



Criminal Code Act 1995

Act No. 12 of 1995 as amended

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The text of any of those amendments not in force
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An Act relating to the criminal law

1 Short title [see Note 1]

This Act may be cited as the *Criminal Code Act 1995*.

2 Commencement [see Note 1]

- (1) Subject to subsection (2), this Act commences on a day to be fixed by Proclamation.
- (2) If this Act does not commence under subsection (1) within the period of 5 years beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

3 The Criminal Code

- (1) The Schedule has effect as a law of the Commonwealth.
- (2) The Schedule may be cited as the *Criminal Code*.

3AA Application of the *Criminal Code* to regulations

- (1) Despite section 2.2 of the *Criminal Code*, or anything in any other Act, if the Governor-General has power to make regulations under an Act, that power is taken to include a power to make regulations applying Chapter 2 of the *Criminal Code* on and after a specified day to offences against:
 - (a) all regulations under that Act; or
 - (b) a specified class of regulations under that Act; or
 - (c) one or more specified regulations under that Act;whether those regulations are made before or after the commencement of this section.

- (2) The day specified in regulations made under subsection (1) must not:
 - (a) occur before the day on which the regulations are made; or
 - (b) be the day specified in subsection 2.2(2) of the *Criminal Code*, or occur after that day.
- (3) This section ceases to have effect, and is taken to have been repealed, on the day specified in subsection 2.2(2) of the *Criminal Code*.

3A External Territories

The *Criminal Code* extends to every external Territory.

3B Offshore installations

Unless the contrary intention appears, an installation (within the meaning of the *Customs Act 1901*) that is deemed by section 5C of the *Customs Act 1901* to be part of Australia is also taken to be part of Australia for the purposes of the *Criminal Code*.

4 Definitions

- (1) Expressions used in the Code (or in a particular provision of the Code) that are defined in the Dictionary at the end of the Code have the meanings given to them in the Dictionary.
- (2) Definitions in the Code of expressions used in the Code apply to its construction except insofar as the context or subject matter otherwise indicates or requires.

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.

Schedule—The Criminal Code

Section 3

Chapter 1—Codification

Division 1

1.1 Codification

The only offences against laws of the Commonwealth are those offences created by, or under the authority of, this Code or any other Act.

Note: Under subsection 38(1) of the *Acts Interpretation Act 1901*, *Act* means an Act passed by the Parliament of the Commonwealth.

Chapter 2—General principles of criminal responsibility

Part 2.1—Purpose and application

Division 2

2.1 Purpose

The purpose of this Chapter is to codify the general principles of criminal responsibility under laws of the Commonwealth. It contains all the general principles of criminal responsibility that apply to any offence, irrespective of how the offence is created.

2.2 Application

- (1) This Chapter applies to all offences against this Code.
- (2) Subject to section 2.3, this Chapter applies on and after 15 December 2001 to all other offences.
- (3) Section 11.6 applies to all offences.

2.3 Application of provisions relating to intoxication

Subsections 4.2(6) and (7) and Division 8 apply to all offences. For the purpose of interpreting those provisions in connection with an offence, the other provisions of this Chapter may be considered, whether or not those other provisions apply to the offence concerned.

Part 2.2—The elements of an offence

Division 3—General

3.1 Elements

- (1) An offence consists of physical elements and fault elements.**
- (2) However, the law that creates the offence may provide that there is no fault element for one or more physical elements.
- (3) The law that creates the offence may provide different fault elements for different physical elements.

3.2 Establishing guilt in respect of offences

In order for a person to be found guilty of committing an offence the following must be proved:

- (a) the existence of such physical elements as are, under the law creating the offence, relevant to establishing guilt;
- (b) in respect of each such physical element for which a fault element is required, one of the fault elements for the physical element.

Note 1: See Part 2.6 on proof of criminal responsibility.

Note 2: See Part 2.7 on geographical jurisdiction.

