



Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000

Act No. 137 of 2000 as amended

This compilation was prepared on 2 August 2002

[This Act was amended by Act No. 63 of 2002]

Amendments from Act No. 63 of 2002

[Schedule 2 (item 7) amended Item 185 of Schedule 2
Schedule 2 (item 7) commenced on 24 May 2001]

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Part 2—Transitional provisions	Error! Bookmark not defined.

An Act to amend the *Criminal Code Act 1995*, and for other purposes

[Assented to 24 November 2000]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000*.

2 Commencement

- (1) The following provisions of this Act commence on the day on which this Act receives the Royal Assent:
 - (a) sections 1, 2 and 3;
 - (b) items 1, 4, 6, 7, 9, 10, 11 and 32 of Schedule 1.
- (2) Subject to this section, the provisions of this Act that are not covered by subsection (1) commence on a day to be fixed by Proclamation.
- (3) If item 15 of Schedule 1 to this Act does not commence under subsection (2) within the period of 6 months beginning on the day on which this Act receives the Royal Assent, the provisions of this Act that are not covered by subsection (1) commence on the first day after the end of that period. This subsection has effect subject to the following subsections of this section.
- (5) If item 2 of Schedule 1 to the *Human Rights Legislation Amendment Act 2000* commences before the commencement of item 15 of Schedule 1 to this Act, this Act has effect as if the amendments of the *Human Rights and Equal Opportunities Commission Act 1986* contained in Schedule 2 to this Act were amendments of the *Human Rights and Responsibilities Commission Act 1986*.
- (9) If the *Superannuation Act 1976* is repealed before the commencement of item 15 of Schedule 1 to this Act, this Act has effect as if the amendments of the *Superannuation Act 1976*

contained in Schedule 2 to this Act were amendments of the *Superannuation Act 1976* as that Act continues to apply under subsection 11(1) of the *Superannuation Legislation (Commonwealth Employment—Saving and Transitional Provisions) Act 2000*.

3 Schedule(s)

- (1) Subject to section 2, each Act, and each regulation, that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
- (2) The amendment of any regulation under subsection (1) does not prevent the regulation, as so amended, from being amended or repealed by the Governor-General.

Schedule 1—Amendment of the Criminal Code Act 1995

1A Section 3B

Omit “An installation”, substitute “Unless the contrary intention appears, an installation”.

1 After section 4

Insert:

5 Regulations

The Governor-General may make regulations 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.

2 The Schedule (section 3.2 of the Criminal Code, note)

Omit “Note”, substitute “Note 1”.

3 The Schedule (at the end of section 3.2 of the Criminal Code)

Add:

Note 2: See Part 2.7 on geographical jurisdiction.

4 The Schedule (subsection 4.1(2) of the Criminal Code)

Insert:

engage in conduct means:

- (a) do an act; or
- (b) omit to perform an act.

5 The Schedule (section 5.1 of the Criminal Code, example)

Repeal the example.

6 The Schedule (section 5.6 of the Criminal Code)

Omit “of an offence” (wherever occurring).

7 The Schedule (at the end of Part 2.3 of the Criminal Code)

Add:

10.5 Lawful authority

A person is not criminally responsible for an offence if the conduct constituting the offence is justified or excused by or under a law.

7A After subsection 11.1(3)

Insert:

(3A) Subsection (3) has effect subject to subsection (6A).

7B After subsection 11.1(6)

Insert:

(6A) Any special liability provisions that apply to an offence apply also to the offence of attempting to commit that offence.

8 The Schedule (subsection 11.1(7) of the Criminal Code)

Omit “or section 11.5 (conspiracy)”, substitute “, section 11.5 (conspiracy to commit an offence) or section 135.4 (conspiracy to defraud)”.

8A After subsection 11.2(3)

Insert:

(3A) Subsection (3) has effect subject to subsection (6).

8B At the end of section 11.2

Add:

(6) Any special liability provisions that apply to an offence apply also to the offence of aiding, abetting, counselling or procuring the commission of that offence.

8C After subsection 11.4(2)

Insert:

(2A) Subsection (2) has effect subject to subsection (4A).

8D After subsection 11.4(4)

Insert:

- (4A) Any special liability provisions that apply to an offence apply also to the offence of incitement in respect of that offence.

8E After subsection 11.5(2)

Insert:

- (2A) Subsection (2) has effect subject to subsection (7A).

8F After subsection 11.5(7)

Insert:

- (7A) Any special liability provisions that apply to an offence apply also to the offence of conspiracy to commit that offence.

9 The Schedule (subsection 11.6(1) of the Criminal Code)

Omit “an Act to an offence against an Act”, substitute “a law of the Commonwealth to an offence against a law of the Commonwealth”.

10 The Schedule (subsections 11.6(2) and (3) of the Criminal Code)

Omit “an Act”, substitute “a law of the Commonwealth”.

11 The Schedule (at the end of section 11.6 of the Criminal Code (before the note))

Add:

- (4) In particular, an express reference in a law of the Commonwealth to:
- (a) an offence against, under or created by the *Crimes Act 1914*; or
 - (b) an offence against, under or created by a particular provision of the *Crimes Act 1914*; or
 - (c) an offence arising out of the first-mentioned law or another law of the Commonwealth; or
 - (d) an offence arising out of a particular provision; or
 - (e) an offence against, under or created by the *Taxation Administration Act 1953*;

does not mean that the first-mentioned law is impliedly to the contrary effect.

12 The Schedule (after Part 2.6 of the Criminal Code)

Insert:

Part 2.7—Geographical jurisdiction

Division 14—Standard geographical jurisdiction

14.1 Standard geographical jurisdiction

- (1) This section may apply to a particular offence in either of the following ways:
 - (a) unless the contrary intention appears, this section applies to the following offences:
 - (i) a primary offence, where the provision creating the offence commences at or after the commencement of this section;
 - (ii) an ancillary offence, to the extent to which it relates to a primary offence covered by subparagraph (i);
 - (b) if a law of the Commonwealth provides that this section applies to a particular offence—this section applies to that offence.

Note: In the case of paragraph (b), the expression *offence* is given an extended meaning by subsection 11.2(1), section 11.3 and subsection 11.6(1).

- (2) If this section applies to a particular offence, a person does not commit the offence unless:
 - (a) the conduct constituting the alleged offence occurs:
 - (i) wholly or partly in Australia; or
 - (ii) wholly or partly on board an Australian aircraft or an Australian ship; or
 - (b) the conduct constituting the alleged offence occurs wholly outside Australia and a result of the conduct occurs:
 - (i) wholly or partly in Australia; or
 - (ii) wholly or partly on board an Australian aircraft or an Australian ship; or

- (c) all of the following conditions are satisfied:
 - (i) the alleged offence is an ancillary offence;
 - (ii) the conduct constituting the alleged offence occurs wholly outside Australia;
 - (iii) the conduct constituting the primary offence to which the ancillary offence relates, or a result of that conduct, occurs, or is intended by the person to occur, wholly or partly in Australia or wholly or partly on board an Australian aircraft or an Australian ship.

Defence—primary offence

- (3) If this section applies to a particular offence, a person is not guilty of the offence if:
 - (aa) the alleged offence is a primary offence; and
 - (a) the conduct constituting the alleged offence occurs wholly in a foreign country, but not on board an Australian aircraft or an Australian ship; and
 - (b) there is not in force in:
 - (i) the foreign country where the conduct constituting the alleged offence occurs; or
 - (ii) the part of the foreign country where the conduct constituting the alleged offence occurs;a law of that foreign country, or a law of that part of that foreign country, that creates an offence that corresponds to the first-mentioned offence.

Note: A defendant bears an evidential burden in relation to the matters in subsection (3). See subsection 13.3(3).

- (4) For the purposes of the application of subsection 13.3(3) to an offence, subsection (3) of this section is taken to be an exception provided by the law creating the offence.

Defence—ancillary offence

- (5) If this section applies to a particular offence, a person is not guilty of the offence if:
 - (a) the alleged offence is an ancillary offence; and

- (b) the conduct constituting the alleged offence occurs wholly in a foreign country, but not on board an Australian aircraft or an Australian ship; and
- (c) the conduct constituting the primary offence to which the ancillary offence relates, or a result of that conduct, occurs, or is intended by the person to occur, wholly in a foreign country, but not on board an Australian aircraft or an Australian ship; and
- (d) there is not in force in:
 - (i) the foreign country where the conduct constituting the primary offence to which the ancillary offence relates, or a result of that conduct, occurs, or is intended by the person to occur; or
 - (ii) the part of the foreign country where the conduct constituting the primary offence to which the ancillary offence relates, or a result of that conduct, occurs, or is intended by the person to occur;a law of that foreign country, or a law of that part of that foreign country, that creates an offence that corresponds to the primary offence.

Note: A defendant bears an evidential burden in relation to the matters in subsection (5). See subsection 13.3(3).

- (6) For the purposes of the application of subsection 13.3(3) to an offence, subsection (5) of this section is taken to be an exception provided by the law creating the offence.

Division 15—Extended geographical jurisdiction

15.1 Extended geographical jurisdiction—category A

- (1) If a law of the Commonwealth provides that this section applies to a particular offence, a person does not commit the offence unless:
 - (a) the conduct constituting the alleged offence occurs:
 - (i) wholly or partly in Australia; or
 - (ii) wholly or partly on board an Australian aircraft or an Australian ship; or
 - (b) the conduct constituting the alleged offence occurs wholly outside Australia and a result of the conduct occurs:

- (i) wholly or partly in Australia; or
- (ii) wholly or partly on board an Australian aircraft or an Australian ship; or
- (c) the conduct constituting the alleged offence occurs wholly outside Australia and:
 - (i) at the time of the alleged offence, the person is an Australian citizen; or
 - (ii) at the time of the alleged offence, the person is a body corporate incorporated by or under a law of the Commonwealth or of a State or Territory; or
- (d) all of the following conditions are satisfied:
 - (i) the alleged offence is an ancillary offence;
 - (ii) the conduct constituting the alleged offence occurs wholly outside Australia;
 - (iii) the conduct constituting the primary offence to which the ancillary offence relates, or a result of that conduct, occurs, or is intended by the person to occur, wholly or partly in Australia or wholly or partly on board an Australian aircraft or an Australian ship.

Note: The expression *offence* is given an extended meaning by subsection 11.2(1), section 11.3 and subsection 11.6(1).

Defence—primary offence

- (2) If a law of the Commonwealth provides that this section applies to a particular offence, a person is not guilty of the offence if:
 - (aa) the alleged offence is a primary offence; and
 - (a) the conduct constituting the alleged offence occurs wholly in a foreign country, but not on board an Australian aircraft or an Australian ship; and
 - (b) the person is neither:
 - (i) an Australian citizen; nor
 - (ii) a body corporate incorporated by or under a law of the Commonwealth or of a State or Territory; and
 - (c) there is not in force in:
 - (i) the foreign country where the conduct constituting the alleged offence occurs; or
 - (ii) the part of the foreign country where the conduct constituting the alleged offence occurs;
-

a law of that foreign country, or a law of that part of that foreign country, that creates an offence that corresponds to the first-mentioned offence.

Note: A defendant bears an evidential burden in relation to the matters in subsection (2). See subsection 13.3(3).

- (3) For the purposes of the application of subsection 13.3(3) to an offence, subsection (2) of this section is taken to be an exception provided by the law creating the offence.

Defence—ancillary offence

- (4) If a law of the Commonwealth provides that this section applies to a particular offence, a person is not guilty of the offence if:
- (a) the alleged offence is an ancillary offence; and
 - (b) the conduct constituting the alleged offence occurs wholly in a foreign country, but not on board an Australian aircraft or an Australian ship; and
 - (c) the conduct constituting the primary offence to which the ancillary offence relates, or a result of that conduct, occurs, or is intended by the person to occur, wholly in a foreign country, but not on board an Australian aircraft or an Australian ship; and
 - (d) the person is neither:
 - (i) an Australian citizen; nor
 - (ii) a body corporate incorporated by or under a law of the Commonwealth or of a State or Territory; and
 - (e) there is not in force in:
 - (i) the foreign country where the conduct constituting the primary offence to which the ancillary offence relates, or a result of that conduct, occurs, or is intended by the person to occur; or
 - (ii) the part of the foreign country where the conduct constituting the primary offence to which the ancillary offence relates, or a result of that conduct, occurs, or is intended by the person to occur;a law of that foreign country, or a law of that part of that foreign country, that creates an offence that corresponds to the primary offence.

Note: A defendant bears an evidential burden in relation to the matters in subsection (4). See subsection 13.3(3).

- (5) For the purposes of the application of subsection 13.3(3) to an offence, subsection (4) of this section is taken to be an exception provided by the law creating the offence.

15.2 Extended geographical jurisdiction—category B

- (1) If a law of the Commonwealth provides that this section applies to a particular offence, a person does not commit the offence unless:
- (a) the conduct constituting the alleged offence occurs:
 - (i) wholly or partly in Australia; or
 - (ii) wholly or partly on board an Australian aircraft or an Australian ship; or
 - (b) the conduct constituting the alleged offence occurs wholly outside Australia and a result of the conduct occurs:
 - (i) wholly or partly in Australia; or
 - (ii) wholly or partly on board an Australian aircraft or an Australian ship; or
 - (c) the conduct constituting the alleged offence occurs wholly outside Australia and:
 - (i) at the time of the alleged offence, the person is an Australian citizen; or
 - (ii) at the time of the alleged offence, the person is a resident of Australia; or
 - (iii) at the time of the alleged offence, the person is a body corporate incorporated by or under a law of the Commonwealth or of a State or Territory; or
 - (d) all of the following conditions are satisfied:
 - (i) the alleged offence is an ancillary offence;
 - (ii) the conduct constituting the alleged offence occurs wholly outside Australia;
 - (iii) the conduct constituting the primary offence to which the ancillary offence relates, or a result of that conduct, occurs, or is intended by the person to occur, wholly or partly in Australia or wholly or partly on board an Australian aircraft or an Australian ship.

Note: The expression **offence** is given an extended meaning by subsection 11.2(1), section 11.3 and subsection 11.6(1).

Defence—primary offence

- (2) If a law of the Commonwealth provides that this section applies to a particular offence, a person is not guilty of the offence if:
- (aa) the alleged offence is a primary offence; and
 - (a) the conduct constituting the alleged offence occurs wholly in a foreign country, but not on board an Australian aircraft or an Australian ship; and
 - (b) the person is neither:
 - (i) an Australian citizen; nor
 - (ii) a body corporate incorporated by or under a law of the Commonwealth or of a State or Territory; and
 - (c) there is not in force in:
 - (i) the foreign country where the conduct constituting the alleged offence occurs; or
 - (ii) the part of the foreign country where the conduct constituting the alleged offence occurs;a law of that foreign country, or a law of that part of that foreign country, that creates an offence that corresponds to the first-mentioned offence.

Note: A defendant bears an evidential burden in relation to the matters in subsection (2). See subsection 13.3(3).

- (3) For the purposes of the application of subsection 13.3(3) to an offence, subsection (2) of this section is taken to be an exception provided by the law creating the offence.

Defence—ancillary offence

- (4) If a law of the Commonwealth provides that this section applies to a particular offence, a person is not guilty of the offence if:
- (a) the alleged offence is an ancillary offence; and
 - (b) the conduct constituting the alleged offence occurs wholly in a foreign country, but not on board an Australian aircraft or an Australian ship; and
 - (c) the conduct constituting the primary offence to which the ancillary offence relates, or a result of that conduct, occurs, or is intended by the person to occur, wholly in a foreign country, but not on board an Australian aircraft or an Australian ship; and

- (d) the person is neither:
 - (i) an Australian citizen; nor
 - (ii) a body corporate incorporated by or under a law of the Commonwealth or of a State or Territory; and
- (e) there is not in force in:
 - (i) the foreign country where the conduct constituting the primary offence to which the ancillary offence relates, or a result of that conduct, occurs, or is intended by the person to occur; or
 - (ii) the part of the foreign country where the conduct constituting the primary offence to which the ancillary offence relates, or a result of that conduct, occurs, or is intended by the person to occur;
 a law of that foreign country, or a law of that part of that foreign country, that creates an offence that corresponds to the primary offence.

Note: A defendant bears an evidential burden in relation to the matters in subsection (4). See subsection 13.3(3).

- (5) For the purposes of the application of subsection 13.3(3) to an offence, subsection (4) of this section is taken to be an exception provided by the law creating the offence.

15.3 Extended geographical jurisdiction—category C

- (1) If a law of the Commonwealth provides that this section applies to a particular offence, the offence applies:
 - (a) whether or not the conduct constituting the alleged offence occurs in Australia; and
 - (b) whether or not a result of the conduct constituting the alleged offence occurs in Australia.

Note: The expression *offence* is given an extended meaning by subsection 11.2(1), section 11.3 and subsection 11.6(1).

Defence—primary offence

- (2) If a law of the Commonwealth provides that this section applies to a particular offence, a person is not guilty of the offence if:
 - (aa) the alleged offence is a primary offence; and

- (a) the conduct constituting the alleged offence occurs wholly in a foreign country, but not on board an Australian aircraft or an Australian ship; and
- (b) the person is neither:
 - (i) an Australian citizen; nor
 - (ii) a body corporate incorporated by or under a law of the Commonwealth or of a State or Territory; and
- (c) there is not in force in:
 - (i) the foreign country where the conduct constituting the alleged offence occurs; or
 - (ii) the part of the foreign country where the conduct constituting the alleged offence occurs;a law of that foreign country, or that part of that foreign country, that creates an offence that corresponds to the first-mentioned offence.

Note: A defendant bears an evidential burden in relation to the matters in subsection (2). See subsection 13.3(3).

- (3) For the purposes of the application of subsection 13.3(3) to an offence, subsection (2) of this section is taken to be an exception provided by the law creating the offence.

Defence—ancillary offence

- (4) If a law of the Commonwealth provides that this section applies to a particular offence, a person is not guilty of the offence if:
 - (a) the alleged offence is an ancillary offence; and
 - (b) the conduct constituting the alleged offence occurs wholly in a foreign country, but not on board an Australian aircraft or an Australian ship; and
 - (c) the conduct constituting the primary offence to which the ancillary offence relates, or a result of that conduct, occurs, or is intended by the person to occur, wholly in a foreign country, but not on board an Australian aircraft or an Australian ship; and
 - (d) the person is neither:
 - (i) an Australian citizen; nor
 - (ii) a body corporate incorporated by or under a law of the Commonwealth or of a State or Territory; and

- (e) there is not in force in:
 - (i) the foreign country where the conduct constituting the primary offence to which the ancillary offence relates, or a result of that conduct, occurs, or is intended by the person to occur; or
 - (ii) the part of the foreign country where the conduct constituting the primary offence to which the ancillary offence relates, or a result of that conduct, occurs, or is intended by the person to occur;
 a law of that foreign country, or a law of that part of that foreign country, that creates an offence that corresponds to the primary offence.

Note: A defendant bears an evidential burden in relation to the matters in subsection (4). See subsection 13.3(3).

- (5) For the purposes of the application of subsection 13.3(3) to an offence, subsection (4) of this section is taken to be an exception provided by the law creating the offence.

15.4 Extended geographical jurisdiction—category D

If a law of the Commonwealth provides that this section applies to a particular offence, the offence applies:

- (a) whether or not the conduct constituting the alleged offence occurs in Australia; and
- (b) whether or not a result of the conduct constituting the alleged offence occurs in Australia.

Note: The expression *offence* is given an extended meaning by subsection 11.2(1), section 11.3 and subsection 11.6(1).

Division 16—Miscellaneous

16.1 Attorney-General's consent required for prosecution if alleged conduct occurs wholly in a foreign country in certain circumstances

- (1) Proceedings for an offence must not be commenced without the Attorney-General's written consent if:
 - (a) section 14.1, 15.1, 15.2, 15.3 or 15.4 applies to the offence; and

- (b) the conduct constituting the alleged offence occurs wholly in a foreign country; and
 - (c) at the time of the alleged offence, the person alleged to have committed the offence is neither:
 - (i) an Australian citizen; nor
 - (ii) a body corporate incorporated by or under a law of the Commonwealth or of a State or Territory.
- (2) However, a person may be arrested for, charged with, or remanded in custody or released on bail in connection with an offence before the necessary consent has been given.

16.2 When conduct taken to occur partly in Australia

Sending things

- (1) For the purposes of this Part, if a person sends a thing, or causes a thing to be sent:
- (a) from a point outside Australia to a point in Australia; or
 - (b) from a point in Australia to a point outside Australia;
- that conduct is taken to have occurred partly in Australia.

Sending electronic communications

- (2) For the purposes of this Part, if a person sends, or causes to be sent, an electronic communication:
- (a) from a point outside Australia to a point in Australia; or
 - (b) from a point in Australia to a point outside Australia;
- that conduct is taken to have occurred partly in Australia.

Point

- (3) For the purposes of this section, ***point*** includes a mobile or potentially mobile point, whether on land, underground, in the atmosphere, underwater, at sea or anywhere else.

16.3 Meaning of Australia

- (1) For the purposes of the application of this Part to a particular primary offence, ***Australia*** has the same meaning it would have if

it were used in a geographical sense in the provision creating the primary offence.

- (2) For the purposes of the application of this Part to a particular ancillary offence, *Australia* has the same meaning it would have if it were used in a geographical sense in the provision creating the primary offence to which the ancillary offence relates.
- (3) For the purposes of this Part, if a provision creating an offence extends to an external Territory, it is to be assumed that if the expression *Australia* were used in a geographical sense in that provision, that expression would include that external Territory.
- (4) This section does not affect the meaning of the expressions *Australian aircraft*, *Australian citizen* or *Australian ship*.

16.4 Result of conduct

A reference in this Part to a *result of conduct* constituting an offence is a reference to a result that is a physical element of the offence (within the meaning of subsection 4.1(1)).

13 The Schedule (section 70.1 of the Criminal Code, definition of foreign country)

Repeal the definition.

14 The Schedule (subsection 70.5(4) of the Criminal Code)

Repeal the subsection.

