

5D Serious offences

General types of serious offences

- (1) An offence is a ***serious offence*** if it is:
 - (a) a murder, or an offence of a kind equivalent to murder; or
 - (b) a kidnapping, or an offence of a kind equivalent to kidnapping; or
 - (c) an offence against Division 307 of the *Criminal Code*; or
 - (d) an offence constituted by conduct involving an act or acts of terrorism; or
 - (e) an offence against:
 - (i) Subdivision A of Division 72 of the *Criminal Code*; or
 - (ii) Division 101 of the *Criminal Code*; or
 - (iii) Division 102 of the *Criminal Code*; or
 - (iv) Division 103 of the *Criminal Code*; or
 - (f) except for the purposes of an application for a warrant by an agency other than the ACC, an offence in relation to which the ACC is conducting a special investigation.

- (2) An offence is also a ***serious offence*** if:
 - (a) it is an offence punishable by imprisonment for life or for a period, or maximum period, of at least 7 years; and
 - (b) the particular conduct constituting the offence involved, involves or would involve, as the case requires:
 - (i) loss of a person's life or serious risk of loss of a person's life; or
 - (ii) serious personal injury or serious risk of serious personal injury; or
 - (iii) serious damage to property in circumstances endangering the safety of a person; or
 - (iiia) serious arson; or
 - (iv) trafficking in prescribed substances; or
 - (v) serious fraud; or
 - (vi) serious loss to the revenue of the Commonwealth, a State or the Australian Capital Territory; or
 - (vii) bribery or corruption of, or by:
 - (A) an officer of the Commonwealth; or

- (B) an officer of a State; or
- (C) an officer of a Territory; or

Telecommunications offences

- (2A) Without limiting subsection (2), an offence is also a ***serious offence*** if it is an offence against section 474.19, 474.20, 474.22, 474.23, 474.26 or 474.27 of the *Criminal Code*.

Offences involving planning and organisation

- (3) An offence is also a ***serious offence*** if it is an offence punishable by imprisonment for life or for a period, or maximum period, of at least 7 years, where the offence:
- (a) involves 2 or more offenders and substantial planning and organisation; and
 - (b) involves, or is of a kind that ordinarily involves, the use of sophisticated methods and techniques; and
 - (c) is committed, or is of a kind that is ordinarily committed, in conjunction with other offences of a like kind; and
 - (d) consists of, or involves, any of the following:
 - (i) theft;
 - (ii) handling of stolen goods;
 - (iii) tax evasion;
 - (iv) currency violations;
 - (v) extortion;
 - (vi) bribery or corruption of, or by:
 - (A) an officer of the Commonwealth; or
 - (B) an officer of a State; or
 - (C) an officer of a Territory;
 - (vii) bankruptcy violations;
 - (viii) company violations;
 - (ix) harbouring criminals;
 - (x) dealings in firearms or armaments;
 - (xi) a sexual offence against a person who is under 16 (including an offence against Part IIIA of the *Crimes Act 1914*);
 - (xii) an immigration offence.

Offences relating to people smuggling with exploitation, slavery, sexual servitude and deceptive recruiting

- (3A) An offence is also a **serious offence** if it is an offence against:
- (a) section 73.1, 73.2, 73.3, 73.8, 73.9, 73.10 or 73.11; or
 - (b) section 270.3, 270.6, 270.7 or 270.8; or
 - (c) section 271.2, 271.3, 271.4, 271.5, 271.6 or 271.7;
- of the *Criminal Code*.

Offences relating to child pornography

- (3B) An offence is also a **serious offence** if the particular conduct constituting the offence involved, involves or would involve, as the case requires:
- (a) the production, publication, possession, supply or sale of, or other dealing in, child pornography; or
 - (b) consenting to or procuring the employment of a child, or employing a child, in connection with child pornography.

Money laundering offences etc.

- (4) An offence is also a **serious offence** if it is an offence against any of the following provisions:
- (a) Part 10.2 of the *Criminal Code* (other than section 400.9);
 - (aa) section 135.3 of the *Criminal Code*;
 - (b) Division 1A of Part IV of the *Crimes Act 1900* of New South Wales;
 - (c) section 194, 195 or 195A of the **Crimes Act 1958** of Victoria;
 - (d) section 64 of the *Crimes (Confiscation of Profits) Act 1989* of Queensland;
 - (e) section 563A of *The Criminal Code* of Western Australia;
 - (f) section 138 of the *Criminal Law Consolidation Act 1935* of South Australia;
 - (g) section 67 of the *Crime (Confiscation of Profits) Act 1993* of Tasmania;
 - (h) section 74 of the *Proceeds of Crime Act 1991* of the Australian Capital Territory;
 - (i) Division 3A of Part VII of Schedule I to the *Criminal Code Act* of the Northern Territory.

Cybercrime offences etc.

- (5) An offence is also a **serious offence** if it is an offence against any of the following provisions:
- (a) Part 10.7 of the *Criminal Code*;
 - (b) section 308C, 308D, 308E, 308F, 308G, 308H or 308I of the *Crimes Act 1900* of New South Wales;
 - (c) section 247B, 247C, 247D, 247E, 247F, 247G or 247H of the **Crimes Act 1958** of Victoria;
 - (d) a provision of a law of a State (other than New South Wales or Victoria) that corresponds to a provision covered by paragraph (a), (b) or (c);
 - (e) a provision of a law of a Territory that corresponds to a provision covered by paragraph (a), (b) or (c);
 - (f) section 440A of *The Criminal Code* of Western Australia.

Serious drug offences

- (5A) An offence is also a **serious offence** if it is an offence against Part 9.1 of the *Criminal Code* (other than section 308.1 or 308.2).

Cartel offences

- (5B) An offence is also a **serious offence** if it is:
- (a) an offence against section 44ZZRF or 44ZZRG of the *Trade Practices Act 1974*; or
 - (b) an offence under subsection 79(1) of the *Trade Practices Act 1974* that relates to an offence covered by paragraph (a); or
 - (c) an offence against section 44ZZRF or 44ZZRG of the text set out in Part 1 of the Schedule to the *Trade Practices Act 1974*, so far as that section applies as a law of a State, the Northern Territory or the Australian Capital Territory; or
 - (d) an offence under subsection 79(1) of the *Trade Practices Act 1974* (so far as that subsection applies as a law of a State, the Northern Territory or the Australian Capital Territory) that relates to an offence covered by paragraph (c).

Note: Offences covered by paragraph (c) or (d) form part of the Competition Code of the State or Territory concerned.

Offences connected with other serious offences

- (6) An offence is also a ***serious offence*** if it is an offence constituted by:
- (a) aiding, abetting, counselling or procuring the commission of;
or
 - (b) being, by act or omission, in any way, directly or indirectly, knowingly concerned in, or party to, the commission of; or
 - (c) conspiring to commit;
- an offence that is a serious offence under any of the preceding subsections.
- (7) An offence is also a ***serious offence*** if it is an offence constituted by receiving or assisting a person who is, to the offender's knowledge, guilty of a serious offence mentioned in subsection (1), in order to enable the person to escape punishment or to dispose of the proceeds of the offence.
- (8) An offence is also a ***serious offence*** if it is an offence against any of the following provisions:
- (a) section 131.1, 135.1, 142.1 or 142.2, subsection 148.2(3), or section 268.112 of the *Criminal Code*;
 - (b) section 35, 36, 36A, 37, 39, 41, 42, 43, 46 or 47 of the *Crimes Act 1914*.