18)** Where—

- (a) the Authority makes evidence available to a court in accordance with subsection (17); and
- (b) the court, after examining the evidence, is satisfied that the interests of justice so require;

the court may make the evidence available to the person charged with the offence concerned or to a legal practitioner representing the person.

**(19)** A person who—

- (a) is present, in contravention of subsection (12), at a hearing; or
- (b) makes a publication in contravention of a direction given under subsection (14);

is guilty of an offence.

Penalty: \$2,000 or imprisonment for 12 months.

### **Power to summon witnesses and take evidence**

**16. (1)** A member may summon a person to appear before the Authority at a hearing to give evidence and to produce such documents or other things, if any, as are referred to in the summons.

**(2)** A summons under subsection (1) shall be accompanied by a copy of the notice, or of each of the notices, by which the matter to which the hearing relates was referred to the Authority.

**(3)** A summons under subsection (1) requiring a person to appear before the Authority at a hearing shall, unless the member issuing the summons is satisfied that, in the particular circumstances of the special investigation to which the hearing relates, it would prejudice the effectiveness of the special investigation for the summons to do so, set out, so far as is practicable, the general nature of the matters in relation to which the Authority intends to question the person, but nothing in this subsection prevents the Authority from questioning the person in relation to a matter that relates to a special investigation.

**(4)** The member presiding at a hearing before the Authority may require a person appearing at the hearing to produce a document or other thing.

(5) The Authority may, at a hearing, take evidence on oath or affirmation and for that purpose—

- (a) a member may require a person appearing at the hearing to give evidence either to take an oath or to make an affirmation in a form approved by the member presiding at the hearing; and
- (b) a member or a person who is an authorised person in relation to the Authority, may administer an oath or affirmation to a person so appearing at the hearing.

(6) In this section, a reference to a person who is an authorised person in relation to the Authority is a reference to a person authorised in writing, or a person included in a class of persons authorised in writing, for the purposes of this section by the Chairman.

(7) The powers conferred by this section are not exercisable except for the purposes of a special investigation.

#### **Power to obtain documents**

17. (1) A member may, by notice in writing served on a person, require the person—

- (a) to attend, at a time and place specified in the notice, before a person specified in the notice, being a member of the Authority or a member of the staff of the Authority; and
- (b) to produce at that time and place to the person so specified a document or thing specified in the notice, being a document or thing that is relevant to a special investigation.

(2) A notice may be issued under this section in relation to a special investigation whether or not a hearing before the Authority is being held for the purposes of the investigation.

(3) A person shall not, without reasonable excuse, refuse or fail to comply with a notice served under this section on the person.

Penalty: \$1,000 or imprisonment for 6 months.

(4) Subsections 18 (3) to 18 (12), inclusive, apply in relation to a person who is required to produce a document or thing by a notice served under this section in the same manner as they apply in relation to a person who is required to produce a document or thing at a hearing before the Authority and so apply as if a reference in those subsections to subsection 18 (2) were a reference to subsection (3) of this section.

(5) If a person who is required by a notice served under this section to produce a document or thing claims to the person (in this subsection referred to as the “relevant person”) to whom the claimant is required to produce it that the claimant is entitled to refuse to produce the document or thing, the relevant person shall—

- (a) if satisfied that the claim is justified—inform the claimant that the requirement will not be insisted upon; or
- (b) in any other case—inform the claimant that the relevant person is not so satisfied and, if the document or thing is not produced forthwith, refer the claim to the Authority for decision under section 20.

### **Failure of witnesses to attend and answer questions**

**18. (1)** A person served, as prescribed, with a summons to appear as a witness at a hearing before the Authority shall not, without reasonable excuse—

- (a) fail to attend as required by the summons; or
- (b) fail to attend from day to day unless excused, or released from further attendance, by a member.