15 The Schedule (before Chapter 8 of the Criminal Code)

Insert:

Chapter 7—The proper administration of Government

Part 7.1—Preliminary

Division 130—Preliminary

130.1 Definitions

In this Chapter:

duty:

- (a) in relation to a person who is a Commonwealth public official—means any authority, duty, function or power that:
 - (i) is conferred on the person as a Commonwealth public official; or
 - (ii) the person holds himself or herself out as having as a Commonwealth public official; and
- (b) in relation to a person who is a public official—means any authority, duty, function or power that:
 - (i) is conferred on the person as a public official; or
 - (ii) the person holds himself or herself out as having as a public official.

gain means:

- (a) a gain in property, whether temporary or permanent; or
 - (b) a gain by way of the supply of services;
- and includes keeping what one has.

loss means a loss in property, whether temporary or permanent, and includes not getting what one might get.

obtaining includes:

- (a) obtaining for another person; and
- (b) inducing a third person to do something that results in another person obtaining.

property includes:

- (a) real property; and

- (b) personal property; and
- (c) money; and
- (d) a thing in action or other intangible property; and
- (e) electricity; and
- (f) a wild creature that is:
 - (i) tamed; or
 - (ii) ordinarily kept in captivity; or
 - (iii) reduced (or in the course of being reduced) into the possession of a person.

services includes any rights (including rights in relation to, and interests in, real or personal property), benefits, privileges or facilities, but does not include rights or benefits being the supply of goods.

supply includes:

- (a) in relation to goods—supply (including re-supply) by way of sale, exchange, lease, hire or hire-purchase; and
- (b) in relation to services—provide, grant or confer.

Note: The expression **person** includes a Commonwealth entity. This is the combined effect of paragraph 22(1)(a) of the *Acts Interpretation Act 1901* (which provides that **person** includes a body politic or corporate), and the definition of **person** in the Dictionary.

130.2 When property belongs to a person

- (1) For the purposes of this Chapter, property **belongs to** a person if, and only if:
 - (a) the person has possession or control of the property; or
 - (b) the person has a proprietary right or interest in the property, other than an equitable interest arising only from:
 - (i) an agreement to transfer an interest; or
 - (ii) an agreement to grant an interest; or
 - (iii) a constructive trust.
- (2) Subsection (1) has effect subject to subsections 134.1(9) and (10) (which deal with money transfers).

130.3 Dishonesty

For the purposes of this Chapter, *dishonest* means:

- (a) dishonest according to the standards of ordinary people; and
- (b) known by the defendant to be dishonest according to the standards of ordinary people.

Note: The following provisions affect the meaning of *dishonesty*:

- (a) section 131.2 (theft);
- (b) section 134.1 (obtaining property by deception).

130.4 Determination of dishonesty to be a matter for the trier of fact

In a prosecution for an offence against this Chapter, the determination of dishonesty is a matter for the trier of fact.

Part 7.2—Theft and other property offences

Division 131—Theft

131.1 Theft

- (1) A person is guilty of an offence if:
 - (a) the person dishonestly appropriates property belonging to another with the intention of permanently depriving the other of the property; and
 - (b) the property belongs to a Commonwealth entity.

Penalty: Imprisonment for 10 years.

- (2) For the purposes of this Code, an offence against subsection (1) is to be known as the offence of theft.
- (3) Absolute liability applies to the paragraph (1)(b) element of the offence of theft.
- (4) Section 15.4 (extended geographical jurisdiction—category D) applies to an offence against subsection (1).

Note: For alternative verdicts, see sections 132.1 and 134.1.

131.2 Special rules about the meaning of dishonesty

- (1) For the purposes of this Division, a person's appropriation of property belonging to another is taken not to be dishonest if the person appropriates the property in the belief that the person to whom the property belongs cannot be discovered by taking reasonable steps.
- (2) However, the rule in subsection (1) does not apply if the person appropriating the property held it as trustee or personal representative.
- (3) For the purposes of this Division, a person's appropriation of property belonging to another may be dishonest even if the person or another person is willing to pay for the property.

131.3 Appropriation of property

- (1) For the purposes of this Division, any assumption of the rights of an owner to ownership, possession or control of property, without the consent of the person to whom it belongs, amounts to an appropriation of the property. This includes, in a case where a person has come by property (innocently or not) without committing theft, any later such assumption of rights without consent by keeping or dealing with it as owner.
- (2) For the purposes of this Division, if property, or a right or interest in property, is, or purports to be, transferred or given to a person acting in good faith, a later assumption by the person of rights which the person had believed himself or herself to be acquiring does not, because of any defect in the transferor's title, amount to an appropriation of the property.

131.4 Theft of land or things forming part of land

- (1) For the purposes of this Division, a person cannot commit theft of land, except in the following cases:
 - (a) the case where the person appropriates anything forming part of the land by severing it or causing it to be severed;
 - (b) the case where:
 - (i) the person is a trustee or personal representative, or is authorised (by power of attorney, as liquidator of a

company or otherwise) to sell or dispose of land belonging to another; and

- (ii) the person appropriates the land, or anything forming part of it, by dealing with it in breach of the confidence reposed in the person.

- (2) For the purposes of this section, **land** does not include incorporeal hereditaments.

131.5 Trust property

- (1) For the purposes of this Division, if property is subject to a trust, the persons to whom the property belongs include any person who has a right to enforce the trust.
- (2) Accordingly, for the purposes of this Division, an intention to defeat the trust is an intention to deprive any such person of the property.

131.6 Obligation to deal with property in a particular way

For the purposes of this Division, if:

- (a) a person receives property from or on account of another; and
- (b) the person is under a legal obligation to the other to retain and deal with that property or its proceeds in a particular way;

the property or proceeds belong (as against the person) to the other.

131.7 Property obtained because of fundamental mistake

- (1) For the purposes of this Division, if:
 - (a) a person gets property by another's fundamental mistake; and
 - (b) the person is under a legal obligation to make restoration (in whole or in part) of the property or its proceeds;then, to the extent of that obligation, the property or proceeds belongs (as against the person) to the person entitled to restoration.
- (2) For the purposes of this Division, an intention not to make restoration is:
 - (a) an intention to permanently deprive the person so entitled of the property or proceeds; and

- (b) an appropriation of the property or proceeds without the consent of the person entitled to restoration.
- (3) For the purposes of this section, a *fundamental mistake* is:
 - (a) a mistake about the identity of the person getting the property; or
 - (b) a mistake as to the essential nature of the property; or
 - (c) a mistake about the amount of any money if the person getting the money is aware of the mistake at the time of getting the money.
- (4) In this section:

money includes anything that is equivalent to money. For this purpose, cheques, negotiable instruments and electronic funds transfers are taken to be equivalent to money.

131.8 Property of a corporation sole

For the purposes of this Division, property of a corporation sole belongs to the corporation despite a vacancy in the corporation.

131.9 Property belonging to 2 or more persons

If property belongs to 2 or more persons, a reference in this Division (other than paragraph 131.1(1)(b)) to the person to whom the property belongs is a reference to all of those persons.

131.10 Intention of permanently depriving a person of property

- (1) For the purposes of this Division, if:
 - (a) a person appropriates property belonging to another without meaning the other permanently to lose the thing itself; and
 - (b) the person's intention is to treat the thing as the person's own to dispose of regardless of the other's rights;the person has the intention of permanently depriving the other of it.
- (2) For the purposes of this section, a borrowing or lending of a thing amounts to treating the thing as the borrower's or lender's own to dispose of regardless of another's rights if, and only if, the

borrowing or lending is for a period and in circumstances making it equivalent to an outright taking or disposal.

- (3) For the purposes of this section, if:
- (a) a person has possession or control (lawfully or not) of property belonging to another; and
 - (b) the person parts with the property under a condition as to its return that the person may not be able to perform; and
 - (c) the parting is done for purposes of the person's own and without the other's authority;

the parting is taken to amount to treating the property as the person's own to dispose of regardless of the other's rights.

Note: See also paragraph 131.7(2)(a).

131.11 General deficiency

- (1) For the purposes of this Division, a person may be convicted of theft of all or any part of a general deficiency in money even though the deficiency is made up of any number of particular sums of money that were appropriated over a period of time.
- (2) For the purposes of this Division, a person may be convicted of theft of all or any part of a general deficiency in property other than money even though the deficiency is made up of any number of particular items of property that were appropriated over a period of time.

Division 132—Other property offences

132.1 Receiving

- (1) A person is guilty of an offence if the person dishonestly receives stolen property, knowing or believing the property to be stolen.

Penalty: Imprisonment for 10 years.

- (2) For the purposes of this Code, an offence against subsection (1) is to be known as the offence of receiving.
 - (2A) In a prosecution for an offence against subsection (1), it is not necessary to prove that the defendant knew or believed that the property belonged to a Commonwealth entity.
-

Stolen property

- (3) For the purposes of this section, property is ***stolen property*** if, and only if:
- (a) it is original stolen property (as defined by subsection (5)); or
 - (aa) it is previously received property (as defined by subsection (5A)); or
 - (b) it is tainted property (as defined by subsection (7)).
- This subsection has effect subject to subsections (4) and (6).
- (4) For the purposes of this section, ***stolen property*** does not include land obtained in the course of an offence against section 134.1.

Original stolen property

- (5) For the purposes of this section, ***original stolen property*** is:
- (a) property, or a part of property, that:
 - (i) was appropriated in the course of theft (whether or not the property, or the part of the property, is in the state it was in when it was so appropriated); and
 - (ii) is in the possession or custody of the person who so appropriated the property; or
 - (b) property, or a part of property, that:
 - (i) was obtained in the course of an offence against section 134.1 (whether or not the property, or the part of the property, is in the state it was in when it was so obtained); and
 - (ii) is in the possession or custody of the person who so obtained the property or the person for whom the property was so obtained.

Previously received property

- (5A) For the purposes of this section, ***previously received property*** is property that:
- (a) was received in the course of an offence against subsection (1); and
 - (b) is in the possession or custody of the person who received the property in the course of that offence.

- (6) For the purposes of this section, property ceases to be original stolen property or previously received property:
- (a) after the property is restored:
 - (i) to the person from whom it was appropriated or obtained; or
 - (ii) to other lawful possession or custody; or
 - (b) after:
 - (i) the person from whom the property was appropriated or obtained ceases to have any right to restitution in respect of the property; or
 - (ii) a person claiming through the person from whom the property was appropriated or obtained ceases to have any right to restitution in respect of the property.

Tainted property

- (7) For the purposes of this section, ***tainted property*** is property that:
- (a) is (in whole or in part) the proceeds of sale of, or property exchanged for:
 - (i) original stolen property; or
 - (ii) previously received property; and
 - (b) if subparagraph (a)(i) applies—is in the possession or custody of:
 - (i) if the original stolen property was appropriated in the course of theft—the person who so appropriated the original stolen property; or
 - (ii) if the original stolen property was obtained in the course of an offence against section 134.1—the person who so obtained the property or the person for whom the property was so obtained; and
 - (c) if subparagraph (a)(ii) applies—is in the possession or custody of the person who received the previously received property in the course of an offence against subsection (1).

Money transfers

- (8) For the purposes of this section, if, as a result of the application of subsection 134.1(9) or (10), an amount credited to an account held

by a person is property obtained in the course of an offence against section 134.1:

- (a) while the whole or any part of the amount remains credited to the account, the property is taken to be in the possession of the person; and
- (b) if the person fails to take such steps as are reasonable in the circumstances to secure that the credit is cancelled—the person is taken to have received the property; and
- (c) subsection (6) of this section does not apply to the property.

Note: Subsections 134.1(9) and (10) deal with money transfers.

Alternative verdicts

- (9) If, in a prosecution for an offence of theft or an offence against section 134.1, the trier of fact is not satisfied that the defendant is guilty of the offence, but is satisfied beyond reasonable doubt that the defendant is guilty of an offence of receiving, the trier of fact may find the defendant not guilty of the offence of theft or the section 134.1 offence but guilty of the offence of receiving, so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.
- (10) If, in a prosecution for an offence of receiving, the trier of fact is not satisfied that the defendant is guilty of the offence, but is satisfied beyond reasonable doubt that the defendant is guilty of an offence of theft or an offence against section 134.1, the trier of fact may find the defendant not guilty of the offence of receiving but guilty of the offence of theft or the section 134.1 offence, so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.

Receiving property stolen before commencement

- (11) For the purposes of this section:
 - (a) it is to be assumed that sections 131.1 and 134.1 had been in force at all times before the commencement of this section; and
 - (b) property that was appropriated or obtained at a time before the commencement of this section does not become ***original stolen property*** unless the property was appropriated or obtained in circumstances that (apart from paragraph (a))
-

amounted to an offence against a law of the Commonwealth in force at that time.

Obtaining

- (12) The definition of **obtaining** in section 130.1 does not apply to this section.

Note: See subsection 134.1(3).

Definition

- (13) In this section:

account has the same meaning as in section 133.1.

132.2 Robbery

- (1) A person is guilty of an offence if the person commits theft and:
- (a) immediately before committing theft, the person:
 - (i) uses force on another person; or
 - (ii) threatens to use force then and there on another person; with intent to commit theft or to escape from the scene; or
 - (b) at the time of committing theft, or immediately after committing theft, the person:
 - (i) uses force on another person; or
 - (ii) threatens to use force then and there on another person; with intent to commit theft or to escape from the scene.

Penalty: Imprisonment for 15 years.

- (2) For the purposes of this Code, an offence against subsection (1) is to be known as the offence of robbery.

Note: **Theft** means an offence against section 131.1. Under section 131.1, an element of the offence of theft is that the property belongs to a Commonwealth entity.

- (3) In a prosecution for an offence against subsection (1), it is not necessary to prove that the defendant knew that the property belonged to a Commonwealth entity.

132.3 Aggravated robbery

- (1) A person is guilty of an offence if the person:
- (a) commits a robbery in company with one or more other persons; or
 - (b) commits a robbery and, at the time of the robbery, has an offensive weapon with him or her.

Penalty: Imprisonment for 20 years.

- (2) For the purposes of this Code, an offence against subsection (1) is to be known as the offence of aggravated robbery.

Note: **Robbery** means an offence against section 132.2. Under section 132.2, an element of the offence of robbery is that the defendant commits theft. **Theft** means an offence against section 131.1. Under section 131.1, an element of the offence of theft is that the property belongs to a Commonwealth entity.

- (2A) In a prosecution for an offence against subsection (1), it is not necessary to prove that the defendant knew that the property belonged to a Commonwealth entity.

- (3) In this section:

offensive weapon includes:

- (a) an article made or adapted for use for causing injury to, or incapacitating, a person; or
- (b) an article where the person who has the article intends, or threatens to use, the article to cause injury to, or to incapacitate, another person.

132.4 Burglary

- (1) A person is guilty of an offence if:
- (a) the person enters, or remains in, a building, as a trespasser, with intent to commit theft of a particular item of property in the building; and
 - (b) the property belongs to a Commonwealth entity.

Penalty: Imprisonment for 13 years.

- (2) For the purposes of this Code, an offence against subsection (1) is to be known as the offence of burglary.

(2A) In a prosecution for an offence against subsection (1), it is not necessary to prove that the defendant knew that the property belonged to a Commonwealth entity.

(3) A person is guilty of an offence if:

- (a) the person enters, or remains in, a building, as a trespasser, with intent to commit an offence in the building that involves causing harm to another person or damage to property; and
- (aa) the offence referred to in paragraph (a) is an offence against a law of the Commonwealth; and
- (b) the offence referred to in paragraph (a) is punishable by imprisonment for life or for a term of 5 years or more.

Penalty: Imprisonment for 13 years.

(3A) In a prosecution for an offence against subsection (3), it is not necessary to prove that the defendant knew that the offence referred to in paragraph (3)(a) is an offence against a law of the Commonwealth.

(4) In a prosecution for an offence against subsection (3), it is not necessary to prove that the defendant knew that the offence referred to in paragraph (3)(a) is punishable by imprisonment for life or for a term of 5 years or more.

(5) For the purposes of this Code, an offence against subsection (3) is also to be known as the offence of burglary.

(6) A person is guilty of an offence if:

- (a) the person enters, or remains in, a building, as a trespasser, with intent to commit an offence in the building that involves causing harm to another person or damage to property; and
- (aa) the offence referred to in paragraph (a) is an offence against a law of the Commonwealth, a State or a Territory; and
- (b) the offence referred to in paragraph (a) is punishable by imprisonment for life or for a term of 5 years or more; and
- (c) the building is owned or occupied by a Commonwealth entity.

Penalty: Imprisonment for 13 years.

- (6A) In a prosecution for an offence against subsection (6), it is not necessary to prove that the defendant knew that the offence referred to in paragraph (6)(a) is an offence against a law of the Commonwealth, a State or a Territory.
- (7) In a prosecution for an offence against subsection (6), it is not necessary to prove that the defendant knew that the offence referred to in paragraph (6)(a) is punishable by imprisonment for life or for a term of 5 years or more.
- (8) Absolute liability applies to the paragraph (6)(c) element of the offence.
- (9) For the purposes of this Code, an offence against subsection (6) is also to be known as the offence of burglary.
- (10) For the purposes of this section, a person is taken not to be a trespasser:
 - (a) merely because the person is permitted to enter, or remain in, a building for a purpose that is not the person's intended purpose; or
 - (b) if the person is permitted to enter, or remain in, a building as a result of fraud, misrepresentation or another person's mistake.
- (12) In this section:

building includes:

 - (a) a part of a building; or
 - (b) a mobile home or a caravan; or
 - (c) a structure (whether or not movable), a vehicle, or a vessel, that is used, designed or adapted for residential purposes.

132.5 Aggravated burglary

- (1) A person is guilty of an offence if the person:
 - (a) commits a burglary in company with one or more other persons; or
 - (b) commits a burglary, and at the time of the burglary, has an offensive weapon with him or her.

Penalty: Imprisonment for 17 years.

- (2) For the purposes of this Code, an offence against subsection (1) is to be known as the offence of aggravated burglary.
- (3) In a prosecution for an offence against subsection (1) in relation to the offence of burglary created by subsection 132.4(1), it is not necessary to prove that the defendant knew that the property concerned belonged to a Commonwealth entity.
- (4) In a prosecution for an offence against subsection (1) in relation to the offence of burglary created by subsection 132.4(3), it is not necessary to prove that:
 - (a) the defendant knew that the offence referred to in paragraph 132.4(3)(a) is an offence against a law of the Commonwealth; or
 - (b) the defendant knew that the offence referred to in paragraph 132.4(3)(a) is punishable by imprisonment for life or for a term of 5 years or more.
- (5) In a prosecution for an offence against subsection (1) in relation to the offence of burglary created by subsection 132.4(6), it is not necessary to prove that:
 - (a) the defendant knew that the offence referred to in paragraph 132.4(6)(a) is an offence against a law of the Commonwealth, a State or a Territory; or
 - (b) the defendant knew that the offence referred to in paragraph 132.4(6)(a) is punishable by imprisonment for life or for a term of 5 years or more; or
 - (c) the defendant knew that the building was owned or occupied by a Commonwealth entity.
- (6) In this section:
offensive weapon includes:
 - (a) an article made or adapted for use for causing injury to, or incapacitating, a person; or
 - (b) an article where the person who has the article intends, or threatens to use, the article to cause injury to, or to incapacitate, another person.

132.6 Making off without payment

- (1) A person is guilty of an offence if:
- (a) the person, knowing that immediate payment for any goods or services supplied by another person is required or expected from him or her, dishonestly makes off:
 - (i) without having paid; and
 - (ii) with intent to avoid payment of the amount due; and
 - (b) the other person is a Commonwealth entity.

Penalty: Imprisonment for 2 years.

- (2) Absolute liability applies to the paragraph (1)(b) element of the offence.
- (3) For the purposes of this section, *immediate payment* includes payment at the time of collecting goods in respect of which a service has been provided.

132.7 Going equipped for theft or a property offence

- (1) A person is guilty of an offence if the person, when not at home, has with him or her any article with intent to use it in the course of, or in connection with, theft or a property offence.

Penalty: Imprisonment for 3 years.

- (2) In a prosecution for an offence against subsection (1) in relation to:
- (a) theft; or
 - (b) robbery; or
 - (c) aggravated robbery; or
 - (d) the offence of burglary created by subsection 132.4(1); or
 - (e) the offence of aggravated burglary that relates to the offence of burglary created by subsection 132.4(1); or
 - (f) an offence against section 134.1;
- it is not necessary to prove that the defendant knew that the property concerned belonged to a Commonwealth entity.
- (3) In a prosecution for an offence against subsection (1) in relation to:
- (a) the offence of burglary created by subsection 132.4(3); or

- (b) the offence of aggravated burglary that relates to the offence of burglary created by subsection 132.4(3);

it is not necessary to prove that:

- (c) the defendant knew that the offence referred to in paragraph 132.4(3)(a) is an offence against a law of the Commonwealth; or
- (d) the defendant knew that the offence referred to in paragraph 132.4(3)(a) is punishable by imprisonment for life or for a term of 5 years or more.

- (4) In a prosecution for an offence against subsection (1) in relation to:

- (a) the offence of burglary created by subsection 132.4(6); or
- (b) the offence of aggravated burglary that relates to the offence of burglary created by subsection 132.4(6);

it is not necessary to prove that:

- (c) the defendant knew that the offence referred to in paragraph 132.4(6)(a) is an offence against a law of the Commonwealth, a State or a Territory; or
- (d) the defendant knew that the offence referred to in paragraph 132.4(6)(a) is punishable by imprisonment for life or for a term of 5 years or more; or
- (e) the defendant knew that the building was owned or occupied by a Commonwealth entity.

- (5) In this section:

property offence means:

- (a) robbery; or
- (b) aggravated robbery; or
- (c) burglary; or
- (d) aggravated burglary; or
- (e) an offence against subsection 132.8(1); or
- (f) an offence against section 134.1.

Note: It is an element of the offence of theft, and of each property offence, that the property belongs to a Commonwealth entity.

132.8 Dishonest taking or retention of property

Taking

- (1) A person is guilty of an offence if the person:
- (a) on a particular occasion, dishonestly takes one or more items of property belonging to a Commonwealth entity, where:
 - (i) the value or total value of the property is \$500 or more; or
 - (ii) the absence of the property from the possession, custody or control of the person who would otherwise have had possession, custody or control would be likely to cause substantial disruption to activities carried on by or on behalf of a Commonwealth entity; and
 - (b) does not have consent to do so from the person who has authority to give consent.

