

Victims of Crime Assistance and Other Legislation Amendment Bill 2023

Amendments during consideration in detail to be moved by
The Honourable the Attorney-General and Minister for Justice and Minister
for the Prevention of Domestic and Family Violence

1 After clause 4

Page 4, after line 21—

insert—

Part 2A Amendment of Police Powers and Responsibilities Act 2000

4A Act amended

This part amends the *Police Powers and Responsibilities Act 2000*.

4B Amendment of s 490 (When DNA sample taken from suspected person and results must be destroyed)

Section 490—

insert—

- (6) This section applies subject to sections 490A and 490B.

4C Insertion of new ss 490A and 490B

After section 490—

insert—

490A Modified destruction timeframes for analysing particular DNA samples

- (1) This section applies in relation to a DNA sample and the results of a DNA analysis of the sample if—

- (a) the sample is taken from a person suspected of having committed an indictable offence; and
 - (b) the sample is taken during the period—
 - (i) starting at the beginning of the day on 13 June 2022; and
 - (ii) ending at the end of the day on 13 June 2025.
- (2) Section 490(1)(d) applies in relation to the DNA sample and results as if—
 - (a) the reference to a proceeding for the indictable offence not starting within 1 year after the sample is taken were a reference to the proceeding not starting within 3 years after the sample is taken; and
 - (b) the reference to destroying the sample and results within a reasonably practicable time after the end of 1 year from the day the sample is taken were a reference to destroying the sample and results within a reasonably practicable time after the end of 3 years from the day the sample is taken.
- (3) A reference in this Act or another Act to section 490 includes a reference to section 490 as modified by this section, if the context permits.

490B Modified powers and destruction requirements for review of particular DNA samples

- (1) This section applies in relation to a DNA sample and the results of a DNA analysis of the sample if—

- (a) the sample was taken from a person suspected of having committed an indictable offence (the *relevant offence*); and
 - (b) the sample was taken during the period—
 - (i) starting at the beginning of the day on 1 January 2007; and
 - (ii) ending at the end of the day on 12 June 2022; and
 - (c) immediately before the review period started, the DNA sample and results—
 - (i) were required to be destroyed under section 490; but
 - (ii) had not been destroyed as required.
- (2) The DNA sample and results—
 - (a) are not required to be destroyed other than under this section; and
 - (b) may be dealt with under this chapter as if they were not required to be destroyed other than under this section.
- (3) The DNA sample and results must be destroyed within a reasonably practicable time after—
 - (a) if a circumstance mentioned in section 490(1)(a), (b) or (c) occurs in relation to the relevant offence after the review period starts—the end of 1 year from the day mentioned in the paragraph for the circumstance; or
 - (b) if a proceeding for the relevant offence is not started before the end of the review period—the day the review period ends.

- (4) However, subsection (3) does not apply if, after the review period starts, an excluding circumstance occurs in relation to the DNA sample.
- (5) The results may be destroyed in the way mentioned in section 490(5).
- (6) A reference in this Act or another Act to section 490 includes a reference to this section, if the context permits.
- (7) In this section—
 - excluding circumstance*, in relation to the DNA sample, means a circumstance mentioned in section 490(2), (3) or (4) that would have disapplied section 490(1) if that section had applied in relation to the sample.
 - review period* means the period—
 - (a) starting on the commencement; and
 - (b) ending on the day that is 3 years after the commencement.

4D Amendment of ch 24, hdg (Repeals and transitional provisions)

Chapter 24, heading, ‘Repeals’—

omit, insert—

Repeal, validation

4E Insertion of new ch 24, pt 25

Chapter 24—

insert—

Part 25

Validation provision for Victims of Crime Assistance and Other Legislation Amendment Act 2023

898 Validation for particular DNA samples affected by modifying sections

- (1) This section applies if—
 - (a) on the commencement, a modifying section applies in relation to a DNA sample and the results of a DNA analysis of the sample; and
 - (b) immediately before the commencement, the sample and results were required to be destroyed under former section 490(1).
- (2) The keeping of the DNA sample and results is declared to be, and to always have been, as valid and lawful as if the modifying section had been in force when destruction of the sample and results would otherwise have been required under former section 490(1).
- (3) Also, the use of the DNA sample and results in evidence or for any other purpose related to starting, continuing or discontinuing a proceeding for an indictable offence is declared to be, and to always have been, as valid and lawful as if the modifying section had been in force when destruction of the sample and results would otherwise have been required under former section 490(1).
- (4) In this section—
former section 490(1), in relation to the

DNA sample and results, means section 490(1) as it applied in relation to the sample and results from time to time before the commencement.

modifying section means section 490A or 490B.

2 Long title

Long title, after ‘*Penalties and Sentences Act 1992*’—
insert—

, the *Police Powers and Responsibilities Act 2000*

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