



Australian Capital Territory

# **Crimes (Forensic Procedures) Regulation 2000**

**SL2000-56**

made under the

**Crimes (Forensic Procedures) Act 2000**

**Republication No 4**

**Effective: 2 November 2004 – 11 April 2007**

Republication date: 2 November 2004

Last amendment made by SL2003-11  
(replication includes editorial amendments  
under Legislation Act)

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Crimes (Forensic Procedures) Regulation 2000*, made under the *Crimes (Forensic Procedures) Act 2000* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 2 November 2004. It also includes any amendment, repeal or expiry affecting the republished law to 2 November 2004.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Crimes (Forensic Procedures) Regulation 2000

made under the

**Crimes (Forensic Procedures) Act 2000**

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R4  
02/11/04

Crimes (Forensic Procedures) Regulation 2000  
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Australian Capital Territory

# Crimes (Forensic Procedures) Regulation 2000

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made under the

**Crimes (Forensic Procedures) Act 2000**

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**1 Name of regulation**

This regulation is the *Crimes (Forensic Procedures) Regulation 2000*.

**3 Definitions for regulation**

In this regulation:

*forensic scientist* means a person engaged (whether as an employee or otherwise) in that capacity by—

- (a) the Australian Federal Police; or
- (b) the police force or police service of a State.

*forensic technician* means a person engaged (whether as an employee or otherwise) in that capacity by—

- (a) the Australian Federal Police; or
- (b) the police force or police service of a State.

*Note* A definition in this section applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

**4 Appropriately qualified persons**

For the Act, section 13, a person mentioned in an item in schedule 1 is qualified to carry out a forensic procedure mentioned in the item.

**5 Use or disclosure of information on DNA databases—Act, s 96 (2) (d), s 111 (2) (a) and (d)**

- (1) A person may access information stored on the DNA database system for the purpose of any arrangement entered into between the Territory and the Commonwealth or a State for the provision of access to information contained on the database system by an authorised person.

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- (2) A person may disclose information stored on the DNA database system for the purpose of—
- (a) forensic comparison in the course of a criminal investigation by an authorised person; and
  - (b) any arrangement entered into between the Territory and the Commonwealth or a State for the provision of access to information contained on the database system by an authorised person.
- (3) In this section:
- authorised person*** means a person who—
- (a) is engaged or employed by a forensic laboratory that is accredited with the National Association of Testing Authorities of Australia; and
  - (b) in that capacity, provides forensic services to law enforcement officers of the Territory, the Commonwealth or a State.

**6 Corresponding law—Act, s 100, def of *corresponding law***

- (1) The following laws are declared to be corresponding laws:
- (a) the *Crimes Act 1914* (Cwlth);
  - (b) the *Crimes (Forensic Procedures) Act 2000* (NSW);
  - (c) the *Crimes Act 1958* (Vic), part 3, division 1, subdivision 30A;
  - (d) the *Police Powers and Responsibilities Act 2000* (Qld), chapter 8;
  - (e) the *Criminal Investigation (Identifying People) Act 2002* (WA);
  - (f) the *Criminal Law (Forensic Procedures) Act 1998* (SA);
  - (g) the *Forensic Procedures Act 2000* (Tas);

- (h) the *Juvenile Justice Act 1983* (NT), sections 31, 31A, 31B, 51 and 70B;
  - (i) the *Police Administration Act 1978* (NT), part 7, division 7.
- (2) Without limiting subsection (1), the provisions of corresponding laws mentioned in an item in schedule 2 are taken to substantially correspond to the provision of the Act mentioned in the item.

## Schedule 1      Appropriately qualified persons

(see s 4)

column 1 item	column 2 forensic procedure	column 3 appropriately qualified people for procedure
1	external examination of— <ul style="list-style-type: none"> <li>• genital or anal area</li> <li>• buttocks</li> <li>• breasts of female or transgender person who identifies as female</li> </ul>	<ul style="list-style-type: none"> <li>• forensic scientist</li> <li>• forensic technician</li> </ul>
2	taking sample of saliva or sample by buccal swab	<ul style="list-style-type: none"> <li>• forensic scientist</li> <li>• forensic technician</li> </ul>
3	taking photograph of, or impression or cast of, wound from— <ul style="list-style-type: none"> <li>• genital or anal area</li> <li>• buttocks</li> <li>• breasts of female or transgender person who identifies as female</li> </ul>	<ul style="list-style-type: none"> <li>• police officer</li> <li>• forensic scientist</li> <li>• forensic technician</li> </ul>
4	external examination of part of body (other than— <ul style="list-style-type: none"> <li>• genital or anal area</li> <li>• buttocks</li> <li>• breasts of female or transgender person who identifies as female)</li> </ul> that requires touching of body or removal of clothing	<ul style="list-style-type: none"> <li>• forensic scientist</li> <li>• forensic technician</li> <li>• police officer</li> </ul>