Penalty: Imprisonment for 2 years.

Retention

- (2) A person is guilty of an offence if the person:
- (a) on a particular occasion, takes one or more items of property belonging to a Commonwealth entity; and
 - (b) dishonestly retains any or all of those items; and
 - (c) does not have consent to the retention from the person who has authority to give consent; and
 - (d) either:
 - (i) at the time of the taking of the property, the value or total value of the property was \$500 or more; or
 - (ii) the absence of the property from the possession, custody or control of the person who would otherwise have had possession, custody or control is likely to cause substantial disruption to activities carried on by or on behalf of a Commonwealth entity.

Penalty: Imprisonment for 2 years.

132.9 Geographical jurisdiction

Section 15.4 (extended geographical jurisdiction—category D) applies to each offence against this Division.

Part 7.3—Fraudulent conduct

Division 133—Preliminary

133.1 Definitions

In this Part:

account means an account (including a loan account, a credit card account or a similar account) with a bank or other financial institution.

deception means an intentional or reckless deception, whether by words or other conduct, and whether as to fact or as to law, and includes:

- (a) a deception as to the intentions of the person using the deception or any other person; and
- (b) conduct by a person that causes a computer, a machine or an electronic device to make a response that the person is not authorised to cause it to do.

Division 134—Obtaining property or a financial advantage by deception

134.1 Obtaining property by deception

- (1) A person is guilty of an offence if:
 - (a) the person, by a deception, dishonestly obtains property belonging to another with the intention of permanently depriving the other of the property; and
 - (b) the property belongs to a Commonwealth entity.

Penalty: Imprisonment for 10 years.

- (2) Absolute liability applies to the paragraph (1)(b) element of the offence.

Obtaining property

- (3) For the purposes of this section (and for the purposes of the application of section 132.1 to this section), a person (the **first person**) is taken to have **obtained** property if, and only if:
 - (a) the first person obtains ownership, possession or control of it for himself or herself or for another person; or
 - (b) the first person enables ownership, possession or control of it to be retained by himself or herself; or
 - (c) the first person induces a third person to pass ownership, possession or control of it to another person; or
 - (d) the first person induces a third person to enable another person to retain ownership, possession or control of it; or
 - (e) subsection (9) or (10) applies.
- (4) The definition of **obtaining** in section 130.1 does not apply for the purposes of this section (or for the purposes of the application of section 132.1 to this section).
- (5) For the purposes of this section, a person's obtaining of property belonging to another may be dishonest even if the person or another person is willing to pay for the property.

Intention of permanently depriving a person of property

- (6) For the purposes of this section, if:
 - (a) a person obtains property belonging to another without meaning the other permanently to lose the thing itself; and
 - (b) the person's intention is to treat the thing as the person's own to dispose of regardless of the other's rights;
 the person has the intention of permanently depriving the other of it.
- (7) For the purposes of subsection (6), a borrowing or lending of a thing amounts to treating the thing as the borrower's or lender's own to dispose of regardless of another's rights if, and only if, the borrowing or lending is for a period and in circumstances making it equivalent to an outright taking or disposal.
- (8) For the purposes of subsection (6), if:

- (a) a person has possession or control (lawfully or not) of property belonging to another; and
- (b) the person parts with the property under a condition as to its return that the person may not be able to perform; and
- (c) the parting is done for purposes of the person's own and without the other's authority;

the parting is taken to amount to treating the property as the person's own to dispose of regardless of the other's rights.

Money transfers

- (9) For the purposes of this section (and for the purposes of the application of section 132.1 to this section), if a person (the ***first person***) causes an amount to be transferred from an account held by another person (the ***second person***) to an account held by the first person:
 - (a) the amount is taken to have been property that belonged to the second person; and
 - (b) the first person is taken to have obtained the property for himself or herself with the intention of permanently depriving the second person of the property.
 - (10) For the purposes of this section (and for the purposes of the application of section 132.1 to this section), if a person (the ***first person***) causes an amount to be transferred from an account held by another person (the ***second person***) to an account held by a third person:
 - (a) the amount is taken to have been property that belonged to the second person; and
 - (b) the first person is taken to have obtained the property for the third person with the intention of permanently depriving the second person of the property.
 - (11) For the purposes of this section (and for the purposes of the application of section 132.1 to this section), if:
 - (a) a credit is made to an account (the ***credited account***); and
 - (b) a debit is made to another account (the ***debited account***); and
 - (c) either:
 - (i) the credit results from the debit; or
 - (ii) the debit results from the credit;
-

the amount of the credit is taken to be transferred from the debited account to the credited account.

- (12) For the purposes of this section (and for the purposes of the application of section 132.1 to this section), a person is taken to cause an amount to be transferred from an account if the person induces another person to transfer the amount from the account (whether or not the other person is the holder of the account).

General deficiency

- (13) A person may be convicted of an offence against this section involving all or any part of a general deficiency in money even though the deficiency is made up of any number of particular sums of money that were obtained over a period of time.
- (14) A person may be convicted of an offence against this section involving all or any part of a general deficiency in property other than money even though the deficiency is made up of any number of particular items of property that were obtained over a period of time.

Alternative verdicts

- (15) If, in a prosecution for an offence of theft, the trier of fact is not satisfied that the defendant is guilty of the offence, but is satisfied beyond reasonable doubt that the defendant is guilty of an offence against this section, the trier of fact may find the defendant not guilty of the offence of theft but guilty of the offence against this section, so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.
- (16) If, in a prosecution for an offence against this section, the trier of fact is not satisfied that the defendant is guilty of the offence, but is satisfied beyond reasonable doubt that the defendant is guilty of an offence of theft, the trier of fact may find the defendant not guilty of the offence against this section but guilty of the offence of theft, so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.

134.2 Obtaining a financial advantage by deception

- (1) A person is guilty of an offence if:
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- (a) the person, by a deception, dishonestly obtains a financial advantage from another person; and
- (b) the other person is a Commonwealth entity.

Penalty: Imprisonment for 10 years.

- (2) Absolute liability applies to the paragraph (1)(b) element of the offence.

134.3 Geographical jurisdiction

Section 15.4 (extended geographical jurisdiction—category D) applies to each offence against this Division.

Division 135—Other offences involving fraudulent conduct

135.1 General dishonesty

Obtaining a gain

- (1) A person is guilty of an offence if:
 - (a) the person does anything with the intention of dishonestly obtaining a gain from another person; and
 - (b) the other person is a Commonwealth entity.

Penalty: Imprisonment for 5 years.

- (2) In a prosecution for an offence against subsection (1), it is not necessary to prove that the defendant knew that the other person was a Commonwealth entity.

Causing a loss

- (3) A person is guilty of an offence if:
 - (a) the person does anything with the intention of dishonestly causing a loss to another person; and
 - (b) the other person is a Commonwealth entity.

Penalty: Imprisonment for 5 years.

- (4) In a prosecution for an offence against subsection (3), it is not necessary to prove that the defendant knew that the other person was a Commonwealth entity.
- (5) A person is guilty of an offence if:
 - (a) the person dishonestly causes a loss, or dishonestly causes a risk of loss, to another person; and
 - (b) the first-mentioned person knows or believes that the loss will occur or that there is a substantial risk of the loss occurring; and
 - (c) the other person is a Commonwealth entity.

Penalty: Imprisonment for 5 years.

- (6) Absolute liability applies to the paragraph (5)(c) element of the offence.

Influencing a Commonwealth public official

- (7) A person is guilty of an offence if:
 - (a) the person does anything with the intention of dishonestly influencing a public official in the exercise of the official's duties as a public official; and
 - (b) the public official is a Commonwealth public official; and
 - (c) the duties are duties as a Commonwealth public official.

Penalty: Imprisonment for 5 years.

- (8) In a prosecution for an offence against subsection (7), it is not necessary to prove that the defendant knew:
 - (a) that the official was a Commonwealth public official; or
 - (b) that the duties were duties as a Commonwealth public official.

135.2 Obtaining financial advantage

- (1) A person is guilty of an offence if the person obtains a financial advantage for himself or herself from a Commonwealth entity knowing or believing that he or she is not eligible to receive that financial advantage.

Penalty: Imprisonment for 12 months.

- (2) A person is guilty of an offence if the person obtains a financial advantage for another person from a Commonwealth entity knowing or believing that the other person is not eligible to receive that financial advantage.

Penalty: Imprisonment for 12 months.

- (3) For the purposes of subsection (2), a person is taken to have obtained a financial advantage for another person from a Commonwealth entity if the first-mentioned person induces the Commonwealth entity to do something that results in the other person obtaining the financial advantage.
- (4) The definition of *obtaining* in section 130.1 does not apply to this section.

135.4 Conspiracy to defraud

Obtaining a gain

- (1) A person is guilty of an offence if:
- (a) the person conspires with another person with the intention of dishonestly obtaining a gain from a third person; and
 - (b) the third person is a Commonwealth entity.

Penalty: Imprisonment for 10 years.

- (2) In a prosecution for an offence against subsection (1), it is not necessary to prove that the defendant knew that the third person was a Commonwealth entity.

Causing a loss

- (3) A person is guilty of an offence if:
- (a) the person conspires with another person with the intention of dishonestly causing a loss to a third person; and
 - (b) the third person is a Commonwealth entity.

Penalty: Imprisonment for 10 years.

- (4) In a prosecution for an offence against subsection (3), it is not necessary to prove that the defendant knew that the third person was a Commonwealth entity.
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- (5) A person is guilty of an offence if:
- (a) the person conspires with another person to dishonestly cause a loss, or to dishonestly cause a risk of loss, to a third person; and
 - (b) the first-mentioned person knows or believes that the loss will occur or that there is a substantial risk of the loss occurring; and
 - (c) the third person is a Commonwealth entity.

Penalty: Imprisonment for 10 years.

- (6) In a prosecution for an offence against subsection (5), it is not necessary to prove that the defendant knew that the third person was a Commonwealth entity.

Influencing a Commonwealth public official

- (7) A person is guilty of an offence if:
- (a) the person conspires with another person with the intention of dishonestly influencing a public official in the exercise of the official's duties as a public official; and
 - (b) the public official is a Commonwealth public official; and
 - (c) the duties are duties as a Commonwealth public official.

Penalty: Imprisonment for 10 years.

- (8) In a prosecution for an offence against subsection (7), it is not necessary to prove that the defendant knew:
- (a) that the official was a Commonwealth public official; or
 - (b) that the duties were duties as a Commonwealth public official.

General provisions

- (9) For a person to be guilty of an offence against this section:
- (a) the person must have entered into an agreement with one or more other persons; and
 - (b) the person and at least one other party to the agreement must have intended to do the thing pursuant to the agreement; and
 - (c) the person or at least one other party to the agreement must have committed an overt act pursuant to the agreement.

- (10) A person may be found guilty of an offence against this section even if:
- (a) obtaining the gain, causing the loss, causing the risk of loss, or influencing the Commonwealth public official, as the case may be, is impossible; or
 - (b) the only other party to the agreement is a body corporate; or
 - (c) each other party to the agreement is a person who is not criminally responsible; or
 - (d) subject to subsection (11), all other parties to the agreement have been acquitted of the offence.
- (11) A person cannot be found guilty of an offence against this section if:
- (a) all other parties to the agreement have been acquitted of such an offence; and
 - (b) a finding of guilt would be inconsistent with their acquittal.
- (12) A person cannot be found guilty of an offence against this section if, before the commission of an overt act pursuant to the agreement, the person:
- (a) withdrew from the agreement; and
 - (b) took all reasonable steps to prevent the doing of the thing.
- (13) A court may dismiss a charge of an offence against this section if the court thinks that the interests of justice require the court to do so.
- (14) Proceedings for an offence against this section must not be commenced without the consent of the Director of Public Prosecutions. However, before the necessary consent has been given, a person may be:
- (a) arrested for an offence against this section; or
 - (b) charged with an offence against this section; or
 - (c) remanded in custody or released on bail in connection with an offence against this section.

135.5 Geographical jurisdiction

Section 15.4 (extended geographical jurisdiction—category D) applies to each offence against this Division.

Part 7.4—False or misleading statements

Division 136—False or misleading statements in applications

136.1 False or misleading statements in applications

Knowledge

- (1) A person is guilty of an offence if:
- (a) the person makes a statement (whether orally, in a document or in any other way); and
 - (b) the person does so knowing that the statement:
 - (i) is false or misleading; or
 - (ii) omits any matter or thing without which the statement is misleading; and
 - (c) the statement is made in, or in connection with:
 - (i) an application for a licence, permit or authority; or
 - (ii) an application for registration; or
 - (iii) an application or claim for a benefit; and
 - (d) any of the following subparagraphs applies:
 - (i) the statement is made to a Commonwealth entity;
 - (ii) the statement is made to a person who is exercising powers or performing functions under, or in connection with, a law of the Commonwealth;
 - (iii) the statement is made in compliance or purported compliance with a law of the Commonwealth.

Penalty: Imprisonment for 12 months.

- (2) Subsection (1) does not apply as a result of subparagraph (1)(b)(i) if the statement is not false or misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3).

- (3) Subsection (1) does not apply as a result of subparagraph (1)(b)(ii) if the statement did not omit any matter or thing without which the statement is misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3). See subsection 13.3(3).

Recklessness

- (4) A person is guilty of an offence if:
- (a) the person makes a statement (whether orally, in a document or in any other way); and
 - (b) the person does so reckless as to whether the statement:
 - (i) is false or misleading; or
 - (ii) omits any matter or thing without which the statement is misleading; and
 - (c) the statement is made in, or in connection with:
 - (i) an application for a licence, permit or authority; or
 - (ii) an application for registration; or
 - (iii) an application or claim for a benefit; and
 - (d) any of the following subparagraphs applies:
 - (i) the statement is made to a Commonwealth entity;
 - (ii) the statement is made to a person who is exercising powers or performing functions under, or in connection with, a law of the Commonwealth;
 - (iii) the statement is made in compliance or purported compliance with a law of the Commonwealth.

Penalty: Imprisonment for 6 months.

- (5) Subsection (4) does not apply as a result of subparagraph (4)(b)(i) if the statement is not false or misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5). See subsection 13.3(3).

- (6) Subsection (4) does not apply as a result of subparagraph (4)(b)(ii) if the statement did not omit any matter or thing without which the statement is misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in subsection (6). See subsection 13.3(3).

Alternative verdicts

- (7) If, in a prosecution for an offence against subsection (1), the trier of fact is not satisfied that the defendant is guilty of the offence,
-

but is satisfied beyond reasonable doubt that the defendant is guilty of an offence against subsection (4), the trier of fact may find the defendant not guilty of the offence against subsection (1) but guilty of the offence against subsection (4), so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.

Geographical jurisdiction

- (8) Section 15.4 (extended geographical jurisdiction—category D) applies to an offence against subsection (1) or (4).

Definition

- (9) In this section:

benefit includes any advantage and is not limited to property.

Division 137—False or misleading information or documents

137.1 False or misleading information

- (1) A person is guilty of an offence if:
- (a) the person gives information to another person; and
 - (b) the person does so knowing that the information:
 - (i) is false or misleading; or
 - (ii) omits any matter or thing without which the information is misleading; and
 - (c) any of the following subparagraphs applies:
 - (i) the information is given to a Commonwealth entity;
 - (ii) the information is given to a person who is exercising powers or performing functions under, or in connection with, a law of the Commonwealth;
 - (iii) the information is given in compliance or purported compliance with a law of the Commonwealth.

Penalty: Imprisonment for 12 months.

- (2) Subsection (1) does not apply as a result of subparagraph (1)(b)(i) if the information is not false or misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3).

- (3) Subsection (1) does not apply as a result of subparagraph (1)(b)(ii) if the information did not omit any matter or thing without which the information is misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3). See subsection 13.3(3).

- (4) Subsection (1) does not apply as a result of subparagraph (1)(c)(i) if, before the information was given by a person to the Commonwealth entity, the Commonwealth entity did not take reasonable steps to inform the person of the existence of the offence against subsection (1).

Note: A defendant bears an evidential burden in relation to the matter in subsection (4). See subsection 13.3(3).

- (5) Subsection (1) does not apply as a result of subparagraph (1)(c)(ii) if, before the information was given by a person (the *first person*) to the person mentioned in that subparagraph (the *second person*), the second person did not take reasonable steps to inform the first person of the existence of the offence against subsection (1).

Note: A defendant bears an evidential burden in relation to the matter in subsection (5). See subsection 13.3(3).

- (6) For the purposes of subsections (4) and (5), it is sufficient if the following form of words is used:
“Giving false or misleading information is a serious offence”.

137.2 False or misleading documents

- (1) A person is guilty of an offence if:
- (a) the person produces a document to another person; and
 - (b) the person does so knowing that the document is false or misleading; and
 - (c) the document is produced in compliance or purported compliance with a law of the Commonwealth.

Penalty: Imprisonment for 12 months.

- (2) Subsection (1) does not apply if the document is not false or misleading in a material particular.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3).

- (3) Subsection (1) does not apply to a person who produces a document if the document is accompanied by a written statement signed by the person or, in the case of a body corporate, by a competent officer of the body corporate:
- (a) stating that the document is, to the knowledge of the first-mentioned person, false or misleading in a material particular; and
 - (b) setting out, or referring to, the material particular in which the document is, to the knowledge of the first-mentioned person, false or misleading.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3). See subsection 13.3(3).

137.3 Geographical jurisdiction

Section 15.4 (extended geographical jurisdiction—category D) applies to each offence against this Division.

Part 7.5—Unwarranted demands

Division 138—Preliminary

138.1 Unwarranted demand with menaces

- (1) For the purposes of this Part, a person (the ***first person***) makes an ***unwarranted demand with menaces*** of another person if, and only if:
- (a) the first person makes a demand with menaces of the other person; and
 - (b) the first person does not believe that he or she has reasonable grounds for making the demand; and
 - (c) the first person does not reasonably believe that the use of the menaces is a proper means of reinforcing the demand.
- (2) This Part applies to a demand whether or not it is for property.

- (3) This Part applies to a demand with menaces, whether or not the menaces relate to conduct to be engaged in by the person making the demand.

138.2 Menaces

- (1) For the purposes of this Part, *menaces* includes:
- (a) a threat (whether express or implied) of conduct that is detrimental or unpleasant to another person; or
 - (b) a general threat of detrimental or unpleasant conduct that is implied because of the status, office or position of the maker of the threat.

Threat against an individual

- (2) For the purposes of this Part, a threat against an individual is taken not to be *menaces* unless:
- (a) both:
 - (i) the threat would be likely to cause the individual to act unwillingly; and
 - (ii) the maker of the threat is aware of the vulnerability of the individual to the threat; or
 - (b) the threat would be likely to cause a person of normal stability and courage to act unwillingly.

Threat against a person who is not an individual

- (3) For the purposes of this Part, a threat against a person who is not an individual is taken not to be *menaces* unless:
- (a) the threat would ordinarily cause an unwilling response; or
 - (b) the threat would be likely to cause an unwilling response because of a particular vulnerability of which the maker of the threat is aware.

Division 139—Unwarranted demands

139.1 Unwarranted demands of a Commonwealth public official

A person is guilty of an offence if:

- (a) the person makes an unwarranted demand with menaces of another person; and
- (b) the demand or the menaces are directly or indirectly related to:
 - (i) the other person's capacity as a Commonwealth public official; or
 - (ii) any influence the other person has in the other person's capacity as a Commonwealth public official; and
- (c) the first-mentioned person does so with the intention of:
 - (i) obtaining a gain; or
 - (ii) causing a loss; or
 - (iii) influencing the official in the exercise of the official's duties as a Commonwealth public official.

Penalty: Imprisonment for 12 years.

139.2 Unwarranted demands made by a Commonwealth public official

A Commonwealth public official is guilty of an offence if:

- (a) the official makes an unwarranted demand with menaces of another person; and
- (b) the demand or the menaces are directly or indirectly related to:
 - (i) the official's capacity as a Commonwealth public official; or
 - (ii) any influence the official has in the official's capacity as a Commonwealth public official; and
- (c) the official does so with the intention of:
 - (i) obtaining a gain; or
 - (ii) causing a loss; or
 - (iii) influencing another Commonwealth public official in the exercise of the other official's duties as a Commonwealth public official.

Penalty: Imprisonment for 12 years.

139.3 Geographical jurisdiction

Section 15.3 (extended geographical jurisdiction—category C) applies to each offence against this Division.

Part 7.6—Bribery and related offences

Division 140—Preliminary

140.1 Definition

In this Part:

benefit includes any advantage and is not limited to property.

140.2 Obtaining

- (1) For the purposes of this Part, a person is taken to have obtained a benefit for another person if the first-mentioned person induces a third person to do something that results in the other person obtaining the benefit.
- (2) The definition of *obtaining* in section 130.1 does not apply to this Part.

Division 141—Bribery

141.1 Bribery of a Commonwealth public official

Giving a bribe

- (1) A person is guilty of an offence if:
 - (a) the person dishonestly:
 - (i) provides a benefit to another person; or
 - (ii) causes a benefit to be provided to another person; or
 - (iii) offers to provide, or promises to provide, a benefit to another person; or
 - (iv) causes an offer of the provision of a benefit, or a promise of the provision of a benefit, to be made to another person; and

- (b) the person does so with the intention of influencing a public official (who may be the other person) in the exercise of the official's duties as a public official; and
- (c) the public official is a Commonwealth public official; and
- (d) the duties are duties as a Commonwealth public official.

Penalty: Imprisonment for 10 years.

- (2) In a prosecution for an offence against subsection (1), it is not necessary to prove that the defendant knew:
 - (a) that the official was a Commonwealth public official; or
 - (b) that the duties were duties as a Commonwealth public official.