**(2)** A person appearing as a witness at a hearing before the Authority shall not, without reasonable excuse—

- (a) when required under section 16 either to take an oath or make an affirmation—refuse or fail to comply with the requirement;
- (b) refuse or fail to answer a question that he or she is required to answer by the member or acting member presiding at the hearing; or
- (c) refuse or fail to produce a document or thing that he or she was required by a summons under this Act served as prescribed to produce.

**(3)** Where—

- (a) a legal practitioner is required to answer a question or produce a document at a hearing before the Authority; and
- (b) the answer to the question would disclose, or the document contains, a privileged communication made by or to the legal practitioner in the capacity of a legal practitioner;

the legal practitioner is entitled to refuse to comply with the requirement unless the person to whom or by whom the communication was made agrees to the legal practitioner’s complying with the requirement but, where the legal practitioner refuses to comply with the requirement, the legal practitioner shall, if so required by the member or acting member presiding at the hearing, furnish to the Authority the name and address of the person to whom or by whom the communication was made.

(4) Subject to subsections (5), (7), (9) and (11), it is a reasonable excuse for the purposes of subsection (2) for a natural person—

- (a) to refuse or fail to answer a question put to him or her at a hearing before the Authority; or
- (b) to refuse or fail to produce a document or thing that he or she was required to produce at a hearing before the Authority;

that the answer to the question, or the production of the document or thing, as the case may be, might tend to incriminate him or her.

(5) It is not a reasonable excuse for the purposes of subsection (2) for a person—

- (a) to refuse or fail to answer a question put to him or her at a hearing before the Authority; or
- (b) to refuse or fail to produce a document or thing that he or she was required to produce at a hearing before the Authority;

that the answer to the question or the production of the document or thing might tend to prove his or her guilt of an offence against a law of the Territory if the Attorney-General or Director of Public Prosecutions has given to the first-mentioned person an undertaking in writing that any answer given or document or thing produced, as the case may be, or any information, document or thing obtained as a direct or indirect consequence of the answer or the production of the first-mentioned document or thing, will not be used in evidence in any proceedings against that person for an offence against a law of the Territory, other than proceedings in respect of the falsity of evidence given by that person, and the Attorney-General or Director of Public Prosecutions states in the undertaking—

- (c) that, in his or her opinion, there are special grounds that, in the public interest, require that answers be given or documents or things be produced by the first-mentioned person; and
- (d) the general nature of those grounds.

(6) The Authority may recommend to the Attorney-General or the Director of Public Prosecutions, as the case may be, that a person who has been or is to be served with a summons to appear as a witness at a hearing before the Authority or to produce a document or thing at a hearing before the Authority be given an undertaking in accordance with subsection (5).

(7) It is not a reasonable excuse for the purposes of subsection (2) for a person—

- (a) to refuse or fail to answer a question put to him or her at a hearing before the Authority; or

- (b) to refuse or fail to produce a document or thing that he or she was required to produce at a hearing before the Authority;

that the answer to the question or the production of the document or thing might tend to prove his or her guilt of an offence against a law of the Commonwealth if the Director of Public Prosecutions of the Commonwealth has given to the person an undertaking in writing that any answer given or document or thing produced, as the case may be, or any information, document or thing obtained as a direct or indirect consequence of the answer or the production of the first-mentioned document or thing, will not be used in evidence in any proceedings against the person for an offence against a law of the Commonwealth, other than proceedings in respect of the falsity of evidence given by the person, and the Director of Public Prosecutions of the Commonwealth has given to the first-mentioned person an undertaking in writing that any answer given or document or thing produced, as the case may be, or any information, document or thing obtained as a direct or indirect consequence of the answer or the production of the first-mentioned document or thing, will not be used in evidence in any proceedings against that person for an offence against a law of the Commonwealth, other than proceedings in respect of the falsity of evidence given by that person, and the Director of Public Prosecutions of the Commonwealth states in the undertaking—

- (c) that, in his or her opinion, there are special grounds that, in the public interest, require that answers be given or documents or things be produced by the first-mentioned person; and
- (d) the general nature of those grounds.

