



**Criminal Law
Review Division**
Attorney General's
department of nsw

Crimes (Forensic Procedures) Amendment Act 2007

The *Crimes (Forensic Procedures) Amendment Act 2007* will commence on 25 March 2008.

The objects of the Act are:

- (a) to extend the circumstances in which a person suspected of a crime may be requested or required to undergo a non-intimate forensic procedure involving the taking of a sample of the suspect's hair or the carrying out of a self-administered buccal swab, and
- (b) to make it clear that a forensic procedure may be ordered in relation to a suspect for the purpose of obtaining evidence tending to confirm or disprove that the suspect has committed an offence only if there are reasonable grounds to believe that the suspect has committed that offence.

Details of the Amendments are as follows:

Schedule 1 [1] and [2] amend the *Crimes (Forensic Procedures) Act 2000* to allow a police officer to request a suspect to undergo a non-intimate forensic procedure involving the taking of a sample of a suspect's hair or the carrying out of a self-administered buccal swab in connection with the investigation of any offence (rather than just indictable offences and other prescribed offences).

Schedule 1 [3] and [4] make similar changes to the provisions of the *Crimes (Forensic Procedures) Act 2000* that allow a police officer or Magistrate to order a suspect to undergo a forensic procedure. The amendments will allow a non-intimate forensic procedure involving the taking of a sample of a suspect's hair or the carrying out of a self-administered buccal swab to be ordered by a police officer or Magistrate in connection with the investigation of any offence (rather than just indictable offences and other prescribed offences).

The amendments in **Schedule 1 [3] and [4]** also clarify that a police officer or Magistrate may order a forensic procedure only if there are reasonable grounds to believe that a suspect has committed an offence, and the sample is taken for the purpose of proving or disproving that the suspect has committed that offence. The provisions do not permit forensic procedures to be used to investigate whether the suspect has committed an offence if there are no reasonable grounds to believe that the suspect has committed that offence.

Schedule 1 [5] is a related amendment that ensures that if forensic material is taken in relation to an offence but proceedings are taken in relation to another offence arising out of the same act or omission by the suspect, the provisions of the *Crimes (Forensic Procedures) Act 2000* relating to destruction of the forensic material do not apply.