**Schedule 1**      Appropriately qualified persons

<b>column 1 item</b>	<b>column 2 forensic procedure</b>	<b>column 3 appropriately qualified people for procedure</b>
5	taking sample of hair (other than pubic hair)	<ul style="list-style-type: none"> <li>• forensic scientist</li> <li>• forensic technician</li> </ul>
6	taking sample from nail or from under nail	<ul style="list-style-type: none"> <li>• forensic scientist</li> <li>• forensic technician</li> </ul>
7	taking sample by swab or washing from any external part of body (other than— <ul style="list-style-type: none"> <li>• genital or anal area</li> <li>• buttocks</li> <li>• breasts of female or transgender person who identifies as a female)</li> </ul>	<ul style="list-style-type: none"> <li>• forensic scientist</li> <li>• forensic technician</li> </ul>
8	taking sample by vacuum suction, scraping or lifting by tape from any external part of body (other than— <ul style="list-style-type: none"> <li>• genital or anal area</li> <li>• buttocks</li> <li>• breasts of female or transgender person who identifies as female)</li> </ul>	<ul style="list-style-type: none"> <li>• forensic scientist</li> <li>• forensic technician</li> </ul>
9	taking handprint, fingerprint, footprint or toeprint	<ul style="list-style-type: none"> <li>• forensic scientist</li> <li>• forensic technician</li> <li>• police officer</li> </ul>

column 1 item	column 2 forensic procedure	column 3 appropriately qualified people for procedure
10	taking photograph of, or impression or cast of wound from, external part of body (other than— <ul style="list-style-type: none"> <li>• genital or anal area</li> <li>• buttocks</li> <li>• breasts of female or transgender person who identifies as female)</li> </ul>	(a) for a photograph <ul style="list-style-type: none"> <li>• doctor</li> <li>• forensic scientist</li> <li>• forensic technician</li> <li>• police officer</li> </ul> (b) for an impression or cast of a wound <ul style="list-style-type: none"> <li>• doctor</li> <li>• forensic scientist</li> <li>• forensic technician</li> </ul>

*Note 1* **Police officer** and **doctor** are defined in the Legislation Act, dict, pt 1.

*Note 2* People mentioned in col 3 as appropriately qualified for the applicable procedure are additional to those mentioned in the Act, s 53.

## Schedule 2 Corresponding provisions

(see s 5)

column 1 item	column 2 ACT Act provision	column 3 corresponding provisions
1	part 2.3 (Forensic procedures by consent of suspect)	<ul style="list-style-type: none"> <li>• <i>Crimes Act 1914</i> (Cwlth), part 1D, division 3</li> <li>• <i>Crimes (Forensic Procedures) Act 2000</i> (NSW), part 3</li> <li>• <i>Forensic Procedures Act 2000</i> (Tas), part 2, divisions 1 and 2</li> </ul>
2	part 2.4 (Non-intimate forensic procedures on suspect by order of a police officer)	<ul style="list-style-type: none"> <li>• <i>Crimes Act 1914</i> (Cwlth), part 1D, division 4</li> <li>• <i>Crimes (Forensic Procedures) Act 2000</i> (NSW), part 4</li> <li>• <i>Forensic Procedures Act 2000</i> (Tas), part 2, divisions 1 and 3</li> </ul>
3	part 2.5 (Forensic procedures on suspect by order of a magistrate)	<ul style="list-style-type: none"> <li>• <i>Crimes Act 1914</i> (Cwlth), part 1D, division 5</li> <li>• <i>Crimes (Forensic Procedures) Act 2000</i> (NSW), part 5</li> </ul>

column 1 item	column 2 ACT Act provision	column 3 corresponding provisions
4	part 2.6 (Carrying out forensic procedures)	<ul style="list-style-type: none"> <li>• <i>Forensic Procedures Act 2000</i> (Tas), part 2, divisions 1, 4 and 5</li> <li>• <i>Crimes Act 1914</i> (Cwlth), part 1D, division 6</li> <li>• <i>Crimes (Forensic Procedures) Act 2000</i> (NSW), part 6</li> <li>• <i>Forensic Procedures Act 2000</i> (Tas), part 5</li> </ul>
5	part 2.7 (Carrying out of certain forensic procedures after conviction of serious offenders)	<ul style="list-style-type: none"> <li>• <i>Crimes Act 1914</i> (Cwlth), part 1D, division 6A</li> <li>• <i>Crimes (Forensic Procedures) Act 2000</i> (NSW), part 7</li> <li>• <i>Forensic Procedures Act 2000</i> (Tas), part 3</li> </ul>
6	part 2.8 (Carrying out of forensic procedures on volunteers and certain other people)	<ul style="list-style-type: none"> <li>• <i>Crimes Act 1914</i> (Cwlth), part 1D, division 6B</li> <li>• <i>Crimes (Forensic Procedures) Act 2000</i> (NSW), part 8</li> <li>• <i>Forensic Procedures Act 2000</i> (Tas), part 4</li> </ul>