**(8)** The Authority may recommend to the Director of Public Prosecutions of the Commonwealth that a person who has been or is to be served with a summons to appear as a witness at a hearing before the Authority or to produce a document or thing at a hearing before the Authority be given an undertaking in accordance with subsection (7).

**(9)** It is not a reasonable excuse for the purposes of subsection (2) for a person—

- (a) to refuse or fail to answer a question put to him or her at a hearing before the Authority; or

- (b) to refuse or fail to produce a document or thing that he or she was required to produce at a hearing before the Authority;

that the answer to the question or the production of a document or thing might tend to prove his or her guilt of an offence against a law of another State if the Attorney-General of that State or the person holding the office of Director of Public Prosecutions, or a similar office, of that State, has given to the first-mentioned person an undertaking in writing that any answer given or document or thing produced, as the case may be, or any information, document or thing obtained as a direct or indirect consequence of the answer or the production of the first-mentioned document or thing, will not be used in evidence in any proceedings against that person for an offence against a law of that State, other than proceedings in respect of the falsity of evidence given by that person, and the Attorney-General of that State, or other person who gives the undertaking, states in the undertaking—

- (c) that, in his or her opinion, there are special grounds that, in the public interest, require that answers be given or documents or things be produced by the first-mentioned person; and
- (d) the general nature of those grounds.

**(10)** The Authority may recommend to the Attorney-General or the person holding the office of Director of Public Prosecutions, or a similar office, of a State that a person who has been or is to be served with a summons to appear as a witness at a hearing before the Authority or to produce a document or thing at a hearing before the Authority be given an undertaking in accordance with subsection (9).

**(11)** For the purposes of subsection (2), it is not a reasonable excuse for—

- (a) a corporation to refuse or fail to produce a document or thing that the production of the document or thing might tend to incriminate the corporation; and
- (b) a natural person to refuse or fail to produce a document that is, or forms part of, a record of an existing or past business (not being, in the case of a person who is or has been an employee, a document that sets out details of earnings received by the person in respect of the person's employment and does not set out any other information) that the production of the document might tend to incriminate the person.

**(12)** Subsections (5), (7), (9) and (11) do not apply where the offence in respect of which the answer to a question or the production of a document or thing, as the case requires, might tend to incriminate a person is an offence with which the person has been charged and the charge has not been finally dealt with by a court or otherwise disposed of.

**(13)** A person who contravenes subsection (1), (2) or (3) is guilty of an offence.

Penalty: \$1,000 or imprisonment for 6 months.

### **Warrant for arrest of witness**

**19. (1)** Where, on application by or on behalf of the Authority, a Judge of the Federal Court sitting in chambers is satisfied by evidence on oath that there are reasonable grounds to believe that a person—

- (a) who has been ordered, under section 14, to deliver his or her passport to the Authority, whether or not the person has complied with the order, is nevertheless likely to leave Australia for the purpose of avoiding giving evidence before the Authority; or
- (b) in relation to whom a summons has been issued under subsection 16 (1)—
  - (i) has absconded or is likely to abscond; or
  - (ii) is otherwise attempting, or is otherwise likely to attempt, to evade service of the summons;

the Judge may issue a warrant for the apprehension of the person.

**(2)** A warrant issued under subsection (1) may be executed by a member of the Australian Federal Police or the Police Force of a State, or by a person to whom it is addressed, and the person executing it has power to break and enter any premises, vessel, aircraft or vehicle for the purpose of executing it.

**(3)** The warrant may be executed notwithstanding that it is not at the time in the possession of the person executing it.

**(4)** Where a person is apprehended pursuant to a warrant under this section, he or she shall be brought, as soon as practicable, before a Judge of the Federal Court and the Judge may—

- (a) admit the person to bail, with such security as the Judge thinks fit, on such conditions as the Judge thinks necessary to ensure the person's appearance as a witness before the Authority;
- (b) order his or her continued detention for the purpose of ensuring his or her appearance as such a witness; or
- (c) order the person's release.