Receiving a bribe

- (3) A Commonwealth public official is guilty of an offence if:
 - (a) the official dishonestly:
 - (i) asks for a benefit for himself, herself or another person; or
 - (ii) receives or obtains a benefit for himself, herself or another person; or
 - (iii) agrees to receive or obtain a benefit for himself, herself or another person; and
 - (b) the official does so with the intention:
 - (i) that the exercise of the official's duties as a Commonwealth public official will be influenced; or
 - (ii) of inducing, fostering or sustaining a belief that the exercise of the official's duties as a Commonwealth public official will be influenced.

Penalty: Imprisonment for 10 years.

Geographical jurisdiction

- (4) Section 15.4 (extended geographical jurisdiction—category D) applies to an offence against subsection (1) or (3).

Division 142—Offences relating to bribery

142.1 Corrupting benefits given to, or received by, a Commonwealth public official

Giving a corrupting benefit

- (1) A person is guilty of an offence if:
- (a) the person dishonestly:
 - (i) provides a benefit to another person; or
 - (ii) causes a benefit to be provided to another person; or
 - (iii) offers to provide, or promises to provide, a benefit to another person; or
 - (iv) causes an offer of the provision of a benefit, or a promise of the provision of a benefit, to be made to another person; and
 - (b) the receipt, or expectation of the receipt, of the benefit would tend to influence a public official (who may be the other person) in the exercise of the official's duties as a public official; and
 - (c) the public official is a Commonwealth public official; and
 - (d) the duties are duties as a Commonwealth public official.

Penalty: Imprisonment for 5 years.

- (2) In a prosecution for an offence against subsection (1), it is not necessary to prove that the defendant knew:
- (a) that the official was a Commonwealth public official; or
 - (b) that the duties were duties as a Commonwealth public official.

Receiving a corrupting benefit

- (3) A Commonwealth public official is guilty of an offence if:
- (a) the official dishonestly:
 - (i) asks for a benefit for himself, herself or another person; or
 - (ii) receives or obtains a benefit for himself, herself or another person; or

- (iii) agrees to receive or obtain a benefit for himself, herself or another person; and
- (b) the receipt, or expectation of the receipt, of the benefit would tend to influence a Commonwealth public official (who may be the first-mentioned official) in the exercise of the official's duties as a Commonwealth public official.

Penalty: Imprisonment for 5 years.

Benefit in the nature of a reward

- (4) For the purposes of subsections (1) and (3), it is immaterial whether the benefit is in the nature of a reward.

142.2 Abuse of public office

- (1) A Commonwealth public official is guilty of an offence if:
 - (a) the official:
 - (i) exercises any influence that the official has in the official's capacity as a Commonwealth public official; or
 - (ii) engages in any conduct in the exercise of the official's duties as a Commonwealth public official; or
 - (iii) uses any information that the official has obtained in the official's capacity as a Commonwealth public official; and
 - (b) the official does so with the intention of:
 - (i) dishonestly obtaining a benefit for himself or herself or for another person; or
 - (ii) dishonestly causing a detriment to another person.

Penalty: Imprisonment for 5 years.

- (2) A person is guilty of an offence if:
 - (a) the person has ceased to be a Commonwealth public official in a particular capacity; and
 - (b) the person uses any information that the person obtained in that capacity as a Commonwealth public official; and
 - (c) the person does so with the intention of:

- (i) dishonestly obtaining a benefit for himself or herself or for another person; or
- (ii) dishonestly causing a detriment to another person.

Penalty: Imprisonment for 5 years.

- (3) Paragraph (2)(a) applies to a cessation by a person:
 - (a) whether or not the person continues to be a Commonwealth public official in some other capacity; and
 - (b) whether the cessation occurred before, at or after the commencement of this section.

142.3 Geographical jurisdiction

Section 15.4 (extended geographical jurisdiction—category D) applies to each offence against this Division.

Part 7.7—Forgery and related offences

Division 143—Preliminary

143.1 Definitions

- (1) In this Part:

document includes:

- (a) any paper or other material on which there is writing; or
- (b) any paper or other material on which there are marks, figures, symbols or perforations that are:
 - (i) capable of being given a meaning by persons qualified to interpret them; or
 - (ii) capable of being responded to by a computer, a machine or an electronic device; or
- (c) any article or material (for example, a disk or a tape) from which information is capable of being reproduced with or without the aid of any other article or device.

false Commonwealth document has the meaning given by section 143.3.

false document has the meaning given by section 143.2.

information means information, whether in the form of data, text, sounds, images or in any other form.

- (2) The following are examples of things covered by the definition of **document** in subsection (1):
- (a) a credit card;
 - (b) a debit card;
 - (c) a card by means of which property can be obtained.

143.2 False documents

- (1) For the purposes of this Part, a document is a **false document** if, and only if:
- (a) the document, or any part of the document:
 - (i) purports to have been made in the form in which it is made by a person who did not make it in that form; or
 - (ii) purports to have been made in the form in which it is made on the authority of a person who did not authorise its making in that form; or
 - (b) the document, or any part of the document:
 - (i) purports to have been made in the terms in which it is made by a person who did not make it in those terms; or
 - (ii) purports to have been made in the terms in which it is made on the authority of a person who did not authorise its making in those terms; or
 - (c) the document, or any part of the document:
 - (i) purports to have been altered in any respect by a person who did not alter it in that respect; or
 - (ii) purports to have been altered in any respect on the authority of a person who did not authorise its alteration in that respect; or
 - (d) the document, or any part of the document:
 - (i) purports to have been made or altered by a person who did not exist; or
 - (ii) purports to have been made or altered on the authority of a person who did not exist; or
 - (e) the document, or any part of the document, purports to have been made or altered on a date on which, at a time at which,

at a place at which, or otherwise in circumstances in which, it was not made or altered.

- (2) For the purposes of this Part, a person is taken to **make** a false document if the person alters a document so as to make it a false document (whether or not it was already a false document before the alteration).
- (3) This section has effect as if a document that purports to be a true copy of another document were the original document.

143.3 False Commonwealth documents

- (1) For the purposes of this Part, a document is a **false Commonwealth document** if, and only if:
 - (a) the document, or any part of the document:
 - (i) purports to have been made in the form in which it is made by a Commonwealth entity, or a Commonwealth public official, who did not make it in that form; or
 - (ii) purports to have been made in the form in which it is made on the authority of a Commonwealth entity, or a Commonwealth public official, who did not authorise its making in that form; or
 - (b) the document, or any part of the document:
 - (i) purports to have been made in the terms in which it is made by a Commonwealth entity, or a Commonwealth public official, who did not make it in those terms; or
 - (ii) purports to have been made in the terms in which it is made on the authority of a Commonwealth entity, or a Commonwealth public official, who did not authorise its making in those terms; or
 - (c) the document, or any part of the document:
 - (i) purports to have been altered in any respect by a Commonwealth entity, or a Commonwealth public official, who did not alter it in that respect; or
 - (ii) purports to have been altered in any respect on the authority of a Commonwealth entity, or a Commonwealth public official, who did not authorise its alteration in that respect; or
 - (d) the document, or any part of the document:

- (i) purports to have been made or altered by a Commonwealth entity, or a Commonwealth public official, who did not exist; or
 - (ii) purports to have been made or altered on the authority of a Commonwealth entity, or a Commonwealth public official, who did not exist; or
 - (e) the document, or any part of the document, purports to have been made or altered by a Commonwealth entity, or a Commonwealth public official, on a date on which, at a time at which, at a place at which, or otherwise in circumstances in which, it was not made or altered.
- (2) For the purposes of this Part, a person is taken to **make** a false Commonwealth document if the person alters a document so as to make it a false Commonwealth document (whether or not it was already a false Commonwealth document before the alteration).
 - (3) This section has effect as if a document that purports to be a true copy of another document were the original document.
 - (4) A reference in this section to a **Commonwealth public official** is a reference to a person in the person's capacity as a Commonwealth public official.

143.4 Inducing acceptance of false documents

If it is necessary for the purposes of this Part to prove an intent to induce a person in the person's capacity as a public official to accept a false document as genuine, it is not necessary to prove that the defendant intended so to induce a particular person in the person's capacity as a public official.

Division 144—Forgery

144.1 Forgery

- (1) A person is guilty of an offence if:
 - (a) the person makes a false document with the intention that the person or another will use it:
 - (i) to dishonestly induce a third person in the third person's capacity as a public official to accept it as genuine; and

- (ii) if it is so accepted, to dishonestly obtain a gain, dishonestly cause a loss, or dishonestly influence the exercise of a public duty or function; and
- (b) the capacity is a capacity as a Commonwealth public official.

Penalty: Imprisonment for 10 years.

- (2) In a prosecution for an offence against subsection (1), it is not necessary to prove that the defendant knew that the capacity was a capacity as a Commonwealth public official.
- (3) A person is guilty of an offence if:
 - (a) the person makes a false document with the intention that the person or another will use it:
 - (i) to dishonestly cause a computer, a machine or an electronic device to respond to the document as if the document were genuine; and
 - (ii) if it is so responded to, to dishonestly obtain a gain, dishonestly cause a loss, or dishonestly influence the exercise of a public duty or function; and
 - (b) the response is in connection with the operations of a Commonwealth entity.

Penalty: Imprisonment for 10 years.

- (4) In a prosecution for an offence against subsection (3), it is not necessary to prove that the defendant knew that the response was in connection with the operations of a Commonwealth entity.
- (5) A person is guilty of an offence if:
 - (a) the person makes a false document with the intention that the person or another will use it:
 - (i) to dishonestly induce a third person to accept it as genuine; and
 - (ii) if it is so accepted, to dishonestly obtain a gain, dishonestly cause a loss, or dishonestly influence the exercise of a public duty or function; and
 - (b) the false document is a false Commonwealth document.

Penalty: Imprisonment for 10 years.

- (6) In a prosecution for an offence against subsection (5), it is not necessary to prove that the defendant knew that the false document was a false Commonwealth document.
- (7) A person is guilty of an offence if:
 - (a) the person makes a false document with the intention that the person or another will use it:
 - (i) to dishonestly cause a computer, a machine or an electronic device to respond to the document as if the document were genuine; and
 - (ii) if it is so responded to, to dishonestly obtain a gain, dishonestly cause a loss, or dishonestly influence the exercise of a public duty or function; and
 - (b) the false document is a false Commonwealth document.

Penalty: Imprisonment for 10 years.
- (8) In a prosecution for an offence against subsection (7), it is not necessary to prove that the defendant knew that the false document was a false Commonwealth document.
- (9) Section 15.4 (extended geographical jurisdiction—category D) applies to an offence against subsection (1), (3), (5) or (7).

Division 145—Offences relating to forgery

145.1 Using forged document

- (1) A person is guilty of an offence if:
 - (a) the person knows that a document is a false document and uses it with the intention of:
 - (i) dishonestly inducing another person in the other person's capacity as a public official to accept it as genuine; and
 - (ii) if it is so accepted, dishonestly obtaining a gain, dishonestly causing a loss, or dishonestly influencing the exercise of a public duty or function; and
 - (b) the capacity is a capacity as a Commonwealth public official.

Penalty: Imprisonment for 10 years.

- (2) In a prosecution for an offence against subsection (1), it is not necessary to prove that the defendant knew that the capacity was a capacity as a Commonwealth public official.
- (3) A person is guilty of an offence if:
 - (a) the person knows that a document is a false document and uses it with the intention of:
 - (i) dishonestly causing a computer, a machine or an electronic device to respond to the document as if the document were genuine; and
 - (ii) if it is so responded to, dishonestly obtaining a gain, dishonestly causing a loss, or dishonestly influencing the exercise of a public duty or function; and
 - (b) the response is in connection with the operations of a Commonwealth entity.

Penalty: Imprisonment for 10 years.

- (4) In a prosecution for an offence against subsection (3), it is not necessary to prove that the defendant knew that the response was in connection with the operations of a Commonwealth entity.
- (5) A person is guilty of an offence if:
 - (a) the person knows that a document is a false document and uses it with the intention of:
 - (i) dishonestly inducing another person to accept it as genuine; and
 - (ii) if it is so accepted, dishonestly obtaining a gain, dishonestly causing a loss, or dishonestly influencing the exercise of a public duty or function; and
 - (b) the false document is a false Commonwealth document.

Penalty: Imprisonment for 10 years.

- (6) In a prosecution for an offence against subsection (5), it is not necessary to prove that the defendant knew that the false document was a false Commonwealth document.
- (7) A person is guilty of an offence if:
 - (a) the person knows that a document is a false document and uses it with the intention of:

- (i) dishonestly causing a computer, a machine or an electronic device to respond to the document as if the document were genuine; and
- (ii) if it is so responded to, dishonestly obtaining a gain, dishonestly causing a loss, or dishonestly influencing the exercise of a public duty or function; and
- (b) the false document is a false Commonwealth document.

Penalty: Imprisonment for 10 years.

- (8) In a prosecution for an offence against subsection (7), it is not necessary to prove that the defendant knew that the false document was a false Commonwealth document.

145.2 Possession of forged document

- (1) A person is guilty of an offence if:
 - (a) the person knows that a document is a false document and has it in his or her possession with the intention that the person or another will use it:
 - (i) to dishonestly induce a third person in the third person's capacity as a public official to accept it as genuine; and
 - (ii) if it is so accepted, to dishonestly obtain a gain, dishonestly cause a loss, or dishonestly influence the exercise of a public duty or function; and
 - (b) the capacity is a capacity as a Commonwealth public official.

Penalty: Imprisonment for 10 years.

- (2) In a prosecution for an offence against subsection (1), it is not necessary to prove that the defendant knew that the capacity was a capacity as a Commonwealth public official.
- (3) A person is guilty of an offence if:
 - (a) the person knows that a document is a false document and has it in his or her possession with the intention that the person or another will use it:
 - (i) to cause a computer, a machine or an electronic device to respond to the document as if the document were genuine; and

- (ii) if it is so responded to, to dishonestly obtain a gain, dishonestly cause a loss, or dishonestly influence the exercise of a public duty or function; and
- (b) the response is in connection with the operations of a Commonwealth entity.

Penalty: Imprisonment for 10 years.

- (4) In a prosecution for an offence against subsection (3), it is not necessary to prove that the defendant knew that the response was in connection with the operations of a Commonwealth entity.
- (5) A person is guilty of an offence if:
 - (a) the person knows that a document is a false document and has it in his or her possession with the intention that the person or another will use it:
 - (i) to dishonestly induce a third person to accept it as genuine; and
 - (ii) if it is so accepted, to dishonestly obtain a gain, dishonestly cause a loss, or dishonestly influence the exercise of a public duty or function; and
 - (b) the false document is a false Commonwealth document.

Penalty: Imprisonment for 10 years.

- (6) In a prosecution for an offence against subsection (5), it is not necessary to prove that the defendant knew that the false document was a false Commonwealth document.
- (7) A person is guilty of an offence if:
 - (a) the person knows that a document is a false document and has it in his or her possession with the intention that the person or another will use it:
 - (i) to dishonestly cause a computer, a machine or an electronic device to respond to the document as if the document were genuine; and
 - (ii) if it is so responded to, to dishonestly obtain a gain, dishonestly cause a loss, or dishonestly influence the exercise of a public duty or function; and
 - (b) the false document is a false Commonwealth document.

Penalty: Imprisonment for 10 years.

- (8) In a prosecution for an offence against subsection (7), it is not necessary to prove that the defendant knew that the false document was a false Commonwealth document.

145.3 Possession, making or adaptation of devices etc. for making forgeries

- (1) A person is guilty of an offence if:
- (a) the person knows that a device, material or other thing is designed or adapted for the making of a false document (whether or not the device, material or thing is designed or adapted for another purpose); and
 - (b) the person has the device, material or thing in his or her possession with the intention that the person or another person will use it to commit an offence against section 144.1.

Penalty: Imprisonment for 10 years.

- (2) A person is guilty of an offence if:
- (a) the person makes or adapts a device, material or other thing; and
 - (b) the person knows that the device, material or other thing is designed or adapted for the making of a false document (whether or not the device, material or thing is designed or adapted for another purpose); and
 - (c) the person makes or adapts the device, material or thing with the intention that the person or another person will use it to commit an offence against section 144.1.

Penalty: Imprisonment for 10 years.

- (3) A person is guilty of an offence if:
- (a) the person knows that a device, material or other thing is designed or adapted for the making of a false Commonwealth document (whether or not the device, material or thing is designed or adapted for another purpose); and
 - (b) the person has the device, material or thing in his or her possession; and

- (c) the person does not have a reasonable excuse for having the device, material or thing in his or her possession.

Penalty: Imprisonment for 2 years.

Note: A defendant bears an evidential burden in relation to the matter in paragraph (3)(c). See subsection 13.3(3).

- (4) A person is guilty of an offence if:
 - (a) the person makes or adapts a device, material or other thing; and
 - (b) the person knows that the device, material or other thing is designed or adapted for the making of a false Commonwealth document (whether or not the device, material or thing is designed or adapted for another purpose).

Penalty: Imprisonment for 2 years.

Note: See also section 10.5 (lawful authority).

145.4 Falsification of documents etc.

- (1) A person is guilty of an offence if:
 - (a) the person dishonestly damages, destroys, alters, conceals or falsifies a document; and
 - (b) the document is:
 - (i) kept, retained or issued for the purposes of a law of the Commonwealth; or
 - (ii) made by a Commonwealth entity or a person in the capacity of a Commonwealth public official; or
 - (iii) held by a Commonwealth entity or a person in the capacity of a Commonwealth public official; and
 - (c) the first-mentioned person does so with the intention of:
 - (i) obtaining a gain; or
 - (ii) causing a loss.

Penalty: Imprisonment for 7 years.

- (1A) Absolute liability applies to the paragraph (1)(b) element of the offence.

- (2) A person is guilty of an offence if:

- (a) the person dishonestly damages, destroys, alters, conceals or falsifies a document; and
- (b) the person does so with the intention of:
 - (i) obtaining a gain from another person; or
 - (ii) causing a loss to another person; and
- (c) the other person is a Commonwealth entity.

Penalty: Imprisonment for 7 years.

- (3) In a prosecution for an offence against subsection (2), it is not necessary to prove that the defendant knew that the other person was a Commonwealth entity.

145.5 Giving information derived from false or misleading documents

- (1) A person is guilty of an offence if:
 - (a) the person dishonestly gives information to another person; and
 - (b) the information was derived, directly or indirectly, from a document that, to the knowledge of the first-mentioned person, is false or misleading in a material particular; and
 - (c) the document is:
 - (i) kept, retained or issued for the purposes of a law of the Commonwealth; or
 - (ii) made by a Commonwealth entity or a person in the capacity of a Commonwealth public official; or
 - (iii) held by a Commonwealth entity or a person in the capacity of a Commonwealth public official; and
 - (d) the first-mentioned person does so with the intention of:
 - (i) obtaining a gain; or
 - (ii) causing a loss.

Penalty: Imprisonment for 7 years.

- (1A) Absolute liability applies to the paragraph (1)(c) element of the offence.

- (2) A person is guilty of an offence if:

- (a) the person dishonestly gives information to another person; and
- (b) the information was derived, directly or indirectly, from a document that, to the knowledge of the first-mentioned person, is false or misleading in a material particular; and
- (c) the first-mentioned person does so with the intention of:
 - (i) obtaining a gain from another person; or
 - (ii) causing a loss to another person; and
- (d) the other person is a Commonwealth entity.

Penalty: Imprisonment for 7 years.

- (3) In a prosecution for an offence against subsection (2), it is not necessary to prove that the defendant knew that the other person was a Commonwealth entity.

145.6 Geographical jurisdiction

Section 15.4 (extended geographical jurisdiction—category D) applies to each offence against this Division.

Part 7.8—Causing harm to, and impersonation and obstruction of, Commonwealth public officials

Division 146—Preliminary

146.1 Definitions

In this Part:

Commonwealth law enforcement officer means a person who is:

- (a) a member or special member of the Australian Federal Police; or
- (b) a member of the National Crime Authority; or
- (c) a member of the staff of the National Crime Authority; or
- (d) the Chief Executive Officer of Customs; or
- (e) a person employed in the Australian Customs Service.

fear includes apprehension.

harm means:

- (a) physical harm (whether temporary or permanent); or
- (b) harm to a person's mental health (whether temporary or permanent);

but does not include being subjected to a force or impact that is within the limits of what is reasonably acceptable as incidental to:

- (c) social interaction; or
- (d) life in the community.

harm to a person's mental health includes significant psychological harm to the person, but does not include a reference to ordinary emotional reactions (for example, distress, grief, fear or anger).

physical harm includes:

- (a) unconsciousness; and
- (b) pain; and
- (c) disfigurement; and
- (d) infection with a disease; and
- (e) any physical contact with a person that the person might reasonably object to in the circumstances (whether or not the person was aware of it at the time).

serious harm means any harm (including the cumulative effect of more than one harm) that:

- (a) endangers, or is likely to endanger, a person's life; or
- (b) is, or is likely to be, significant and longstanding.

146.2 Causing harm

For the purposes of this Part, a person's conduct is taken to cause harm if it substantially contributes to harm.

Division 147—Causing harm to Commonwealth public officials

147.1 Causing harm to a Commonwealth public official etc.

Causing harm to a Commonwealth public official

- (1) A person (the **first person**) is guilty of an offence if:
- (a) the first person engages in conduct; and
 - (b) the first person's conduct causes harm to a public official; and
 - (c) the first person intends that his or her conduct cause harm to the official; and
 - (d) the harm is caused without the consent of the official; and
 - (e) the first person engages in his or her conduct because of:
 - (i) the official's status as a public official; or
 - (ii) any conduct engaged in by the official in the official's capacity as a public official; and
 - (ea) the public official is a Commonwealth public official; and
 - (eb) if subparagraph (e)(i) applies—the status mentioned in that subparagraph was status as a Commonwealth public official; and
 - (ec) if subparagraph (e)(ii) applies—the conduct mentioned in that subparagraph was engaged in by the official in the official's capacity as a Commonwealth public official.

Penalty:

- (f) if the official is a Commonwealth judicial officer or a Commonwealth law enforcement officer—imprisonment for 13 years; or
 - (g) in any other case—imprisonment for 10 years.
- (1A) Absolute liability applies to the paragraphs (1)(ea), (eb) and (ec) elements of the offence.