**Schedule 2** Corresponding provisions

<b>column 1 item</b>	<b>column 2 ACT Act provision</b>	<b>column 3 corresponding provisions</b>
7	part 2.9 (Admissibility of evidence)	<ul style="list-style-type: none"> <li>• <i>Crimes Act 1914</i> (Cwlth), part 1D, division 7</li> <li>• <i>Crimes (Forensic Procedures) Act 2000</i> (NSW), part 9</li> <li>• <i>Forensic Procedures Act 2000</i> (Tas), part 6</li> </ul>
8	part 2.10 (Destruction of forensic material)	<ul style="list-style-type: none"> <li>• <i>Crimes Act 1914</i> (Cwlth), part 1D, division 8</li> <li>• <i>Crimes (Forensic Procedures) Act 2000</i> (NSW), part 10</li> <li>• <i>Forensic Procedures Act 2000</i> (Tas), part 7</li> </ul>
9	part 2.11 (DNA database system)	<ul style="list-style-type: none"> <li>• <i>Crimes Act 1914</i> (Cwlth), part 1D, division 8A</li> <li>• <i>Crimes (Forensic Procedures) Act 2000</i> (NSW), part 11</li> <li>• <i>Forensic Procedures Act 2000</i> (Tas), part 8</li> </ul>
10	part 2.13 (Interstate enforcement)	<ul style="list-style-type: none"> <li>• <i>Crimes Act 1914</i> (Cwlth), part 1D, division 11</li> <li>• <i>Crimes (Forensic Procedures) Act 2000</i> (NSW), part 12</li> </ul>

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column 1 item	column 2 ACT Act provision	column 3 corresponding provisions
11	section 80 (2) (c) (Informed consent of volunteer or parent or guardian of volunteer)	<ul style="list-style-type: none"><li>• <i>Forensic Procedures Act 2000</i> (Tas), part 9, division 1</li><li>• <i>Crimes Act 1914</i> (Cwlth), section 23XWR (1) (c)</li><li>• <i>Crimes (Forensic Procedures) Act 2000</i> (NSW), section 77 (1) (c)</li><li>• <i>Forensic Procedures Act 2000</i> (Tas), section 30 (b)</li></ul>

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

### 3 Legislation history

This regulation was originally the *Crimes (Forensic Procedures) Regulations 2000*. It was renamed under the *Legislation Act 2001*.

#### **Crimes (Forensic Procedures) Regulation SL 2000 No 56**

notified 21 December 2000 (Gaz 2000 No S69)  
commenced 21 December 2000 (s 2)

as amended by

#### **Crimes (Forensic Procedures) Regulations Amendment SL 2001 No 25**

notified 26 July 2001 (Gaz 2001 No 30)  
commenced 26 July 2001 (s 1)

#### **Legislation (Consequential Amendments) Act 2001 No 44 pt 91**

notified 26 July 2001 (Gaz 2001 No 30)  
pt 91 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

#### **Crimes (Forensic Procedures) Amendment Regulations 2003 (No 1) SL2003-11**

notified LR 5 May 2003  
s 1, s 2 commenced 5 May 2003 (LA s 75 (1))  
remainder commenced 6 May 2003 (s 2)

### 4 Amendment history

#### **Name of regulation**

s 1 am R4 LA

#### **Commencement**

s 2 om R1 (LRA)

#### **Definitions for regulation**

s 3 am Act 2001 No 44 amdt 1.1010  
def **the Act** om Act 2001 No 44 amdt 1.1009

#### **Use or disclosure of information on DNA databases—Act, s 96 (2) (d), s 111 (2) (a) and (d)**

s 5 ins SL 2001 No 25 s 3

#### **Corresponding law—Act, s 100, def of *corresponding law***

s 6 ins SL 2001 No 25 s 3  
am SL2003-11 s 4

## Endnotes

5 Earlier republications

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### Corresponding provisions

sch 2 ins SL 2001 No 25 s 4

## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	not amended	15 June 2001
2	Act 2001 No 44	12 September 2001
3	SL2003-11	6 May 2003

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