**(5)** Where a person is under detention pursuant to this section, he or she shall, within 14 days after he or she was brought, or last brought, before a Judge of the Federal Court in accordance with this section, or within such shorter or longer time as a Judge has fixed upon the person's last previous appearance under this section before a Judge, be again brought before a Judge and the Judge may thereupon exercise any of the powers of a Judge under subsection (4).

**(6)** In this section—

“Australia” includes the external Territories.

**Applications to Federal Court of Australia**

**20. (1)** Where a person claims—

- (a) to be entitled to refuse to produce a document that he or she is required to produce pursuant to a notice under section 18; or
- (b) to be entitled to refuse to answer a question put to him or her, or to produce a document that he or she was required to produce, at a hearing before the Authority;

the Authority shall decide, as soon as practicable, whether in its opinion the claim is justified and notify the person of its decision.

**(2)** If a person referred to in subsection (1) is dissatisfied with a decision under that subsection, he or she may apply to the Federal Court for an order of review in respect of the decision.

**(3)** Where the Authority decides that a claim by a person that the person is entitled to refuse to produce a document is not justified, the person is not entitled to make an application to the Federal Court under subsection (2) in respect of the decision unless he or she has produced the document to the Authority or placed the document in the custody of the Registrar of that Court, and, where he or she has so produced the document and makes such an application, the Authority shall cause the document to be placed in the custody of the Registrar of that Court.

**(4)** On an application for an order of review in respect of a decision under subsection (1) of the Authority, the Federal Court may, in its discretion, make an order—

- (a) affirming the decision; or
- (b) setting it aside.

**(5)** Where the Federal Court makes an order under subsection (4) setting aside a decision by the Authority that a claim by a person that he or she was entitled to refuse to produce a document is not justified—

- (a) unless paragraph (b) applies—the Federal Court shall make a further order directing that the document be delivered to the person;
- (b) if the Federal Court—
  - (i) makes the first-mentioned order for the reason that the person was entitled, on the ground that production of the document might tend to incriminate the person, to refuse to produce the document;
  - (ii) is satisfied that the person was not entitled on any other ground to refuse to produce the document; and

- (iii) is satisfied that an undertaking of a kind referred to in subsection 18 (5), (7) or (9) has, or 2 or more such undertakings have, been given to the person and that he or she, if now required to produce the document at a hearing before the Authority, would not be entitled to refuse so to produce it;

the Federal Court shall make a further order directing that the document be delivered to the Authority; and

- (c) if the Federal Court makes—
  - (i) the first-mentioned order for the reason that, or for reasons including the reason that, the person was entitled, on the ground that production of the document might tend to incriminate him or her, to refuse to produce the document; and
  - (ii) a further order directing that the document be delivered to the person;

evidence of production of the document by the person to the Authority, or of the placing of the document by the person in the custody of the Registrar of the Federal Court, as the case may be, for the purposes of the application on which the orders were made is not admissible in proceedings against the person for an offence against a law of the Territory, other than proceedings in respect of the falsity of evidence given by the person.

**(6)** A prosecution for an offence against subsection 17 (3) or 18 (13) shall not be commenced in respect of a refusal or failure by a person to produce a document or to answer a question if the person has—

- (a) claimed to be entitled to refuse to produce the document or answer the question, as the case may be, and the Authority decides that, in its opinion, the claim is not justified—until the expiration of 5 days (excluding days on which the Registry of the Federal Court is closed) immediately after the relevant day in relation to the decision; or
- (b) made an application under subsection (2) to the Federal Court for an order of review in respect of a decision by the Authority that, in its opinion, a claim by him or her to be entitled to refuse to produce the document or answer the question is not justified—until the application, and any appeal from an order made by the Federal Court on the application, have been determined or otherwise disposed of.

**(7)** An order under subsection (4) of the Federal Court is, subject to an appeal from that order, conclusive for the purposes of any other proceedings.