Causing harm to a former Governor-General, former Minister or former Parliamentary Secretary

- (2) A person (the **first person**) is guilty of an offence if:
-

- (a) the first person engages in conduct; and
- (b) the first person's conduct causes harm to another person; and
- (c) the other person is a former Governor-General, a former Minister or a former Parliamentary Secretary; and
- (d) the first person intends that his or her conduct cause harm to the other person; and
- (e) the harm is caused without the consent of the other person; and
- (f) the first person engages in his or her conduct because of:
 - (i) the other person's status as a former Governor-General, former Minister or former Parliamentary Secretary; or
 - (ii) any conduct engaged in by the other person in the other person's former capacity as a Governor-General, Minister or Parliamentary Secretary.

Penalty: Imprisonment for 10 years.

147.2 Threatening to cause harm to a Commonwealth public official etc.

Threatening to cause serious harm

- (1) A person (the **first person**) is guilty of an offence if:
 - (a) the first person makes to another person (the **second person**) a threat to cause serious harm to the second person or to a third person; and
 - (b) the second person or the third person is a public official; and
 - (c) the first person:
 - (i) intends the second person to fear that the threat will be carried out; or
 - (ii) is reckless as to causing the second person to fear that the threat will be carried out; and
 - (d) the first person makes the threat because of:
 - (i) the official's status as a public official; or
 - (ii) any conduct engaged in by the official in the official's capacity as a public official; and
 - (da) the official is a Commonwealth public official; and

(db) if subparagraph (d)(i) applies—the status mentioned in that subparagraph was status as a Commonwealth public official; and

(dc) if subparagraph (d)(ii) applies—the conduct mentioned in that subparagraph was engaged in by the official in the official's capacity as a Commonwealth public official.

Penalty:

(e) if the official is a Commonwealth judicial officer or a Commonwealth law enforcement officer—imprisonment for 9 years; or

(f) in any other case—imprisonment for 7 years.

(1A) Absolute liability applies to the paragraphs (1)(da), (db) and (dc) elements of the offence.

Threatening to cause harm

(2) A person (the **first person**) is guilty of an offence if:

(a) the first person makes to another person (the **second person**) a threat to cause harm to the second person or to a third person; and

(b) the second person or the third person is a public official; and

(c) the first person:

(i) intends the second person to fear that the threat will be carried out; or

(ii) is reckless as to causing the second person to fear that the threat will be carried out; and

(d) the first person makes the threat because of:

(i) the official's status as a public official; or

(ii) any conduct engaged in by the official in the official's capacity as a public official; and

(e) the official is a Commonwealth public official; and

(f) if subparagraph (d)(i) applies—the status mentioned in that subparagraph was status as a Commonwealth public official; and

(g) if subparagraph (d)(ii) applies—the conduct mentioned in that subparagraph was engaged in by the official in the official's capacity as a Commonwealth public official.

Penalty: Imprisonment for 2 years

- (2A) Absolute liability applies to the paragraphs (2)(e), (f) and (g) elements of the offence.

Threatening to cause serious harm to a former Governor-General, former Minister or former Parliamentary Secretary

- (3) A person (the **first person**) is guilty of an offence if:
- (a) the first person makes to another person (the **second person**) a threat to cause serious harm to the second person or to a third person; and
 - (b) the second person or the third person is a former Governor-General, a former Minister or a former Parliamentary Secretary; and
 - (c) the first person:
 - (i) intends the second person to fear that the threat will be carried out; or
 - (ii) is reckless as to causing the second person to fear that the threat will be carried out; and
 - (d) the first person makes the threat because of:
 - (i) the second or third person's status as a former Governor-General, a former Minister or a former Parliamentary Secretary; or
 - (ii) any conduct engaged in by the second or third person in the second or third person's former capacity as a Governor-General, a Minister or a Parliamentary Secretary.

Penalty: Imprisonment for 7 years.

Threats

- (4) For the purposes of this section, a **threat** may be:
- (a) express or implied; or
 - (b) conditional or unconditional.

Unnecessary to prove that a threatened person actually feared harm

- (5) In a prosecution for an offence against this section, it is not necessary to prove that the person threatened actually feared that the threat would be carried out.

147.3 Geographical jurisdiction

Section 15.3 (extended geographical jurisdiction—category C) applies to each offence against this Division.

Division 148—Impersonation of Commonwealth public officials

148.1 Impersonation of an official by a non-official

- (1) A person other than a Commonwealth public official is guilty of an offence if:
- (a) on a particular occasion, the person impersonates another person in that other person's capacity as a Commonwealth public official; and
 - (b) the first-mentioned person does so knowing it to be in circumstances when the official is likely to be on duty; and
 - (c) the first-mentioned person does so with intent to deceive.

Penalty: Imprisonment for 2 years.

- (2) A person other than a Commonwealth public official is guilty of an offence if:
- (a) the person falsely represents himself or herself to be another person in that other person's capacity as a Commonwealth public official; and
 - (b) the first-mentioned person does so in the course of doing an act, or attending a place, in the assumed character of that official.

Penalty: Imprisonment for 2 years.

- (2A) For the purposes of subsection (2), it is immaterial:
- (a) whether the other person exists or is fictitious; and

- (b) whether the other person's capacity as a Commonwealth public official exists or is fictitious.
- (3) A person other than a Commonwealth public official is guilty of an offence if:
 - (a) the person:
 - (i) impersonates another person in that other person's capacity as a Commonwealth public official; or
 - (ii) falsely represents himself or herself to be a another person in that other person's capacity as a Commonwealth public official; and
 - (b) the first-mentioned person does so with the intention of:
 - (i) obtaining a gain; or
 - (ii) causing a loss; or
 - (iii) influencing the exercise of a public duty or function; and
 - (c) if subparagraph (a)(i) applies—the first-mentioned person also does so with intent to deceive.

Penalty: Imprisonment for 5 years.

- (3A) For the purposes of subparagraph (3)(a)(ii), it is immaterial:
 - (a) whether the other person exists or is fictitious; and
 - (b) whether the other person's capacity as a Commonwealth public official exists or is fictitious.
- (4) The definition of **duty** in section 130.1 does not apply to this section.
- (5) To avoid doubt, for the purposes of this section:
 - (a) **impersonation** does not include conduct engaged in solely for satirical purposes; and
 - (b) **false representation** does not include conduct engaged in solely for satirical purposes.

148.2 Impersonation of an official by another official

- (1) A Commonwealth public official is guilty of an offence if:

- (a) on a particular occasion, the official impersonates another person in that other person's capacity as a Commonwealth public official; and
- (b) the first-mentioned official does so knowing it to be in circumstances when the other official is likely to be on duty; and
- (c) the first-mentioned official does so with intent to deceive.

Penalty: Imprisonment for 2 years.

- (2) A Commonwealth public official is guilty of an offence if:
- (a) the official falsely represents himself or herself to be another person in the other person's capacity as a Commonwealth public official; and
 - (b) the first-mentioned official does so in the course of doing an act, or attending a place, in the assumed character of the other official.

Penalty: Imprisonment for 2 years.

- (2A) For the purposes of subsection (2), it is immaterial:

- (a) whether the other person exists or is fictitious; and
- (b) whether the other person's capacity as a Commonwealth public official exists or is fictitious.

- (3) A Commonwealth public official is guilty of an offence if:
- (a) the official:
 - (i) impersonates another person in the other person's capacity as a Commonwealth public official; or
 - (ii) falsely represents himself or herself to be another person in the other person's capacity as a Commonwealth public official; and
 - (b) the first-mentioned official does so with the intention of:
 - (i) obtaining a gain; or
 - (ii) causing a loss; or
 - (iii) influencing the exercise of a public duty or function; and
 - (c) if subparagraph (a)(i) applies—the first-mentioned official also does so with intent to deceive.

Penalty: Imprisonment for 5 years.

- (3A) For the purposes of subparagraph (3)(a)(ii), it is immaterial:
 - (a) whether the other person exists or is fictitious; and
 - (b) whether the other person's capacity as a Commonwealth public official exists or is fictitious.
- (4) The definition of **duty** in section 130.1 does not apply to this section.
- (5) To avoid doubt, for the purposes of this section:
 - (a) **impersonation** does not include conduct engaged in solely for satirical purposes; and
 - (b) **false representation** does not include conduct engaged in solely for satirical purposes.

148.3 Geographical jurisdiction

Section 15.3 (extended geographical jurisdiction—category C) applies to each offence against this Division.

Division 149—Obstruction of Commonwealth public officials

149.1 Obstruction of Commonwealth public officials

- (1) A person is guilty of an offence if:
 - (a) the person knows that another person is a public official; and
 - (b) the first-mentioned person obstructs, hinders, intimidates or resists the official in the performance of the official's functions; and
 - (c) the official is a Commonwealth public official; and
 - (d) the functions are functions as a Commonwealth public official.

Penalty: Imprisonment for 2 years.

- (2) In a prosecution for an offence against subsection (1), it is not necessary to prove that the defendant knew:
 - (a) that the official was a Commonwealth public official; or

- (b) that the functions were functions as a Commonwealth public official.
- (3) For the purposes of this section, it is immaterial whether the defendant was aware that the public official was performing the official's functions.
- (4) Section 15.3 (extended geographical jurisdiction—category C) applies to an offence against subsection (1).
- (5) The definition of *duty* in section 130.1 does not apply to this section.
- (6) In this section:

function:

- (a) in relation to a person who is a public official—means any authority, duty, function or power that is conferred on the person as a public official; or
- (b) in relation to a person who is a Commonwealth public official—means any authority, duty, function or power that is conferred on the person as a Commonwealth public official.

Part 7.20—Miscellaneous

Division 261—Miscellaneous

261.1 Saving of other laws

This Chapter is not intended to exclude or limit the operation of any other law of the Commonwealth or any law of a State or Territory.

261.2 Contempt of court

This Chapter does not limit the power of a court to punish a contempt of the court.

261.3 Ancillary offences

To avoid doubt, subsection 11.6(2) does not apply to the following provisions:

- (a) subsection 131.1(2) (theft);
- (b) subsection 132.1(2) (receiving);
- (c) subsection 132.2(2) (robbery);
- (d) subsection 132.3(2) (aggravated robbery);
- (e) subsections 132.4(2), (5) and (9) (burglary);
- (f) subsection 132.5(2) (aggravated burglary);
- (g) the definitions of *aggravated burglary*, *aggravated robbery*, *burglary*, *receiving*, *robbery* and *theft* in the Dictionary.

16 The Schedule (before the Dictionary in the Criminal Code)

Insert:

Chapter 10—National infrastructure

Part 10.5—Postal services

Division 470—Preliminary

470.1 Definitions

In this Part:

article has the same meaning as in the *Australian Postal Corporation Act 1989*.

article in the course of post means an article that is being carried by post, and includes an article that has been collected or received by or on behalf of Australia Post for carriage by post, but has not been delivered by or on behalf of Australia Post.

Australia Post means the Australian Postal Corporation.

carry, in relation to an article, has the same meaning as in the *Australian Postal Corporation Act 1989*.

carry by post has the same meaning as in the *Australian Postal Corporation Act 1989*.

mail-receptacle means a mail-bag, package, parcel, container, wrapper, receptacle or similar thing that:

- (a) belongs to, or is in the possession of, Australia Post; and
- (b) is used, or intended for use, in the carriage of articles by post (whether or not it actually contains such articles).

postage stamp has the same meaning as in the *Australian Postal Corporation Act 1989*.

postal message means:

- (a) a material record of an unwritten communication:
 - (i) carried by post; or
 - (ii) collected or received by Australia Post for carriage by post; or
- (b) a material record issued by Australia Post as a record of an unwritten communication:
 - (i) carried by post; or
 - (ii) collected or received by Australia Post for carriage by post.

property has the same meaning as in Chapter 7.

unwritten communication has the same meaning as in the *Australian Postal Corporation Act 1989*.

470.2 Dishonesty

For the purposes of this Part, **dishonest** means:

- (a) dishonest according to the standards of ordinary people; and
- (b) known by the defendant to be dishonest according to the standards of ordinary people.

470.3 Determination of dishonesty to be a matter for the trier of fact

In a prosecution for an offence against this Part, the determination of dishonesty is a matter for the trier of fact.

Division 471—Postal offences

471.1 Theft of mail-receptacles, articles or postal messages

- (1) A person is guilty of an offence if:
 - (a) the person dishonestly appropriates:
-

- (i) a mail-receptacle; or
- (ii) an article in the course of post (including an article that appears to have been lost or wrongly delivered by or on behalf of Australia Post or lost in the course of delivery to Australia Post); or
- (iii) a postal message; and
- (b) the person does so with the intention of permanently depriving another person of the mail-receptacle, article or postal message.

Penalty: Imprisonment for 10 years.

Dishonesty

- (2) For the purposes of this section, a person's appropriation of a mail-receptacle, article or postal message may be dishonest even if the person or another person is willing to pay for the mail-receptacle, article or postal message.

Intention of permanently depriving a person of a mail-receptacle, article or postal message

- (3) For the purposes of this section, if:
 - (a) a person appropriates a mail-receptacle, article or postal message without meaning another permanently to lose the thing itself; and
 - (b) the person's intention is to treat the thing as the person's own to dispose of regardless of the other's rights;
 the person has the intention of permanently depriving the other of it.
- (4) For the purposes of subsection (3), a borrowing or lending of a thing amounts to treating the thing as the borrower's or lender's own to dispose of regardless of another's rights if, and only if, the borrowing or lending is for a period and in circumstances making it equivalent to an outright taking or disposal.

471.2 Receiving stolen mail-receptacles, articles or postal messages

- (1) A person is guilty of an offence if the person dishonestly receives stolen property, knowing or believing the property to be stolen.

Penalty: Imprisonment for 10 years.

Stolen property

- (2) For the purposes of this section, property is ***stolen property*** if, and only if:
- (a) it is original stolen property (as defined by subsection (3)); or
 - (b) it is tainted property (as defined by subsection (5)).
- This subsection has effect subject to subsection (4).

Original stolen property

- (3) For the purposes of this section, ***original stolen property*** is property, or a part of property, that:
- (a) was appropriated in the course of an offence against section 471.1 (whether or not the property, or the part of the property, is in the state it was in when it was so appropriated); and
 - (b) is in the possession or custody of the person who so appropriated the property.
- (4) For the purposes of this section, property ceases to be original stolen property:
- (a) after the property is restored:
 - (i) to the person from whom it was appropriated; or
 - (ii) to other lawful possession or custody; or
 - (b) after:
 - (i) the person from whom the property was appropriated ceases to have any right to restitution in respect of the property; or
 - (ii) a person claiming through the person from whom the property was appropriated ceases to have any right to restitution in respect of the property.

Tainted property

- (5) For the purposes of this section, ***tainted property*** is property that:
- (a) is (in whole or in part) the proceeds of sale of, or property exchanged for, original stolen property; and

- (b) is in the possession or custody of the person who so appropriated the original stolen property.

Alternative verdicts

- (6) If, in a prosecution for an offence against section 471.1, the trier of fact is not satisfied that the defendant is guilty of the offence, but is satisfied beyond reasonable doubt that the defendant is guilty of an offence against this section, the trier of fact may find the defendant not guilty of the offence against section 471.1 but guilty of the offence against this section, so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.
- (7) If, in a prosecution for an offence against this section, the trier of fact is not satisfied that the defendant is guilty of the offence, but is satisfied beyond reasonable doubt that the defendant is guilty of an offence against section 471.1, the trier of fact may find the defendant not guilty of the offence against this section but guilty of the offence against section 471.1, so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.

Receiving stolen property before commencement

- (8) For the purposes of this section:
 - (a) it is to be assumed that section 471.1 had been in force at all times before the commencement of this section; and
 - (b) property that was appropriated at a time before the commencement of this section does not become ***stolen property*** unless the property was appropriated in circumstances that (apart from paragraph (a)) amounted to an offence against a law of the Commonwealth in force at that time.

471.3 Taking or concealing of mail-receptacles, articles or postal messages

A person is guilty of an offence if the person dishonestly takes or conceals:

- (a) a mail-receptacle; or
- (b) an article in the course of post (including an article that appears to have been lost or wrongly delivered by or on

behalf of Australia Post or lost in the course of delivery to Australia Post); or

(c) a postal message.

Penalty: Imprisonment for 5 years.

471.4 Dishonest removal of postage stamps or postmarks

A person is guilty of an offence if the person dishonestly:

- (a) removes any postage stamp affixed to, or printed on, an article; or
- (b) removes any postmark from a postage stamp that has previously been used for postal services.

Penalty: Imprisonment for 12 months.

471.5 Dishonest use of previously used, defaced or obliterated stamps

(1) A person is guilty of an offence if the person dishonestly uses for postal services a postage stamp:

- (a) that has previously been used for postal services; or
- (b) that has been obliterated; or
- (c) that has been defaced.

Penalty: Imprisonment for 12 months.

(2) If, in proceedings for an offence against subsection (1), it is proved that the defendant caused an article to or on which was affixed or printed a postage stamp:

- (a) that had previously been used for postal services; or
- (b) that had been obliterated; or
- (c) that had been defaced;

to be carried by post, it is presumed, in the absence of evidence to the contrary, that the defendant used the stamp for postal services.

(3) The burden of proof in respect of evidence to the contrary is an evidential burden of proof.

471.6 Damaging or destroying mail-receptacles, articles or postal messages

- (1) A person is guilty of an offence if:
- (a) the person engages in conduct; and
 - (b) the person's conduct causes damage to, or the destruction of:
 - (i) a mail-receptacle; or
 - (ii) an article in the course of post (including an article that appears to have been lost or wrongly delivered by or on behalf of Australia Post or lost in the course of delivery to Australia Post); or
 - (iii) a postal message; and
 - (c) the person:
 - (i) intends that his or her conduct cause that damage; or
 - (ii) is reckless as to whether his or her conduct causes that damage.

Penalty: Imprisonment for 10 years.

- (2) For the purposes of this section, a person's conduct is taken to cause the destruction of a thing if the person's conduct causes the physical loss of the thing by interfering with the thing (including by removing any restraint over the thing or abandoning the thing).
- (3) For the purposes of this section, a person's conduct is taken to cause damage to a thing if:
- (a) the person's conduct causes any loss of a use of the function of the thing by interfering with the thing; or
 - (b) the person's conduct causes the thing to be defaced.

471.7 Tampering with mail-receptacles

- (1) A person is guilty of an offence if the person dishonestly:
- (a) opens a mail-receptacle; or
 - (b) tampers with a mail-receptacle.

Penalty: Imprisonment for 5 years.

- (2) A person is guilty of an offence if:
- (a) the person intentionally opens a mail-receptacle; and

- (b) the person is not authorised by Australia Post to open the mail-receptacle; and
- (c) the person does so knowing that he or she is not authorised by Australia Post to open the mail-receptacle.

Penalty: Imprisonment for 2 years.

471.8 Dishonestly obtaining delivery of articles

A person is guilty of an offence if the person dishonestly obtains delivery of, or receipt of, an article in the course of post that is not directed to the person.

Penalty: Imprisonment for 5 years.

471.9 Geographical jurisdiction

Section 15.3 (extended geographical jurisdiction—category C) applies to each offence against this Part.

Division 472—Miscellaneous

472.1 Saving of other laws

This Part is not intended to exclude or limit the operation of any other law of the Commonwealth or any law of a State or Territory.

472.2 Interpretation of other laws

In determining the meaning of a provision of:

- (a) Part VIIA of the *Crimes Act 1914*; or
 - (b) the *Australian Postal Corporation Act 1989*;
- this Part is to be disregarded.

Part 10.6—Telecommunications

Division 473—Preliminary

473.1 Definitions

In this Part:

loss means a loss in property, whether temporary or permanent, and includes not getting what one might get.

obtaining includes:

- (a) obtaining for another person; and
- (b) inducing a third person to do something that results in another person obtaining.

property has the same meaning as in Chapter 7.

carriage service has the same meaning as in the *Telecommunications Act 1997*.

carriage service provider has the same meaning as in the *Telecommunications Act 1997*.

473.2 Dishonesty

For the purposes of this Part, **dishonest** means:

- (a) dishonest according to the standards of ordinary people; and
- (b) known by the defendant to be dishonest according to the standards of ordinary people.

473.3 Determination of dishonesty to be a matter for the trier of fact

In a prosecution for an offence against this Part, the determination of dishonesty is a matter for the trier of fact.

Division 474—Telecommunications offences

474.1 General dishonesty with respect to a carriage service provider

Obtaining a gain

- (1) A person is guilty of an offence if the person does anything with the intention of dishonestly obtaining a gain from a carriage service provider by way of the supply of a carriage service.

Penalty: Imprisonment for 5 years.

Causing a loss

- (2) A person is guilty of an offence if the person does anything with the intention of dishonestly causing a loss to a carriage service provider in connection with the supply of a carriage service.

Penalty: Imprisonment for 5 years.

- (3) A person is guilty of an offence if:
- (a) the person dishonestly causes a loss, or dishonestly causes a risk of loss, to a carriage service provider in connection with the supply of a carriage service; and
 - (b) the person knows or believes that the loss will occur or that there is a substantial risk of the loss occurring.

Penalty: Imprisonment for 5 years.

Division 475—Miscellaneous

475.1 Saving of other laws

This Part is not intended to exclude or limit the operation of any other law of the Commonwealth or any law of a State or Territory.

17 The Dictionary in the Criminal Code

Insert:

aggravated burglary means an offence against section 132.5.

18 The Dictionary in the Criminal Code

Insert:

aggravated robbery means an offence against section 132.3.

19 The Dictionary in the Criminal Code

Insert:

ancillary offence means:

- (a) an offence against section 11.1, 11.4 or 11.5; or
- (b) an offence against a law of the Commonwealth, to the extent to which the offence arises out of the operation of section 11.2 or 11.3.

20 The Dictionary in the Criminal Code

Insert:

Australian aircraft means:

- (a) an aircraft registered, or required to be registered, under the Civil Aviation Regulations as an Australian aircraft; or
- (b) an aircraft (other than a defence aircraft) that is owned by, or in the possession or control of, a Commonwealth entity; or
- (c) a defence aircraft.