(8) Where a person who is required to produce a document pursuant to a notice under section 18, or is required to produce a document at a hearing before the Authority, claims that—

- (a) the document contains—
  - (i) particular matter (in this subsection referred to as the “relevant matter”) relating to his or her personal affairs, not being matter relating to the activities of an existing or past business; or
  - (ii) in the case of a person who is or has been an employee—particular matter (in this subsection also referred to as the “relevant matter”), being details of earnings received by him or her in respect of employment; and
- (b) he or she would, if the document had contained only the relevant matter, have been entitled, on the ground that production of the document might tend to incriminate him or her, to refuse so to produce the document;

the person may, whether or not he or she has made an application under subsection (2) to the Federal Court in respect of a decision by the Authority in relation to the document, make an application to that Court for an order under this subsection and, if such an application is made and the document is produced to that Court, then, subject to paragraph (5) (a), that Court—

- (c) if it is satisfied that the claim is justified—may, subject to paragraph (d), make such order as it thinks fit for the excision or concealment of the part of the document that contains the relevant matter and shall, if it makes such an order, make a further order directing that the document be delivered to the Authority after the first-mentioned order has been complied with;
- (d) if it is satisfied that an undertaking of a kind referred to in subsection 18 (5), (7) or (9) has, or 2 or more such undertakings have been given to the person and that he or she would not, if the document contained any of the relevant matter and he or she were now required to produce the document to the Authority, be entitled, on the ground that production of the document might tend to incriminate him or her, to refuse to so produce it—shall make an order directing that the document be delivered to the Authority; and
- (e) if paragraph (d) does not apply and that Court does not make an order of the kind first referred to in paragraph (c)—shall make an order directing that the document be delivered to the Authority.

**(9)** A person is not entitled to make an application under subsection (8) in relation to a document unless he or she has, on the day on which the document was to be produced to the Authority or on such later day as the Authority (whether on or after the first-mentioned day) allows, given to the Authority a notice in writing stating that he or she proposes to make an application for an excision or concealment order in relation to the document.

**(10)** A person is not entitled to make an application under subsection (8) to the Federal Court in relation to a document unless he or she has produced the document to the Authority or placed the document in the custody of the Registrar of that Court, and, where he or she has so produced the document and makes such an application, the Authority shall cause the document to be placed in the custody of the Registrar of that Court.

**(11)** Where—

- (a) a person makes a claim under subsection (8) in relation to a particular matter (in this subsection referred to as the “relevant matter”) contained in a document; and
- (b) the Federal Court, being satisfied that the claim is justified, makes in relation to the document an order of the kind first referred to in paragraph (8) (c);

evidence of production of the document to the Authority, or of the placing of the document in the custody of the Registrar of that Court, as the case may be, for the purposes of the application on which the order is made is, in so far as the document contains the relevant matter, not admissible in any proceedings against the person for an offence against a law of the Territory, other than proceedings in respect of the falsity of evidence given by him or her.

**(12)** A prosecution for an offence against subsection 17 (3) or 18 (13) shall not be commenced in respect of a refusal or failure by a person to produce a document—

- (a) if the person has given to the Authority in accordance with subsection (9) a notice relating to the document—until the expiration of 5 days (excluding days on which the Registry of the Federal Court is closed) immediately after the relevant day in relation to the notice; or
- (b) if the person has made an application under subsection (8) in relation to the document—until the application, and any appeal from an order made by the Federal Court on the application, have been determined or otherwise disposed of.

**(13)** An application under subsection (2) or (8) to the Federal Court shall—

- (a) be made in such manner as is prescribed by Rules of Court made under the *Federal Court of Australia Act 1976* of the Commonwealth;
- (b) set out the grounds of the application; and
- (c) be lodged with a Registry of the Federal Court within 5 days (excluding days on which the Registry is closed) immediately after—
  - (i) in the case of an application under subsection (2)—the relevant day in relation to the decision to which the application relates; or
  - (ii) in the case of an application under subsection (8)—the relevant day in relation to the notice given in accordance with subsection (9) in relation to the application;

or within such further period as that Court (whether before or after the expiration of the first-mentioned period) allows.

**(14)** The Federal Court has jurisdiction with respect to matters arising under this section.

**(15)** In this section, unless the contrary intention appears—

“document” includes a thing;

“prescribed notice” means a notice stating as mentioned in paragraph 21 (2) (c);

“relevant day” means—

- (a) in relation to a decision under subsection (1) of the Authority—the day on which the Authority gives to the person to whom the decision relates a prescribed notice relating to the decision; or
- (b) in relation to a notice given in accordance with subsection (9) by a person—the day on which the Authority gives to the person a prescribed notice relating to the notice so given by him or her.

**(16)** Where a decision of the Authority under subsection (1) relates to 2 or more questions, or to 2 or more documents, the decision shall, to the extent to which it relates to a particular question or document, be deemed, for the purposes of this Act, to constitute a separate decision relating to that question or document only.

**(17)** Where a person gives to the Authority in accordance with subsection (9) a notice relating to 2 or more documents, the notice shall, to the extent to which it relates to a particular document, be deemed, for the purposes of this Act, to constitute a separate notice relating to that document only.

### **Applications to Supreme Court of a State**

- 21. (1)** Where—
- (a) a person is required—
    - (i) to answer a question, or to produce a document, at a hearing before the Authority; or
    - (ii) to produce a document pursuant to a notice under section 18;
  - (b) the Authority, at a particular time (in this subsection referred to as the “relevant time”)—
    - (i) decides under subsection 20 (1) that a claim by the person to be entitled to refuse to answer the question, or to produce the document, as the case may be, is not justified; or
    - (ii) in a case where the person is required to produce a document—receives from the person a notice given in accordance with subsection 20 (9) relating to the document; and
  - (c) the Authority, at the relevant time—
    - (i) in a case where subparagraph (a) (i) applies—is holding the hearing for the purposes of a special investigation, or of 2 or more special investigations; or
    - (ii) in a case where subparagraph (a) (ii) applies—considers the document to be relevant to a special investigation, or to 2 or more special investigations;

then, for the purposes of this section—

- (d) if a reference to the Authority made by the Commonwealth Minister is at the relevant time in force in respect of a matter to which the special investigation, or any of the special investigations, relates—prescribed circumstances shall be taken not to apply;
- (e) if a reference to the Authority made by a Minister of a State is at the relevant time in force in respect of a matter to which the special investigation, or any of the special investigations, relates and a reference to the Authority made by a Minister of another State is at the relevant time in force in respect of such a matter—prescribed circumstances shall be taken not to apply; or
- (f) if a reference to the Authority made by a Minister of a State is at the relevant time in force in respect of a matter to which the special investigation, or any of the special investigations, relates and neither paragraph (d) nor paragraph (e) applies—prescribed circumstances shall be taken to apply, in relation to the last-mentioned State;

in relation to the decision of the Authority, or in relation to the notice given by the person in accordance with subsection 20 (9), as the case may be.

**(2)** Where the Authority—

- (a) decides under subsection 20 (1) that a claim by a person to be entitled to refuse to answer a question, or to produce a document, is not justified; or
- (b) receives from a person a notice given in accordance with subsection 20 (9);

the Authority shall give to the person a notice—

(c) stating that prescribed circumstances—

- (i) do not apply; or
- (ii) apply in relation to a specified State;

as the case requires, in relation to the decision of the Authority, or in relation to the notice given by the person in accordance with subsection 20 (9), as the case may be; and

(d) stating—

- (i) in a case where subparagraph (c) (i) applies—that the effect of prescribed circumstances not so applying is that the Federal Court has jurisdiction; or
- (ii) in the case where subparagraph (c) (ii) applies—that the effect of prescribed circumstances so applying in relation to the State is that the Supreme Court of that State has jurisdiction;

with respect to—

- (iii) an application for an order of review in respect of the decision of the Authority; or
- (iv) an application in relation to the claim to which the notice given by the person in accordance with subsection 20 (9) relates;

as the case may be;

but failure of a notice to state as mentioned in paragraph (d) does not affect the validity of the notice.