21 The Dictionary in the Criminal Code

Insert:

Australian ship means:

- (a) a ship registered, or required to be registered, under the *Shipping Registration Act 1981*; or
- (b) an unregistered ship that has Australian nationality; or
- (c) a defence ship.

22 The Dictionary in the Criminal Code

Insert:

burglary means an offence against section 132.4.

23 The Dictionary in the Criminal Code

Insert:

Commonwealth authority means a body established by or under a law of the Commonwealth, but does not include:

- (a) a body established by or under:
 - (i) the *Aboriginal Councils and Associations Act 1976*; or
 - (ii) the *Australian Capital Territory (Self-Government) Act 1988*; or
 - (iii) the Corporations Law of the Australian Capital Territory; or
 - (iv) the *Norfolk Island Act 1979*; or
 - (v) the *Northern Territory (Self-Government) Act 1978*; or
 - (vi) Part IX of the *Workplace Relations Act 1996*; or
- (b) a body specified in the regulations.

24 The Dictionary in the Criminal Code

Insert:

Commonwealth contract means a contract, to which a Commonwealth entity is a party, under which services are to be, or were to be, provided to a Commonwealth entity.

25 The Dictionary in the Criminal Code

Insert:

Commonwealth entity means:

- (a) the Commonwealth; or
- (b) a Commonwealth authority.

26 The Dictionary in the Criminal Code

Insert:

Commonwealth judicial officer means:

- (a) a Justice of the High Court; or
- (b) a judge or justice of a court created by the Parliament (other than the Federal Magistrates Court); or
- (c) a Federal Magistrate; or
- (d) a registrar or other officer of the High Court; or
- (e) a judicial registrar, registrar or other officer of a court created by the Parliament; or
- (f) a judge, justice, magistrate or other judicial officer of a court of a State or Territory who acts in the exercise of federal jurisdiction; or
- (g) a judicial registrar, registrar or other officer of a court of a State or Territory who exercises powers, or performs functions, incidental to the exercise of federal jurisdiction; or
- (h) a judge, justice, magistrate or other judicial officer of a court of a State or Territory who acts in the exercise of jurisdiction under a law in force in a Territory (other than the Australian Capital Territory, the Northern Territory or the Territory of Norfolk Island); or
- (i) a judicial registrar, registrar or other officer of a court of a State or Territory who exercises powers, or performs functions, incidental to the exercise of jurisdiction under a

law in force in a Territory (other than the Australian Capital Territory, the Northern Territory or the Territory of Norfolk Island).

27 The Dictionary in the Criminal Code

Insert:

Commonwealth public official means:

- (a) the Governor-General; or
 - (b) a person appointed to administer the Government of the Commonwealth under section 4 of the Constitution; or
 - (c) a Minister; or
 - (d) a Parliamentary Secretary; or
 - (e) a member of either House of the Parliament; or
 - (f) an individual who holds an appointment under section 67 of the Constitution; or
 - (g) the Administrator, an Acting Administrator, or a Deputy Administrator, of the Northern Territory; or
 - (h) the Administrator, an Acting Administrator, or a Deputy Administrator, of Norfolk Island; or
 - (i) a Commonwealth judicial officer; or
 - (j) an APS employee; or
 - (k) an individual employed by the Commonwealth otherwise than under the *Public Service Act 1999*; or
 - (l) a member of the Australian Defence Force; or
 - (m) a member or special member of the Australian Federal Police; or
 - (n) an individual who holds or performs the duties of an office established by or under a law of the Commonwealth, other than:
 - (i) the *Aboriginal Councils and Associations Act 1976*; or
 - (ii) the *Australian Capital Territory (Self-Government) Act 1988*; or
 - (iii) the Corporations Law of the Australian Capital Territory; or
 - (iv) the *Norfolk Island Act 1979*; or
 - (v) the *Northern Territory (Self-Government) Act 1978*; or
 - (vi) Part IX of the *Workplace Relations Act 1996*; or
-

- (o) an officer or employee of a Commonwealth authority; or
- (p) an individual who is a contracted service provider for a Commonwealth contract; or
- (q) an individual who is an officer or employee of a contracted service provider for a Commonwealth contract and who provides services for the purposes (whether direct or indirect) of the Commonwealth contract; or
- (r) an individual who exercises powers, or performs functions, conferred on the person by or under a law of the Commonwealth, other than:
 - (i) the *Aboriginal Councils and Associations Act 1976*; or
 - (ii) the *Australian Capital Territory (Self-Government) Act 1988*; or
 - (iii) the Corporations Law of the Australian Capital Territory; or
 - (iv) the *Norfolk Island Act 1979*; or
 - (v) the *Northern Territory (Self-Government) Act 1978*; or
 - (vi) Part IX of the *Workplace Relations Act 1996*; or
 - (vii) a provision specified in the regulations; or
- (s) an individual who exercises powers, or performs functions, conferred on the person under a law in force in the Territory of Christmas Island or the Territory of Cocos (Keeling) Islands (whether the law is a law of the Commonwealth or a law of the Territory concerned); or
- (t) the Registrar, or a Deputy Registrar, of Aboriginal Corporations.

28 The Dictionary in the Criminal Code

Insert:

contracted service provider, for a Commonwealth contract, means:

- (a) a person who is a party to the Commonwealth contract and who is responsible for the provision of services to a Commonwealth entity under the Commonwealth contract; or
- (b) a subcontractor for the Commonwealth contract.

29 The Dictionary in the Criminal Code

Insert:

defence aircraft means an aircraft of any part of the Australian Defence Force, and includes an aircraft that is being commanded or piloted by a member of that Force in the course of his or her duties as such a member.

30 The Dictionary in the Criminal Code

Insert:

defence ship means a ship of any part of the Australian Defence Force, and includes a ship that is being operated or commanded by a member of that Force in the course of his or her duties as such a member.

31 The Dictionary in the Criminal Code

Insert:

electronic communication means a communication of information:

- (a) whether in the form of text; or
 - (b) whether in the form of data; or
 - (c) whether in the form of speech, music or other sounds; or
 - (d) whether in the form of visual images (animated or otherwise); or
 - (e) whether in any other form; or
 - (f) whether in any combination of forms;
- by means of guided and/or unguided electromagnetic energy.

32 The Dictionary in the Criminal Code

Insert:

engage in conduct is defined in subsection 4.1(2).

33 The Dictionary in the Criminal Code

Insert:

foreign country includes:

- (a) a colony or overseas territory; and
- (b) a territory outside Australia, where a foreign country is to any extent responsible for the international relations of the territory; and

- (c) a territory outside Australia that is to some extent self-governing, but that is not recognised as an independent sovereign state by Australia.

34 The Dictionary in the Criminal Code

Insert:

person includes a Commonwealth authority that is not a body corporate, and **another** has a corresponding meaning.

Note: This definition supplements paragraph 22(1)(a) of the *Acts Interpretation Act 1901*. That paragraph provides that **person** includes a body politic or corporate as well as an individual.

35 The Dictionary in the Criminal Code

Insert:

primary offence means an offence against a law of the Commonwealth, other than an ancillary offence.

36 The Dictionary in the Criminal Code

Insert:

public official includes:

- (a) a Commonwealth public official; and
- (b) an officer or employee of the Commonwealth or of a State or Territory; and
- (c) an individual who performs work for the Commonwealth, or for a State or Territory, under a contract; and
- (d) an individual who holds or performs the duties of an office established by a law of the Commonwealth or of a State or Territory; and
- (e) an individual who is otherwise in the service of the Commonwealth or of a State or Territory (including service as a member of a military force or police force); and
- (f) a member of the executive, judiciary or magistracy of the Commonwealth or of a State or Territory; and
- (g) a member of the legislature of the Commonwealth or of a State or Territory; and
- (h) an officer or employee of:
 - (i) an authority of the Commonwealth; or

- (ii) an authority of a State or Territory.

37 The Dictionary in the Criminal Code

Insert:

receiving means an offence against section 132.1.

38 The Dictionary in the Criminal Code

Insert:

robbery means an offence against section 132.2.

39 The Dictionary in the Criminal Code

Insert:

services provided to a Commonwealth entity includes services that consist of the provision of services to other persons in connection with the performance of the Commonwealth entity's functions.

39A The Dictionary in the Criminal Code

Insert:

special liability provision means:

- (a) a provision that provides that absolute liability applies to one or more (but not all) of the physical elements of an offence; or
- (b) a provision that provides that, in a prosecution for an offence, it is not necessary to prove that the defendant knew a particular thing; or
- (c) a provision that provides that, in a prosecution for an offence, it is not necessary to prove that the defendant knew or believed a particular thing.

40 The Dictionary in the Criminal Code

Insert:

subcontractor, for a Commonwealth contract, means a person:

- (a) who is a party to a contract (the *subcontract*):
 - (i) with a contracted service provider for the Commonwealth contract (within the meaning of

- paragraph (a) of the definition of *contracted service provider*); or
- (ii) with a subcontractor for the Commonwealth contract (under a previous application of this definition); and
- (b) who is responsible under the subcontract for the provision of services to a Commonwealth entity, or to a contracted service provider for the Commonwealth contract, for the purposes (whether direct or indirect) of the Commonwealth contract.

41 The Dictionary in the Criminal Code

Insert:

theft means an offence against section 131.1.

Schedule 2—Amendment of other laws

Part 1—Amendments

Aboriginal and Torres Strait Islander Commission Act 1989

1 Subsection 90(4)

Repeal the subsection, substitute:

- (4) A reference in this section to an *offence against this Act* includes a reference to:
- (a) an offence against section 6, 7 or 7A or subsection 86(1) of the *Crimes Act 1914*; or
 - (b) an offence against section 134.1, 134.2, 135.1, 135.2, 135.4 or 136.1 of the *Criminal Code*;
- where the offence relates to this Act.

2 Subsection 191(4)

Repeal the subsection, substitute:

- (4) A reference in this section to an *offence against this Act* includes a reference to:
- (a) an offence against section 6, 7 or 7A or subsection 86(1) of the *Crimes Act 1914*; or
 - (b) an offence against section 134.1, 134.2, 135.1, 135.2, 135.4 or 136.1 of the *Criminal Code*;
- where the offence relates to this Act.

3 Subsections 197(2) and (3)

Repeal the subsections.

4 Paragraph 199(9)(b)

Omit “, 7A, 29C or 29D”, substitute “or 7A”.

5 Paragraph 199(9)(b)

After “*Crimes Act 1914*”, insert “or section 134.1, 134.2, 135.1, 135.2, 135.4 or 136.1 of the *Criminal Code*”.

6 At the end of section 199

Add:

- (10) Part 2.5 of the *Criminal Code* does not apply to an offence against this Act.

Note: Part 2.5 of the *Criminal Code* deals with corporate criminal responsibility.

Aboriginal Councils and Associations Act 1976

7 Subsection 39(6)

Repeal the subsection.

8 Subsection 60(6)

Repeal the subsection.

9 Subsection 60(7)

Omit “this section”, substitute “this section or an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this section”.

10 Subsection 68(3)

Omit “subsection 69(2)”, substitute “section 137.1 of the *Criminal Code* that relates to this section”.

11 Subsection 69(2)

Repeal the subsection.

Aboriginal Land Rights (Northern Territory) Act 1976

12 Subsection 23A(3)

Repeal the subsection.

13 Subsection 23C(3)

Repeal the subsection.

14 Subsection 54(3)

Omit “or section 54B”, substitute “of this section or an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this section”.

15 Subsection 54A(3)

Omit “section 54B”, substitute “an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this section”.

16 Section 54B

Repeal the section.

Aged Care Act 1997

17 Section 93-3

Repeal the section.

18 Section 96-8

Repeal the section.

Agricultural and Veterinary Chemical Products (Collection of Interim Levy) Act 1994

19 Subsection 18(2)

Omit “sections 70, 71, 72, 73, 74, 75 and 76”, substitute “section 70”.

20 Section 35

Repeal the section.

Agricultural and Veterinary Chemical Products (Collection of Levy) Act 1994

21 Section 37

Repeal the section.

Agricultural and Veterinary Chemicals (Administration) Act 1992

22 Subsection 69F(3)

Omit “sections 70, 71, 72, 73, 74, 75 and 76”, substitute “section 70”.

Air Navigation Regulations 1947

23 Regulation 124

Repeal the regulation.

Airports Act 1996

24 Part 17 (heading)

Repeal the heading, substitute:

Part 17—Incorrect records

25 Section 226

Omit “make a false statement, or keep an incorrect record,”, substitute “keep an incorrect record”.

26 Section 227

Repeal the section.

27 Section 229

Repeal the section.

Antarctic Treaty (Environment Protection) Act 1980

28 Section 22

Repeal the section.

29 Section 23

Repeal the section.

Auditor-General Act 1997

30 At the end of subsection 33(3)

Add:

Note 3: Section 149.1 of the *Criminal Code* deals with obstruction of Commonwealth public officials.

31 Section 34

Repeal the section.

32 Section 35

Omit “or 34”, substitute “of this Act or proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

Australian Citizenship Act 1948**33 Paragraph 21(1A)(a)**

Omit “section 29A, 29B or 29D of the *Crimes Act 1914*,”, substitute “section 134.1, 134.2, 135.1, 135.2, 135.4 or 136.1 of the *Criminal Code*,”.

Australian Federal Police Act 1979**34 Section 12B (subparagraphs (a)(i) and (ii) of the definition of class 2 general offence)**

Repeal the subparagraphs, substitute:

- (i) section 137.2, 141.1, 142.1, 142.2, 145.4 or 145.5 of the *Criminal Code*; or
- (ii) section 34, 37, 42, 43 or 44 of the *Crimes Act 1914*; or

35 Section 62

Repeal the section.

36 Paragraph 63(a)

Repeal the paragraph.

37 Subsection 64(1)

Repeal the subsection.

38 Subsection 64(2)

Omit “subsection (1) may, in addition to the penalty provided by that subsection”, substitute “section 147.1 or 149.1 of the *Criminal Code* that relates to a member or special member may”.

39 Subsection 64(3)

Repeal the subsection.

Australian Film Commission Act 1975

40 Section 42

Repeal the section.

Australian Horticultural Corporation (Export Control) Regulations

41 Item 4 of Schedule 2

Repeal the item, substitute:

- | | |
|---|--|
| 4 | An offence against section 134.1, 134.2, 135.1, 135.2, 144.1, 145.2, 145.3, 145.4 or 145.5 of the <i>Criminal Code</i> . |
|---|--|

Australian Horticultural Corporation (Honey Export Control) Regulations

42 Item 4 of Schedule 2

Repeal the item, substitute:

- | | |
|---|--|
| 4 | An offence against section 134.1, 134.2, 135.1, 135.2, 144.1, 145.2, 145.3, 145.4 or 145.5 of the <i>Criminal Code</i> . |
|---|--|

Australian Institute of Aboriginal and Torres Strait Islander Studies Act 1989

43 Section 46

Repeal the section.

44 Paragraph 47(9)(b)

Omit “, 7A, 29C or 29D”, substitute “or 7A”.

45 Paragraph 47(9)(b)

After “*Crimes Act 1914*”, insert “or section 134.1, 134.2, 135.1, 135.2, 135.4 or 136.1 of the *Criminal Code*”.

46 At the end of section 47

Add:

- (10) Part 2.5 of the *Criminal Code* does not apply to an offence against this Act.

Note: Part 2.5 of the *Criminal Code* deals with corporate criminal responsibility.

Australian Protective Service Act 1987

47 Subparagraph 13(2)(a)(i)

Omit “30,”.

48 Subparagraph 13(2)(a)(i)

Omit “71, 73, 75, 76,”.

49 At the end of subsection 13(2)

Add:

- ; or (c) an offence in relation to a person, place or thing in respect of which the Protective Service is performing its functions, being an offence against section 131.1, 141.1, 142.1, 148.1, 147.1 or 149.1 of the *Criminal Code*.

Australian Security Intelligence Organisation Act 1979

50 Section 33

Repeal the section.

Australian Trade Commission Act 1985

51 Subsection 95(2)

Repeal the subsection.

Bankruptcy Act 1966

52 Subsection 84(5)

Omit “or 263B”.

53 Subsection 85(2C)

Omit “or 263B”.

54 Subsection 263(2)

Repeal the subsection, substitute:

- (2) A person is guilty of an offence if:
- (a) the person disposes of, receives, removes, retains or conceals property that has been seized:
 - (i) as part of the property of a bankrupt; or
 - (ii) as part of the estate of a deceased person; or
 - (iii) under a deed of assignment; and
 - (b) the first-mentioned person knows that the property has been so seized.

Penalty: Imprisonment for 1 year.

55 Section 263B

Repeal the section.

56 Section 264

Repeal the section.

57 Section 267A

Repeal the section.

58 Section 267C

Repeal the section.

59 Section 268A

Repeal the section.

Bounty and Capitalisation Grants (Textile Yarns) Act 1981

60 Subsection 16(1A)

Omit “subsection (1B)”, substitute “section 137.2 of the *Criminal Code*”.

61 Subsection 16(1B)

Repeal the subsection.

62 Subsection 16(3)

Omit “or 18(3) or (4)”, substitute “of this Act or a prosecution for an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

63 Subsections 18(2), (3), (4), (5) and (6)

Repeal the subsections.

64 Subsection 18(7)

Repeal the subsection, substitute:

(7) A person must not be convicted of:

- (a) both an offence against section 135.2 of the *Criminal Code* and an offence against or arising out of subsection 10B(1) of this Act; or
- (b) both an offence against section 135.2 of the *Criminal Code* and an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code*;

in respect of the same claim for bounty.

65 Subsection 18B(1)

Omit “or 18(2) or (3)”, substitute “of this Act or an offence against section 135.2, 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

66 Subsection 18B(1)

Omit “under the subsection”.

67 Section 21K

Repeal the section.

68 Subsection 21L(1)

Omit “subsection 21K(1)”, substitute “section 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Part”.

69 Subsection 21L(1)

Omit “under that subsection”.

Bounty (Bed Sheeting) Act 1977

70 Subsection 16(3)

Omit “or 18(2)(c)”, substitute “of this Act or a prosecution for an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

71 Subsection 18(2)

Repeal the subsection.

72 Subsection 18(3)

Omit “subsection (2)”, substitute “section 135.2, 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

73 Subsection 18(3)

Omit “under that subsection”.

Bounty (Books) Act 1986

74 Subsection 25(2)

Omit “subsection (3)”, substitute “section 137.2 of the *Criminal Code*”.

75 Subsection 25(3)

Repeal the subsection.

76 Subsection 25(5)

Omit all the words after “other than”, substitute “a prosecution for an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

77 Subsections 27(2), (3), (4), (5) and (6)

Repeal the subsections.

78 Subsection 27(7)

Repeal the subsection, substitute:

-
- (7) A person must not be convicted of:
- (a) both an offence against section 135.2 of the *Criminal Code* and an offence against or arising out of subsection 16(1) of this Act; or
 - (b) both an offence against section 135.2 of the *Criminal Code* and an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code*;
- in respect of the same claim for bounty.

79 Subsections 27(9), (10) and (11)

Repeal the subsections.

80 Subsection 29(1)

Omit “or 27(2) or (3)”, substitute “of this Act or an offence against section 135.2, 136.1, 137.1 or 137.2 of the *Criminal Code*”.

81 Subsection 29(1)

Omit “under that subsection”.

Bounty (Citric Acid) Act 1991**82 Subsection 21(2)**

Omit “subsection (3)”, substitute “section 137.2 of the *Criminal Code*”.

83 Subsection 21(3)

Repeal the subsection.

84 Subsection 21(5)

Omit all the words after “other than”, substitute “a prosecution for an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

85 Subsections 23(2), (3), (4), (5) and (6)

Repeal the subsections.

86 Subsection 23(7)

Repeal the subsection, substitute:

- (7) A person must not be convicted of:
-

- (a) both an offence against section 135.2 of the *Criminal Code* and an offence against or arising out of subsection 12(1) of this Act; or
 - (b) both an offence against section 135.2 of the *Criminal Code* and an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code*;
- in respect of the same claim for bounty.

87 Subsection 25(1)

Omit “or 23(2) or (3)”, substitute “of this Act or an offence against section 135.2, 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

88 Subsection 25(1)

Omit “under that subsection”.

Bounty (Computers) Act 1984

89 Subsection 16(7)

Repeal the subsection.

90 Subsection 25(2)

Omit “subsection (3)”, substitute “section 137.2 of the *Criminal Code*”.

91 Subsection 25(3)

Repeal the subsection.

92 Subsection 25(5)

Omit all the words after “other than”, substitute “a prosecution for an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

93 Subsections 27(2) and (3)

Repeal the subsections.

94 Subsection 27(4)

Omit “subsection (2)”, substitute “section 135.2 of the *Criminal Code*”.

95 Subsection 29(1)

Omit “or 27(2) or (3)”, substitute “of this Act or an offence against section 135.2, 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

96 Subsection 29(1)

Omit “under the subsection”.

Bounty (Fuel Ethanol) Act 1994**97 Subsection 50(3)**

Omit “section 51”, substitute “section 137.2 of the *Criminal Code*”.

98 Section 51

Repeal the section.

99 Subsection 52(2)

Omit all the words after “other than”, substitute “a prosecution for an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

100 Subsections 55(2), (3) and (4)

Repeal the subsections, substitute:

- (4) A person must not be convicted of:
- (a) both an offence against section 135.2 of the *Criminal Code* and an offence against or arising out of subsection 30(2) of this Act; or
 - (b) both an offence against section 135.2 of the *Criminal Code* and an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code*;
- in respect of the same claim for bounty.

101 Section 56

Repeal the section.

102 Subsection 58(1)

Omit “or 55(2) or (3)”, substitute “of this Act or an offence against section 135.2, 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

103 Subsection 58(1)

Omit “under that subsection”.

Bounty (Machine Tools and Robots) Act 1985

104 Subsection 33(2)

Omit “subsection (3)”, substitute “section 137.2 of the *Criminal Code*”.

105 Subsection 33(3)

Repeal the subsection.

106 Subsection 33(5)

Omit all the words after “other than”, substitute “a prosecution for an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

107 Subsections 35(2) and (3)

Repeal the subsections.

108 Subsection 35(4)

Repeal the subsection, substitute:

- (4) A person must not be convicted of:
- (a) an offence against section 135.2 of the *Criminal Code* and an offence against or arising out of subsection 23(1) of this Act;
or
 - (b) an offence against section 135.2 of the *Criminal Code* and an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code*;
- in respect of the same claim for bounty.

109 Subsection 37(1)

Omit “or 35(2) or (3)”, substitute “of this Act or an offence against section 135.2, 136.1, 137.1 or 137.2 of the *Criminal Code*”.

110 Subsection 37(1)

Omit “under the subsection”.

Bounty (Photographic Film) Act 1989**111 Subsection 22(2)**

Omit “subsection (3)”, substitute “section 137.2 of the *Criminal Code*”.

112 Subsection 22(3)

Repeal the subsection.

113 Subsection 22(5)

Omit all the words after “other than”, substitute “a prosecution for an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

114 Subsections 24(2), (3), (4), (5) and (6)

Repeal the subsections.

115 Subsection 24(7)

Repeal the subsection, substitute:

(7) A person must not be convicted of:

- (a) both an offence against section 135.2 of the *Criminal Code* and an offence against or arising out of subsection 13(1) of this Act; or
- (b) both an offence against section 135.2 of the *Criminal Code* and an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code*;

in respect of the same claim for bounty.

116 Subsection 26(1)

Omit “or 24(2) or (3)”, substitute “of this Act or an offence against section 135.2, 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

117 Subsection 26(1)

Omit “under that subsection”.

Bounty (Ships) Act 1989

118 Subsection 23(2)

Omit “subsection (3)”, substitute “section 137.2 of the *Criminal Code*”.

119 Subsection 23(3)

Repeal the subsection.

120 Subsection 23(5)

Omit all the words after “other than”, substitute “a prosecution for an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

121 Subsections 25(2), (3), (4), (5) and (6)

Repeal the subsections.

122 Subsection 25(7)

Repeal the subsection, substitute:

(7) A person must not be convicted of:

- (a) both an offence against section 135.2 of the *Criminal Code* and an offence against or arising out of subsection 14(1) of this Act; or
- (b) both an offence against section 135.2 of the *Criminal Code* and an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code*;

in respect of the same claim for bounty.

123 Subsections 25(9), (10) and (11)

Repeal the subsections.

124 Subsection 27(1)

Omit “or 25(2) or (3)”, substitute “of this Act or an offence against section 135.2, 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

125 Subsection 27(1)

Omit “under that subsection”.

Broadcasting Services Act 1992

126 Subsection 6(1)

Insert:

offence against this Act includes an offence against section 136.1 or 137.1 of the *Criminal Code* that relates to this Act.

127 Section 208

Repeal the section.

Civil Aviation Act 1988

129 Subsection 23A(3)

Repeal the subsection.

Civil Aviation Regulations 1988

130 Regulation 285

Repeal the regulation.

Coal Excise Act 1949

131 Paragraph 5(c)

Omit “, (v), (va)”.

132 Section 27

Repeal the section.

Coal Industry Act 1946

133 Subsection 53(4)

Repeal the subsection.

Commonwealth Electoral Act 1918

134 Subsections 184(6) and (7)

Repeal the subsections.

135 Subsections 184A(5) and (6)

Repeal the subsections.

136 Paragraph 339(1)(f)

Repeal the paragraph.

137 Paragraph 339(1)(h)

Omit “ballot-papers; or”, substitute “ballot-papers.”.

138 Paragraph 339(1)(k)

Repeal the paragraph.

139 Subsections 339(3) and (4)

Repeal the subsections.

140 Section 344

Repeal the section.

Commonwealth Inscribed Stock Act 1911

141 Section 48

Repeal the section.

Commonwealth Places (Application of Laws) Act 1970

142 Subsection 5(2)

After “Sections”, insert “4,”.

143 After subsection 5(2A)

Insert:

(2B) Chapter 2 of the *Criminal Code* does not apply in relation to, or in relation to matters arising under, the applied provisions.

Complaints (Australian Federal Police) Act 1981

144 After paragraph 27(5)(e)

Insert:

- (ea) a prosecution for an offence against section 137.1, 137.2 or 149.1 of the *Criminal Code* that relates to this Act; or

145 Subsection 44(2)

Repeal the subsection.

Crimes Act 1914

146 Subsection 3(1) (paragraph (c) of the definition of Commonwealth officer)

Omit “sections 70, 72, 73, 74 and 75”, substitute “section 70”.

147 Subsection 3(1) (paragraph (d) of the definition of Commonwealth officer)

Omit “sections 70, 72, 73, 74, 75 and 76” substitute “section 70”.

148 Subsection 17B(3) (definition of section 17B offence)

Omit “any of sections 29, 29A, 29B, 29C, 29D, 71 and 72”, substitute “section 29 of this Act, an offence against section 131.1, 132.1, 132.6, 132.7, 134.1, 134.2, 135.1, 135.2, 135.4, 145.4 or 145.5 of the *Criminal Code*”.

149 Sections 29A, 29B, 29C, 29D and 30

Repeal the sections.

150 Paragraph 30K(a)

Repeal the paragraph.

151 Sections 32 and 33

Repeal the sections.

152 Section 50

Repeal the section.

153 Part V

Repeal the Part.

154 Sections 71, 71A, 72, 73, 73A, 74, 75 and 76

Repeal the sections.

155 Sections 85J, 85K, 85L and 85M

Repeal the sections.

156 Section 85P

Repeal the section.

157 Section 85ZF

Repeal the section.

158 Subsection 86(2)

Repeal the subsection.

159 Paragraph 86(10)(b)

Omit “of this section; and”, substitute “of this section.”.

160 Paragraph 86(10)(c)

Repeal the paragraph.

161 Section 88

Repeal the section.

Customs Act 1901

**162 Subsection 4(1) (paragraph (c) of the definition of
Records offence)**

Omit “section 29D or 86A of the *Crimes Act 1914*”, substitute “section 134.1, 134.2 or 135.1 of the *Criminal Code*”.

163 At the end of section 183UA

Add:

- (3) For the purposes of this Part, an offence against section 141.1, 142.1, 142.2 or 149.1 of the *Criminal Code* that relates to this Act is taken to be an offence against this Act.

164 Section 232

Repeal the section.

165 Paragraph 232A(b)

Omit “any officer, or any person assisting an officer, in the execution of his duty”, substitute “any person assisting an officer in the execution of the officer’s duty”.

Dairy Produce Act 1986

166 Section 112

Repeal the section.

167 Subsection 114(1)

Omit “subsection 112(1)”, substitute “section 135.2, 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

168 Subsection 117(1)

Omit “or 112”.

Defence Act 1903

169 Section 73B

Repeal the section.

170 Section 73F

Omit “73B,” (wherever occurring).

171 Section 80

Repeal the section.

172 Section 81

Repeal the section.

173 Section 116Z

Repeal the section.

Defence (Special Undertakings) Act 1952

174 Section 24

Repeal the section.

Diplomatic and Consular Missions Act 1978

175 Subsection 5(8)

Repeal the subsection.

Disability Discrimination Act 1992

176 Subsection 111(1)

Omit all the words after “other than”, substitute “a prosecution for an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

177 Section 112

Repeal the section.

Distillation Act 1901

178 Section 72

Repeal the section.

Environment Protection (Alligator Rivers Region) Act 1978

179 Subsection 27(2)

Repeal the subsection.

180 Section 32

Repeal the section.

Excise Act 1901

181 Paragraphs 120(1)(v), (va) and (vb)

Repeal the paragraphs.

182 Paragraph 120(2)(c)

Repeal the paragraph.

183 Section 123

Repeal the section.

184 Paragraph 124(1)(a)

Repeal the paragraph.

185 Paragraph 124(1)(d)

Omit “any officer or any person acting in his or her aid or assistance in the execution of his or her duties”, substitute “any person acting in aid or assistance of an officer in the execution of the officer’s duties”.

186 Paragraph 124(1)(e)

Repeal the paragraph.

Export Control Act 1982**187 Section 12**

Repeal the section.

188 Section 16

Repeal the section.

Export Expansion Grants Act 1978**189 Section 18**

Repeal the section.

Export Inspection and Meat Charges Collection Act 1985**190 Paragraph 10(2)(a)**

Omit “or (3)”, substitute “of this section or an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

191 Subsection 10(3)

Repeal the subsection.

Note: The penalty at the end of section 10 does not form part of subsection 10(3).

Export Market Development Grants Act 1997

192 Subsection 16(2) (paragraph (b) of the definition of relevant offence)

Repeal the paragraph.

Note: The Reader's Guide to the *Export Market Development Grants Act 1997* is altered by omitting the entry relating to the *Crimes Act 1914*.

193 Subsection 16(2) (paragraph (d) of the definition of relevant offence)

Omit “, (b)”.

194 Subsection 16(2) (at the end of the definition of relevant offence)

Add:

; or (e) an offence against section 134.1, 134.2, 135.1, 135.2, 135.4 or 136.1 of the *Criminal Code* that relates to an application for a grant.

195 Paragraph 78(1)(b)

Repeal the paragraph.

196 Paragraph 78(1)(d)

Omit “, (b) or (c);”, substitute “or (c); or”.

197 After paragraph 78(1)(d)

Insert:

(e) an offence against section 134.1, 134.2, 135.1, 135.2, 135.4 or 136.1 of the *Criminal Code* that relates to an application for a grant;

198 Section 102

Repeal the section.

199 Paragraph 103(1)(a)

Repeal the paragraph, substitute:

- (a) a person is convicted of an offence against section 134.1, 134.2, 135.1, 135.2, 135.4 or 136.1 of the *Criminal Code*;
and

Farm Household Support Act 1992

200 Subsection 41(6)

Repeal the subsection.

201 Subsection 42(6)

Repeal the subsection.

202 Subsection 54(8)

Repeal the subsection.

Financial Management and Accountability Act 1997

203 Section 61

Repeal the section.

Financial Sector (Shareholdings) Act 1998

204 Section 37

Repeal the section.

First Home Owners Act 1983

205 Section 38

Repeal the section.

Fisheries Management Act 1991

206 Subsection 4(1)

Insert:

offence against this Act includes an offence against section 136.1, 137.1, 137.2, 148.1, 148.2, 147.1 or 149.1 of the *Criminal Code* that relates to this Act.

207 Subsections 9(1) and (2)

Omit “, 107”.

208 Section 107

Repeal the section.

209 At the end of section 164

Add:

- (10) Part 2.5 of the *Criminal Code* does not apply to an offence against this Act.

Note: Part 2.5 of the *Criminal Code* deals with corporate criminal responsibility.

Foreign Acquisitions and Takeovers Act 1975

210 Section 36A

Repeal the section.

Great Barrier Reef Marine Park Act 1975

211 Subsection 3(1)

Insert:

offence against this Act includes an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this Act.

212 Paragraph 39P(4)(c)

Omit “or 39R”, substitute “of this Act or a prosecution for an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this Part”.

213 Section 39R

Repeal the section.

214 At the end of section 64

Add:

- (8) Part 2.5 of the *Criminal Code* does not apply to an offence against this Act.

Note: Part 2.5 of the *Criminal Code* deals with corporate criminal responsibility.

Great Barrier Reef Marine Park Regulations**215 Subregulation 49(1)**

Repeal the subregulation.

216 Paragraph 49(2)(b)

Omit “subregulation (1)”, substitute “section 136.1 or 137.1 of the *Criminal Code*”.

216A Subregulation 49(3)

Repeal the subregulation, substitute:

- (3) Subregulation (2) applies to an application for an authorisation as if references in that subregulation to a permission were references to an authorisation.

Hazardous Waste (Regulation of Exports and Imports) Act 1989**217 Section 54**

Repeal the section.

218 Section 55

Repeal the section.

Health Insurance Act 1973**219 Subsection 124B(1) (paragraphs (d) and (e) of the definition of relevant offence)**

Repeal the paragraphs, substitute:

- (d) an offence against section 134.1, 134.2, 135.1, 135.2, 135.4, 136.1, 137.1, 144.1, 145.1, 145.4 or 145.5 of the *Criminal Code*, being an offence relating to a claim for payment in respect of the rendering of a professional service.

Health Insurance Commission Act 1973

220 Paragraphs 3A(2)(d) and (e)

Repeal the paragraphs, substitute:

- (d) an offence against section 134.1, 134.2, 135.1, 135.2, 135.4, 136.1, 137.1, 137.2, 145.2 or 145.3 of the *Criminal Code*, being an offence relating to a claim for payment in respect of the rendering of a professional service.

221 Paragraphs 3A(2A)(e) and (f)

Repeal the paragraphs, substitute:

- (e) an offence against section 134.1, 134.2, 135.1, 135.2, 135.4, 136.1, 137.1, 137.2, 145.2 or 145.3 of the *Criminal Code*, being an offence relating to a claim for payment in respect of the rendering of a professional service.

Historic Shipwrecks Act 1976

222 Subsection 10(2)

Repeal the subsection, substitute:

- (2) A person is guilty of an offence if the person:
 - (a) is given a notice by the Minister under subsection (1); and
 - (b) refuses or fails to comply with the notice to the extent that the person is capable of complying with it.

Penalty: 20 penalty units.

223 At the end of subsection 10(3)

Add “or an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this section”.

224 Subsection 17(3)

Repeal the subsection.

Note: The penalty at the end of section 17 does not form part of subsection 17(3).

225 Subsection 23(5)

Repeal the subsection, substitute:

- (5) A person must not, without reasonable excuse, fail to comply with a requirement made of the person by an inspector in the exercise of a power under this section.

Penalty: 20 penalty units.

226 Subsection 23(7)

Repeal the subsection.

227 Subsections 26(1) and (3)

Omit “, 13(3) or 23(7)”, substitute “or 13(3)”.

Home Deposit Assistance Act 1982**228 Subsections 61(1) and (2)**

Repeal the subsections.

229 Subsection 61(3)

Omit “this section”, substitute “section 136.1 or 137.1 of the *Criminal Code* that relates to this Act”.

Homes Savings Grant Act 1976**230 Subsection 50(1)**

Repeal the subsection.

231 Subsection 50(2)

Omit “subsection (1)”, substitute “section 136.1 or 137.1 of the *Criminal Code* that relates to this Act”.

Human Rights and Equal Opportunity Commission Act 1986**232 Section 25**

Repeal the section.

233 At the end of section 26

Add:

Note: Sections 136.1, 137.1 and 137.2 of the *Criminal Code* deal with making false or misleading statements, giving false or misleading information and producing false or misleading documents.

234 Section 33

Omit “25.”.

Immigration (Guardianship of Children) Act 1946

235 Section 10

Repeal the section, substitute:

10 False statements in applications

For the purposes of section 136.1 of the *Criminal Code*, an application made for the purposes of this Act is taken to be an application for a benefit.

Imported Food Control Act 1992

236 Subsection 3(1) (definition of forging)

Repeal the definition.

237 Subsection 3(1) (definition of uttering)

Repeal the definition.

238 Section 18 (note)

Repeal the note.

239 Section 19 (note)

Repeal the note.

240 At the end of Division 2 of Part 2

Add:

19A Forging and uttering*Forging*

- (1) For the purposes of this Division, a person is taken to have ***forged*** a document if the person:
- (a) makes a document which is false, knowing it to be false; or
 - (b) without authority, alters a genuine document in a material particular;
- with intent that:
- (c) the false or altered document may be used, acted on, or accepted, as genuine, to the prejudice of another person; or
 - (d) another person may, in the belief that it is genuine, be induced to do or refrain from doing an act, whether in Australia or elsewhere.
- (2) For the purposes of this Division, if a person:
- (a) makes a document which is false, knowing it to be false; or
 - (b) without authority, alters a genuine document in a material particular;
- with intent that a computer, a machine or other device should respond to the false or altered document as if it were genuine:
- (c) to the prejudice of another person; or
 - (d) with the result that another person would be induced to do or refrain from doing an act, whether in Australia or elsewhere;
- the first-mentioned person is taken to have ***forged*** the document.

Uttering

- (3) For the purposes of this Division, a person is taken to ***utter*** a forged document if the person:
- (a) uses or deals with it; or
 - (b) attempts to use or deal with it; or
 - (c) attempts to induce another person to use, deal with, act upon, or accept it.

241 Subsection 30(6)

Repeal the subsection.

Income Tax Assessment Act 1936

242 Section 251A (paragraphs (a) and (b) of the definition of serious taxation offence)

Repeal the paragraphs, substitute:

- (a) an offence against section 134.1, 134.2, 135.1, 135.2 or 135.4 of the *Criminal Code*, being an offence that relates to a tax liability within the meaning of the *Taxation Administration Act 1953*; or

Industrial Chemicals (Notification and Assessment) Act 1989

243 Section 81

Repeal the section.

Industrial Research and Development Incentives Act 1976

244 Section 37

Repeal the section.

Industry Research and Development Act 1986

245 Subsections 44(1), (2), (3), (4) and (5)

Repeal the subsections.

246 Subsection 44(6)

Omit “or arising out of subsection (1) and an offence against or arising out of subsection (2)”, substitute “section 135.2 of the *Criminal Code* and an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code*”.

247 Subsections 44(8), (9) and (10)

Repeal the subsections.

Inspector-General of Intelligence and Security Act 1986

248 After paragraph 18(6)(c)

Insert:

- (ca) an offence against section 137.1 of the *Criminal Code* that relates to this section; or

249 Subsection 18(8)

Repeal the subsection.

Insurance Acquisitions and Takeovers Act 1991

250 Subsection 73(2)

Omit “subsections (5), (6), (7), (8) and (9)”, substitute “subsections (5) and (9) of this section and sections 137.1 and 137.2 of the *Criminal Code*”.

251 Subsections 73(6), (7) and (8)

Repeal the subsections.

252 Subsection 73(9)

Omit “proceedings under, or arising out of, this section”, substitute “a prosecution for an offence against this section or an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this section”.

253 Section 74

Repeal the section.

Insurance Act 1973

254 Subsection 22(5)

Repeal the subsection.

Note: The penalty at the end of section 22 does not form part of subsection 22(5).

255 Subsection 49C(3)

Repeal the subsection.

256 Subsection 56(1)

Repeal the subsection, substitute:

- (1) A person is guilty of an offence if:

- (a) a requirement of APRA or the inspector under section 55 is applicable to the person; and
- (b) the person refuses or fails to comply with the requirement to the extent to which the person is able to comply with it.

Penalty: Imprisonment for 3 months.

257 Subsection 56(2)

Omit all the words after “other than”, substitute:

a prosecution for:

- (a) an offence against subsection (1); or
- (b) an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this section.

258 Subsection 80(4)

Repeal the subsection.

259 Subsection 82(2)

Repeal the subsection.

260 Subsection 82(4)

Omit all the words after “other than”, substitute “a prosecution for an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to section 81”.

261 Section 128

Omit “80(4), 82(1), 82(2),” (wherever occurring), substitute “82(1),”.

Insurance (Agents and Brokers) Act 1984

262 Subsection 34A(9)

Repeal the subsection.

263 Subsection 34P(5)

Repeal the subsection.

Interstate Road Transport Act 1985

264 Paragraph 19(3)(a)

Omit “section 47”, substitute “section 137.1 of the *Criminal Code*”.

265 Paragraph 45(4)(a)

Omit “section 47”, substitute “section 137.1 of the *Criminal Code*”.

266 Section 47

Repeal the section.

267 Section 53

Omit “39 or against section 40, 41, 44, 45 or 47” (wherever occurring), substitute “39 of this Act or an offence against section 40, 41, 44 or 45 of this Act or an offence against section 137.1 of the *Criminal Code* that relates to this Act”.

Life Insurance Act 1995**268 Section 249**

Repeal the section.

Marriage Act 1961**269 Section 96**

Repeal the section.

270 Section 97

Repeal the section.

271 Subsections 98(1) and (1A)

Repeal the subsections.

Note: The heading to section 98 is replaced by the heading “**Contravention of subsection 13(3)**”.

272 Section 102

Repeal the section.

273 Subsection 108(1)

Omit “sections 96, 97 and 98”, substitute “section 98”.

Meat Export Charge Collection Act 1984

274 Subsection 12(8)

Repeal the subsection.

Meat Inspection Act 1983

275 Section 27

Repeal the section.

Migration Act 1958

276 Subsection 5(1) (at the end of the definition of offence against this Act)

Add:

; and (f) an offence against section 137.1, 137.2 or 149.1 of the *Criminal Code* that relates to this Act.

277 Subsection 18(2)

Omit “section 21, 22 and 23”, substitute “section 21 of this Act and sections 137.1 and 137.2 of the *Criminal Code*”.

278 Section 22

Repeal the section.

279 Section 23

Repeal the section.

280 Section 24

Omit all the words after “other than”, substitute:

a prosecution for:

(c) an offence against, or arising out of, this Division; or

(d) an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this Division.

281 Subsection 137(9)

Repeal the subsection.

282 Subsection 308(4)

Omit “section 487”, substitute “section 137.1 or 137.2 of the *Criminal Code* that relates to this Act or the regulations”.

283 Section 487

Repeal the section.

284 At the end of section 493

Add:

- (9) Part 2.5 of the *Criminal Code* does not apply to an offence against this Act or the regulations.

Note: Part 2.5 of the *Criminal Code* deals with corporate criminal responsibility.

Motor Vehicle Standards Act 1989

285 Section 31

Repeal the section.

National Health Act 1953

286 Paragraph 103(5)(c)

Repeal the paragraph.

National Occupational Health and Safety Commission Act 1985

287 Subsections 62(3) and (4)

Repeal the subsections.

288 Subsection 62(6)

Omit all the words after “except in”, substitute “a prosecution for an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this section”.

Native Title Act 1993

289 Subsection 203DF(8)

Omit “sections 70, 72, 73, 74 and 75”, substitute “section 70”.

290 At the end of section 203DF

Add:

Auditor or investigator taken to be a Commonwealth public official

- (9) To avoid doubt, a person appointed under subsection (1) of this section is taken, for the purposes of the *Criminal Code*, to be a Commonwealth public official.