**(3)** A notice that states the matters set out in paragraph (2) (c) is evidence of the matters stated.

**(4)** Subject to subsection (5), where prescribed circumstances apply, in relation to the Territory, in relation to—

- (a) a decision of the Authority under subsection 20 (1); or
- (b) a notice given in accordance with subsection 20 (9);

section 21 has effect in relation to the decision, or in relation to the claim to which the notice relates, as the case may be, subject to the following modifications:

- (c) a reference in section 20 to the Federal Court shall be taken to be a reference to the Supreme Court;
- (d) a reference in section 20 to the Registrar of the Federal Court shall be taken to be a reference to the Registrar of the Supreme Court;
- (e) a reference in section 20 to a Registry of the Federal Court shall be taken to be a reference to the Registry of the Supreme Court;
- (f) the words “made under the *Federal Court of Australia Act 1976* of the Commonwealth” shall be deemed to be omitted from paragraph 20 (13) (a).

(5) Where an application is made to the Supreme Court under section 20 as that section has effect by virtue of subsection (4) and it appears to that Court that it would be more appropriate for the application to be heard and determined by the Federal Court, the Supreme Court may transfer the application to the Federal Court and, upon an application being so transferred—

- (a) the modifications of section 20 mentioned in subsection (4) of this section cease to have effect in relation to the application;
- (b) the Federal Court may hear and determine the application as if the application had been duly made under section 20 to the Federal Court; and
- (c) if a document has been placed in the custody of the Registrar of the Supreme Court for the purposes of the application—
  - (i) the Registrar shall send the document to the Registrar of the Federal Court; and
  - (ii) paragraph 20 (5) (c) or subsection 20 (11), as the case requires, applies in relation to the application as if the reference to the placing of the document in the custody of the Registrar of the Federal Court were a reference to the placing of the document in the custody of the Registrar of the Supreme Court.

(6) The Supreme Court has jurisdiction with respect to matters arising under section 20 in respect of which an application has been duly made to that Court under that section as if it has effect by virtue of subsection (4) of this section.

(7) The Federal Court has jurisdiction with respect to matters arising under section 20 in respect of which an application has been duly transferred to that Court under this section.

- (8) In this section, unless the contrary intention appears—  
“document” includes a thing;

“special investigation” means an investigation conducted by the Authority in relation to a matter in respect of which a reference made under this Act by the Attorney-General, under the Commonwealth Act by the Commonwealth Minister or under an Act of a State by a Minister of that State, is in force.

### **False or misleading evidence**

**22. (1)** A person shall not, at a hearing before the Authority, give evidence that is, to the knowledge of the person, false or misleading in a material particular.

**(2)** A contravention of subsection (1) is an offence and, subject to this section, is punishable, upon conviction, by a fine not exceeding \$20,000 or by imprisonment for a period not exceeding 5 years.

**(3)** The Magistrates Court may hear and determine proceedings in respect of an offence against this section, if it is satisfied that it is proper to do so and the defendant and the prosecutor consent.

**(4)** Where, in accordance with subsection (3), the Magistrates Court convicts a person of an offence against this section, the penalty that it may impose is a fine not exceeding \$2,000 or imprisonment for a period not exceeding 12 months.

### **Protection of witnesses**

**23.** Where it appears to a member that, by reason of the fact that a person—

- (a) is to appear, is appearing or has appeared at a hearing before the Authority to give evidence or to produce a document or thing; or
- (b) proposes to produce or has produced a document or thing to the Authority pursuant to this Act otherwise than at a hearing before the Authority;

the safety of the person may be prejudiced or the person may be subjected to intimidation or harassment, the member may make such arrangements (including arrangements with the Attorney-General or with members of the Australian Federal Police) as are necessary to avoid prejudice to the safety of the person, or to protect the person from intimidation or harassment.