Navigation Act 1912

291 Section 160

Repeal the section, substitute:

160 Giving false evidence in connection with deceased seamen’s property

A person is guilty of an offence if:

- (a) the person gives false evidence; and
- (b) the person knows that the evidence is false; and
- (c) the person does so for the purpose of obtaining, either for himself, herself or for another person, any property of a deceased seaman.

Penalty: 20 penalty units or imprisonment for 12 months, or both.

292 Paragraphs 386(a) and (b)

Repeal the paragraphs.

293 Paragraph 386(e)

Repeal the paragraph.

294 Section 387

Repeal the section, substitute:

387 Hindering or interfering with masters or officers

A person is guilty of an offence if the person, by violence, threat or intimidation, hinders or interferes with:

- (a) the master of a ship; or
- (b) an officer of a ship;

in the performance of the master's or officer's duty in relation to the maintenance of the discipline on board the ship.

Penalty: 50 penalty units or imprisonment for 2 years, or both.

295 Subsections 389A(1) and (2)

Repeal the subsections.

296 Subsection 389A(3)

Omit "subsection (1)", substitute "section 137.1, 144.1, 145.1 or 145.2 of the *Criminal Code*".

297 Paragraph 389A(5)(b)

Omit "subsection (1)", substitute "section 137.1, 144.1, 145.1 or 145.2 of the *Criminal Code*".

Northern Territory (Self-Government) Act 1978**298 Section 52**

Repeal the section.

Nuclear Non-Proliferation (Safeguards) Act 1987**299 Subsection 31(2)**

Omit "section 76 of the *Crimes Act 1914*", substitute "section 147.1 or 149.1 of the *Criminal Code*".

Occupational Health and Safety (Commonwealth Employment) Act 1991**300 Subsection 43(3)**

Repeal the subsection.

***Occupational Health and Safety (Maritime Industry) Act
1993***

301 Subsection 90(3)

Repeal the subsection.

Offshore Minerals Act 1994

302 Subsection 328(1) (note 2)

Repeal the note, substitute:

Note 2: Section 145.4 of the *Criminal Code* deals with offences in relation to the proper keeping of the register (for example, falsification of documents).

303 Subsection 405(2)

Omit “contains”, substitute “and the *Criminal Code* contain”.

304 Subsection 405(2) (note 2)

Repeal the note, substitute:

Note 2: See Parts 7.3 and 7.4 of the *Criminal Code* (which deal with fraudulent conduct and false or misleading statements). Those Parts are relevant to statements made in applications under this Act and statements made in documents that are relevant to the calculation of fees (for example, fees payable under the Registration Fees Act for transfers and other dealings).

305 Subsection 405(2) (note 4)

Repeal the note, substitute:

Note 4: See section 145.4 of the *Criminal Code* for a general offence relating to the falsification of documents kept for the purposes of a law of the Commonwealth. This offence is relevant to offshore mining registers.

306 Subsection 405(2) (note 5)

Omit all the words after “(giving false testimony)”.

307 At the end of section 405

Add:

Note 7: See also section 149.1 of the *Criminal Code*, which deals with obstruction of Commonwealth public officials.

Ombudsman Act 1976

308 Paragraph 9(4)(d)

Omit “section 36”, substitute “section 36 of this Act or an offence against section 137.1, 137.2 or 149.1 of the *Criminal Code* that relates to this Act”.

309 Subsection 36(2)

Repeal the subsection.

Passenger Movement Charge Collection Act 1978

310 Subsection 8(2)

Repeal the subsection.

Passports Act 1938

311 Subsection 5(3)

Omit “9B (other than paragraph (f)),”, substitute “9B (other than paragraph (b)),”.

312 Subsection 5(4)

Omit “or 9B(f)”, substitute “or 9B(b)”.

313 Section 9B

Repeal the section, substitute:

9B Falsifying foreign passports etc.

A person is guilty of an offence if the person:

- (a) within Australia, falsifies a passport issued by or on behalf of the government of a foreign country; or
- (b) within Australia, makes a document that is false within intent that the false document may be used, acted on or accepted as if it were a passport issued by or on behalf of the government of a foreign country.

Penalty: Imprisonment for 7 years.

Petroleum Excise (Prices) Act 1987

314 Subsection 6(3)

Repeal the subsection.

Note: The penalty at the end of section 6 does not form part of subsection 6(3).

315 Subsection 10(6)

Omit “subsection (8)”, substitute “section 137.1 of the *Criminal Code* that relates to this section”.

316 Subsection 10(8)

Repeal the subsection.

Pooled Development Funds Act 1992

317 At the end of section 47

Add:

- (4) The reference in subsection (1) to a provision of this Act includes a reference to section 136.1, 137.1 or 137.2 of the *Criminal Code*, in so far as that section relates to this Act.

318 Section 52

Repeal the section.

Prawn Export Promotion Act 1995

319 Paragraph 22(2)(a)

Omit “or (3)”, substitute “of this section or an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

320 Subsection 22(3)

Repeal the subsection.

Prices Surveillance Act 1983

321 Subsection 32(2)

Repeal the subsection, substitute:

-
- (2) A person is guilty of an offence if:
- (a) the person is subject to a notice under subsection (1); and
 - (b) the person, without reasonable excuse, refuses or fails to comply with the notice.

Penalty: 20 penalty units.

322 At the end of section 32

Add:

Note: Sections 137.1 and 137.2 of the *Criminal Code* deal with false or misleading information and documents.

Primary Industries Levies and Charges Collection Act 1991

323 Paragraph 24(2)(a)

Omit “or (3)”, substitute “of this section or an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

324 Subsection 24(3)

Repeal the subsection.

Proceeds of Crime Act 1987

324A After subsection 4(3)

Insert:

- (3A) For the purposes of this Act, in determining whether a person has derived substantial benefit from the commission of 2 or more public fraud offences, have regard to the aggregate of the benefits derived by the person from the commission of those offences.

324B Subsection 7(1)

Insert:

public fraud offence means any of the following:

- (a) an offence against section 134.1, 134.2, 135.1 or 135.4 of the *Criminal Code*;
- (b) an offence against repealed section 29D or 86A of the Crimes Act committed after the commencement of this Act;

- (c) an offence against section 5, 6, 7 or 8 of the *Crimes (Taxation Offences) Act 1980* committed after the commencement of this Act;
- (d) an ancillary offence in relation to an offence covered by paragraph (b) or (c).

Note: The heading to section 7 of the *Proceeds of Crime Act 1987* is altered by inserting “*public fraud offence and*” after “*Meaning of*”.

324C Subsection 7(1) (definition of serious offence)

Repeal the definition, substitute:

serious offence means:

- (a) a serious narcotics offence; or
- (b) a money laundering offence in relation to the proceeds of a serious narcotics offence; or
- (c) an ancillary offence in relation to an offence covered by paragraph (a) or (b); or
- (d) an offence that is the subject of a declaration under section 96A.

324D After subsection 7(1)

Insert:

- (1A) Paragraph (d) of the definition of *serious offence* in subsection (1) has effect subject to subsections 96A(2), (4) and (6).

325 Subsection 7(2) (definition of organised fraud offence)

Repeal the definition.

325A At the end of section 7

Add:

- (3) To avoid doubt, express references in this section to ancillary offences do not imply that section 11.6 of the *Criminal Code* has no application to a particular provision of this Act.

326 Subsection 34C(2) (definition of relevant offence)

Omit “under section 29A, 29B, 29C, 29D, 71, 86 or 86A of the *Crimes Act 1914*”, substitute “against section 131.1, 132.1, 132.6, 132.8, 134.1, 134.2, 135.1, 135.2, 135.4, 136.1, 137.1 or 137.2 of the *Criminal Code*”.

326A At the end of subsection 73(4)

Add:

; or (d) both:

- (i) has committed, or is about to commit, 3 or more public fraud offences; and
- (ii) has derived, or is about to derive, substantial benefit from the commission of any or all of those offences.

327 Division 2 of Part V

Repeal the Division.

328 Subsection 84(1)

Omit “, 83”.

328A Before section 97

Insert:

96A Organised fraud orders*Convictions of public fraud offences*

(1) If:

- (a) a person has, at the same sitting, been convicted by a court of 3 or more public fraud offences; and
 - (b) the DPP applies to the court for an order under this subsection in relation to each of those offences; and
 - (c) the court is satisfied that the person has derived substantial benefit from the commission of any or all of those offences;
- the court must, by order, declare each of those offences to be a serious offence.

(2) A declaration under subsection (1) only has effect in relation to the convictions concerned.

Charges and proposed charges of public fraud offences

- (3) If:
- (a) a person has been charged with 3 or more public fraud offences; and
 - (b) the DPP applies to the relevant Supreme Court for an order under this subsection in relation to each of those offences; and
 - (c) the application for the order is supported by an affidavit of a police officer stating that the officer believes that the person has derived substantial benefit from the commission of any or all of those offences; and
 - (d) the court is satisfied, having regard to the matters contained in the affidavit, that there are reasonable grounds for holding that belief;
- the court must, by order, declare each of those offences to be a serious offence.
- (4) A declaration under subsection (3) only has effect in relation to the charges concerned.
- (5) If:
- (a) a person is about to be charged with 3 or more public fraud offences; and
 - (b) the DPP applies to the relevant Supreme Court for an order under this subsection in relation to each of those offences; and
 - (c) the application for the order is supported by an affidavit of a police officer stating that the officer believes that the person has derived substantial benefit from the commission of any or all of those offences; and
 - (d) the court is satisfied, having regard to the matters contained in the affidavit, that there are reasonable grounds for holding that belief;
- the court must, by order, declare each of those offences to be a serious offence.
- (6) A declaration under subsection (5) only has effect in relation to the proposed charges concerned.
- (7) If:
-

- (a) a restraining order is granted in reliance on the charging, or proposed charging, of a person with an ordinary indictable offence; and
- (b) the person is subsequently convicted of the offence; and
- (c) a court makes an order under subsection (1) in relation to the offence;

this Act has effect as if the restraining order had been granted in reliance on the charging, or proposed charging, of the person with a serious offence.

Protection of Movable Cultural Heritage Act 1986

329 After subsection 3(3)

Insert:

- (3A) A reference in this Act to an *offence against this Act* includes a reference to an offence against section 148.1, 148.2, 147.1 or 149.1 of the *Criminal Code* that relates to this Act.

330 Section 44

Repeal the section.

331 Section 45

Repeal the section.

332 Subsection 46(1)

Omit “or section 45”.

333 Subsection 46(2)

Omit “or 44”.

334 Paragraph 46(4)(b)

Omit “or section 45”.

Public Lending Right Act 1985

335 Subsection 22(1)

Repeal the subsection.

336 Subsection 22(2)

Omit “subsection (1)”, substitute “section 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

337 Subsection 22(2)

Omit “under that subsection”.

338 Subsection 22(4)

Repeal the subsection.

Public Service Act 1999

339 Subsection 43(2)

Omit “, 34” (wherever occurring).

340 Subsection 50(2)

Omit “, 34” (wherever occurring).

Quarantine Act 1908

341 Subsection 70B(2) (note)

Repeal the note, substitute:

- Note 1: It is an offence to fail to answer a question asked under this subsection (see section 74C).
- Note 2: It is an offence to give false or misleading information in answer to a question asked under this subsection (see section 137.1 of the *Criminal Code*).

342 Subsection 70B(3) (note)

Repeal the note, substitute:

- Note 1: It is an offence to fail to produce a document (see section 74C).
- Note 2: It is an offence to produce a document knowing that the document is false or misleading unless the document is accompanied by a written statement acknowledging that the document is false or misleading (see section 137.2 of the *Criminal Code*).

343 Subsections 74C(3) and (4)

Repeal the subsections.

Note: The note at the end of section 74C does not form part of subsection (4).

344 Section 79

Repeal the section.

345 Paragraph 79A(2)(a)

Repeal the paragraph, substitute:

- (a) any criminal proceedings other than a proceeding for:
 - (i) an offence against subsection 27A(6) or (7), 27B(5) or (6), 28(8) or (9); or
 - (ii) an offence against section 137.2 of the *Criminal Code* that relates to this Act; or

346 Section 81

Repeal the section.

Racial Discrimination Act 1975**347 Subsection 27D(1)**

Omit all the words after “other than”, substitute “a prosecution for an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

348 Section 27E

Repeal the section.

Radiocommunications Act 1992**349 After subsection 11(1)**

Insert:

- (1A) A reference in this Act to an *offence against this Act* includes a reference to an offence against section 136.1 or 137.1 of the *Criminal Code* that relates to this Act.

350 Subparagraph 124(3)(b)(iv)

Omit “section 302 or”.

351 After subparagraph 124(3)(b)(iv)

Insert:

- (iva) whether the operator has been convicted of an offence against section 136.1 or 137.1 of the *Criminal Code* that relates to this Act;

352 Subparagraph 171(3)(b)(ii)

Omit “or 302”.

353 At the end of paragraph 171(3)(b)

Add:

- ; and (iii) whether or not the holder of the permit or an agent of the holder has been convicted of an offence against section 136.1 or 137.1 of the *Criminal Code* that relates to this Act.

354 Subsection 210(6)

Omit “section 302”, substitute “section 136.1 or 137.1 of the *Criminal Code* that relates to this Act”.

355 Section 302

Repeal the section.

356 At the end of section 306

Add:

- (9) Part 2.5 of the *Criminal Code* does not apply to an offence against this Act.

Note: Part 2.5 of the *Criminal Code* deals with corporate criminal responsibility.

Resource Assessment Commission Act 1989

357 Subsection 54(1)

Repeal the subsection, substitute:

- (1) A person is guilty of an offence if:
 - (a) at a hearing, the person gives evidence or produces a document; and

- (b) the person knows that the evidence or document is false or misleading in a material particular.

Penalty: Imprisonment for 6 months.

358 Subsection 54(2)

Omit “gives it to the Commission,” (first occurring).

Note: The heading to section 54 is altered by omitting “**or information**” and substituting “**or documents**”.

Retirement Savings Accounts Act 1997

359 Section 145

Omit “paragraph 150(1)(b)”, substitute “section 137.1 of the *Criminal Code*”.

360 Part 12 (heading)

Repeal the heading, substitute:

Part 12—Offences relating to records etc.

361 Section 148

Omit “the making of false or misleading statements,”.

362 Section 150

Repeal the section.

363 Sections 152 and 153

Repeal the sections.

Seat of Government (Administration) Act 1910

364 Section 7

Repeal the section.

Secret Commissions Act 1905

365 The whole of the Act

Repeal the Act.

Sex Discrimination Act 1984

366 Subsection 91(1)

Omit all the words after “other than”, substitute “a prosecution for an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

367 Section 93

Repeal the section.

Ships (Capital Grants) Act 1987

368 Subsection 29(2)

Omit “subsection (3)”, substitute “section 137.2 of the *Criminal Code*”.

369 Subsection 29(3)

Repeal the subsection.

370 Subsections 30(1) and (2)

Repeal the subsections.

371 Subsections 30(4), (5) and (6)

Repeal the subsections.

372 Subsection 30(7)

Repeal the subsection, substitute:

- (7) A person must not be convicted of:
- (a) both an offence against section 135.2 of the *Criminal Code* and an offence against or arising out of subsection 17(1) of this Act; or
 - (b) both an offence against section 135.2 of the *Criminal Code* and an offence against section 136.1, 137.1 or 137.2 of the *Criminal Code*;
- in respect of the same claim for a grant.

373 Subsections 30(9), (10) and (11)

Repeal the subsections.

374 Subsection 32(1)

Omit “or 30(1) or (2)”, substitute “of this Act or an offence against section 135.2, 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

375 Subsection 32(1)

Omit “under that subsection”.

Spirits Act 1906**376 Section 8**

Repeal the section.

Stevedoring Industry Levy Collection Act 1977**377 Section 8B**

Repeal the section, substitute:

8B Compliance with section 8A requirements

A person must not intentionally or recklessly fail to comply with the requirements of section 8A.

Penalty: 20 penalty units.

378 Subsection 9(1)

Repeal the subsection, substitute:

- (1) A person must not refuse or fail to furnish a return or information that the person is required under section 6 to furnish.

Penalty: 30 penalty units.

379 Subsection 10(5)

Repeal the subsection.

Student Assistance Act 1973

380 Subsection 49(1)

Repeal the subsection, substitute:

- (1) A person must not, without reasonable excuse, contravene section 48.

Penalty: Imprisonment for 12 months.

381 Subsection 49(2)

After “subsection (1)”, insert “of this section or an offence against section 135.2, 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

Superannuation Act 1976

382 Subsection 163A(2)

Omit “subsections (3), (4) and (5)”, substitute “subsections (3) and (5) of this section and section 137.2 of the *Criminal Code*”.

383 Subsection 163A(4)

Repeal the subsection.

384 Paragraphs 163A(5)(a) and (b)

Repeal the paragraphs, substitute:

- (a) in the case of an individual—in any criminal proceedings other than:
- (i) proceedings under, or arising out of, this section; or
 - (ii) a prosecution for an offence against section 137.1 of the *Criminal Code* that relates to this section; or
- (b) in the case of a body corporate—in any criminal proceedings other than:
- (i) proceedings under, or arising out of, this Act, the superseded Act or regulations under either Act; or
 - (ii) a prosecution for an offence against the *Criminal Code* that relates to this Act.

385 Subsections 167(1), (1A) and (2)

Repeal the subsections.

386 Subsection 167(3)

Omit “subsection (1)”, substitute “section 135.2, 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act”.

Superannuation Industry (Supervision) Act 1993

387 Section 299V

Omit “paragraph 302(1)(b)”, substitute “section 137.1 of the *Criminal Code*”.

388 Section 302

Repeal the section.

389 Section 304

Repeal the section.

390 Section 305

Repeal the section.

Sydney Airport Demand Management Act 1997

391 Subsection 62(4)

Omit “sections 29A and 29B of the *Crimes Act 1914*”, substitute “sections 134.1, 134.2, 135.1 and 135.2 of the *Criminal Code*”.

392 Subsection 62(4)

Omit “public authority under the Commonwealth”, substitute “Commonwealth entity”.

393 Subsection 62(5)

Omit “sections 73 and 75 of the *Crimes Act 1914*”, substitute “sections 141.1, 142.1, 142.2, 148.1 and 148.2 of the *Criminal Code*”.

394 Subsection 62(5)

Omit “Commonwealth officers”, substitute “Commonwealth public officials”.

Taxation Administration Act 1953

395 Subsection 3E(11) (paragraph (c) of the definition of tax-related offence)

Omit “section 29D or 86A of the *Crimes Act 1914*”, substitute “section 134.1, 134.2, 135.1, 135.2 or 135.4 of the *Criminal Code*”.

396 Paragraph 8J(3)(c)

Omit “section 29D or 86A of the *Crimes Act 1914*”, substitute “section 134.1, 134.2, 135.1, 135.2 or 135.4 of the *Criminal Code*”.

397 Section 8X

Repeal the section.

398 Paragraph 8Z(1)(d)

Omit “section 29D or 86A of the *Crimes Act 1914*”, substitute “section 134.1, 134.2, 135.1, 135.2 or 135.4 of the *Criminal Code*”.

Telecommunications (Interception) Act 1979

399 Paragraph 5D(4)(a)

Omit “or 83”.

400 After paragraph 5D(4)(a)

Insert:

(aa) section 135.3 of the *Criminal Code*;

Torres Strait Fisheries Act 1984

401 Subsection 3(1)

Insert:

offence against this Act includes an offence against section 136.1, 137.1, 137.2, 148.1, 148.2, 147.1 or 149.1 of the *Criminal Code* that relates to this Act.

402 At the end of paragraphs 43(1)(a), (b), (c) and (ca)

Add “and”.

403 Paragraph 43(1)(d)

Repeal the paragraph.

404 Paragraphs 43(1)(f) and (g)

Repeal the paragraphs.

405 Subsection 43(2)

Repeal the subsection.

406 At the end of section 53A

Add:

- (4) Part 2.5 of the *Criminal Code* does not apply to an offence against this Act or the regulations.

Note: Part 2.5 of the *Criminal Code* deals with corporate criminal responsibility.

407 Subsection 55(1)

Omit “subsection 43(2) or”.

Veterans’ Entitlements Act 1986

408 Subsection 54(7)

Repeal the subsection.

409 Subsection 54A(7)

Repeal the subsection.

410 Subsection 54AA(8)

Repeal the subsection.

411 Subsection 127(5)

Repeal the subsection.

Wool Tax (Administration) Act 1964

412 Section 27A

Repeal the section.

Workplace Relations Act 1996

413 Section 304

Repeal the section.

414 Section 304A

Repeal the section.

415 Section 305

Repeal the section, substitute:

305 Non-compliance with requirement made by an inspector

A person is guilty of an offence if the person, without reasonable excuse, contravenes a requirement made by an inspector under subparagraph 86(1)(b)(iv) or subsection 86(2).

Penalty: Imprisonment for 6 months.

416 Section 305A

Repeal the section, substitute:

305A Non-compliance with requirement made by an authorised officer

A person is guilty of an offence if the person, without reasonable excuse, contravenes a requirement made by an authorised officer under paragraph 83BH(4)(d) or subsection 83BH(5).

Penalty: Imprisonment for 6 months.

417 Section 306

Repeal the section.

Part 2—Transitional provisions

418 Transitional—pre-commencement offences

- (1) Despite the amendment or repeal of a provision by this Schedule, that provision continues to apply, after the commencement of this item, in relation to:
- (a) an offence committed before the commencement of this item; or
 - (b) proceedings for an offence alleged to have been committed before the commencement of this item; or
 - (c) any matter connected with, or arising out of, such proceedings;
- as if the amendment or repeal had not been made.
- (2) Subitem (1) does not limit the operation of section 8 of the *Acts Interpretation Act 1901*.

419 Transitional—pre-commencement notices

If:

- (a) a provision in force immediately before the commencement of this item required that a notice set out the effect of one or more other provisions; and
 - (b) any or all of those other provisions are repealed by this Schedule; and
 - (c) the first-mentioned provision is amended by this Schedule;
- the amendment of the first-mentioned provision by this Schedule does not affect the validity of such a notice that was given before the commencement of this item.

*[Minister's second reading speech made in—
House of Representatives on 24 November 1999
Senate on 30 October 2000]*

(211/99)