### **Contempt of Authority**

**24.** A person shall not—

- (a) obstruct or hinder the Authority or a member in the performance of the special functions of the Authority; or
- (b) disrupt a hearing before the Authority.

Penalty: \$2,000 or imprisonment for 12 months.

### **Double jeopardy**

25. Where an act or omission by a person is an offence against this Act and is also an offence against the Commonwealth Act, the person may be prosecuted and convicted under this Act in respect of that act or omission notwithstanding that he or she has been or is being prosecuted, or has been convicted, in respect of that act or omission under the Commonwealth Act, but nothing in this Act renders a person liable to be punished twice in respect of the same act or omission.

### **Powers of acting members of Authority**

26. The validity of anything done by or in relation to a person purporting to act as Chairman or as a member shall not be called in question on the ground that the occasion for his or her appointment had not arisen, that there is a defect or irregularity in or in connection with that appointment, that that appointment had ceased to have effect or that the occasion for him or her to act had not arisen or had passed.

### **Administrative arrangements with the Commonwealth**

27. The Attorney-General may make an arrangement with the Commonwealth Minister under which the Territory will, from time to time as agreed upon under the arrangement—

- (a) make available a person who is the holder of a judicial or other office, or persons who are the holders of judicial or other offices, of the Territory to hold office as a member or members; or
- (b) make available a person who is an officer or employee of the Territory or of an authority of the Territory or persons who are such officers, employees or members, to perform services for the Authority.

### **Protection of members**

28. (1) A member has, in the performance of functions, or the exercise of powers, as a member in relation to a hearing before the Authority, the same protection and immunity as a Justice of the High Court.

(2) A legal practitioner assisting the Authority or representing a person at a hearing before the Authority has the same protection and immunity as a barrister has when appearing for a party in proceedings in the High Court.

(3) Subject to this Act, a person summoned to attend or appearing before the Authority as a witness has the same protection as a witness in proceedings in the High Court.

**Secrecy**

**29. (1)** This section applies to a person who is or has been—

- (a) a member of the Authority; or
- (b) a member of the staff of the Authority.

**(2)** A person to whom this section applies who, either directly or indirectly, except for the purposes of a relevant Act or otherwise in connection with the performance of his or her duties under a relevant Act—

- (a) makes a record of any information; or
- (b) divulges or communicates to any person any information;

being information acquired by him or her by reason of, or in the course of, the performance of his or her duties under this Act is guilty of an offence.

Penalty: \$5,000 or imprisonment for 12 months.

**(3)** A person to whom this section applies shall not be required to produce in any court a document that has come into his or her custody or control in the course of, or by reason of, the performance of duties under this Act, or to divulge or communicate to a court a matter or thing that has come to his or her notice in the performance of duties under this Act, except where the Authority, or a member in the member's official capacity, is a party to the relevant proceedings or it is necessary to do so—

- (a) for the purpose of carrying into effect the provisions of a relevant Act; or
- (b) for the purposes of a prosecution instituted as a result of an investigation carried out by the Authority in the performance of its functions.

**(4)** In this section—

“court” includes a tribunal, authority or person having power to require the production of documents or the answering of questions;

“member of the staff of the Authority” includes a person who assists or performs functions on behalf of a legal practitioner appointed under section 50 of the Commonwealth Act in the performance of the legal practitioner's duties as counsel assisting the Authority;

“produce” includes permit access to, and “production” has a corresponding meaning;

“relevant Act” means this Act, the Commonwealth Act or a corresponding Act of a State.

**Report to be laid before Assembly**

**30.** The Attorney-General shall cause a copy of—

- (a) each annual report of the Authority that is received by him or her; and

(b) any comments made on the report by the Inter-Governmental Committee, being comments that accompany the report;  
to be laid before the Legislative Assembly within 15 sitting days of the Assembly after the report is received by him or her.

**Regulations**

**31.** The Executive 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.

*[Presentation speech made in Assembly on 12 September 1991]*