Division 4—Physical elements

4.1 Physical elements

- (1) **A physical element of an offence may be:**
- (a) **conduct; or**
 - (b) **a circumstance in which conduct occurs; or**
 - (c) **a result of conduct.**

- (2) In this Code:

conduct means an act, an omission to perform an act or a state of affairs.

engage in conduct means:

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

4.2 Voluntariness

- (1) Conduct can only be a physical element if it is voluntary.
- (2) Conduct is only voluntary if it is a product of the will of the person whose conduct it is.
- (3) The following are examples of conduct that is not voluntary:
 - (a) a spasm, convulsion or other unwilled bodily movement;
 - (b) an act performed during sleep or unconsciousness;
 - (c) an act performed during impaired consciousness depriving the person of the will to act.
- (4) An omission to perform an act is only voluntary if the act omitted is one which the person is capable of performing.
- (5) If the conduct constituting an offence consists only of a state of affairs, the state of affairs is only voluntary if it is one over which the person is capable of exercising control.

- (6) Evidence of self-induced intoxication cannot be considered in determining whether conduct is voluntary.
- (7) Intoxication is self-induced unless it came about:
 - (a) involuntarily; or
 - (b) as a result of fraud, sudden or extraordinary emergency, accident, reasonable mistake, duress or force.

4.3 Omissions

An omission to perform an act can only be a physical element if:

- (a) the law creating the offence makes it so; or
- (b) the law creating the offence impliedly provides that the offence is committed by an omission to perform an act that by law there is a duty to perform.

Division 5—Fault elements

5.1 Fault elements

- (1) **A fault element for a particular physical element may be intention, knowledge, recklessness or negligence.**
- (2) Subsection (1) does not prevent a law that creates a particular offence from specifying other fault elements for a physical element of that offence.

5.2 Intention

- (1) A person has intention with respect to conduct if he or she means to engage in that conduct.
- (2) A person has intention with respect to a circumstance if he or she believes that it exists or will exist.
- (3) A person has intention with respect to a result if he or she means to bring it about or is aware that it will occur in the ordinary course of events.

5.3 Knowledge

A person has knowledge of a circumstance or a result if he or she is aware that it exists or will exist in the ordinary course of events.

5.4 Recklessness

- (1) A person is reckless with respect to a circumstance if:
 - (a) he or she is aware of a substantial risk that the circumstance exists or will exist; and
 - (b) having regard to the circumstances known to him or her, it is unjustifiable to take the risk.

- (2) A person is reckless with respect to a result if:
 - (a) he or she is aware of a substantial risk that the result will occur; and
 - (b) having regard to the circumstances known to him or her, it is unjustifiable to take the risk.
- (3) The question whether taking a risk is unjustifiable is one of fact.
- (4) If recklessness is a fault element for a physical element of an offence, proof of intention, knowledge or recklessness will satisfy that fault element.

5.5 Negligence

A person is negligent with respect to a physical element of an offence if his or her conduct involves:

- (a) such a great falling short of the standard of care that a reasonable person would exercise in the circumstances; and
- (b) such a high risk that the physical element exists or will exist;

that the conduct merits criminal punishment for the offence.

5.6 Offences that do not specify fault elements

- (1) If the law creating the offence does not specify a fault element for a physical element that consists only of conduct, intention is the fault element for that physical element.
- (2) If the law creating the offence does not specify a fault element for a physical element that consists of a circumstance or a result, recklessness is the fault element for that physical element.

Note: Under subsection 5.4(4), recklessness can be established by proving intention, knowledge or recklessness.

Division 6—Cases where fault elements are not required

6.1 Strict liability

- (1) If a law that creates an offence provides that the offence is an offence of strict liability:**
 - (a) there are no fault elements for any of the physical elements of the offence; and**
 - (b) the defence of mistake of fact under section 9.2 is available.**
- (2) If a law that creates an offence provides that strict liability applies to a particular physical element of the offence:
 - (a) there are no fault elements for that physical element; and
 - (b) the defence of mistake of fact under section 9.2 is available in relation to that physical element.
- (3) The existence of strict liability does not make any other defence unavailable.

6.2 Absolute liability

- (1) If a law that creates an offence provides that the offence is an offence of absolute liability:**
 - (a) there are no fault elements for any of the physical elements of the offence; and**
 - (b) the defence of mistake of fact under section 9.2 is unavailable.**
- (2) If a law that creates an offence provides that absolute liability applies to a particular physical element of the offence:
 - (a) there are no fault elements for that physical element; and
 - (b) the defence of mistake of fact under section 9.2 is unavailable in relation to that physical element.
- (3) The existence of absolute liability does not make any other defence unavailable.

Part 2.3—Circumstances in which there is no criminal responsibility

Note: This Part sets out defences that are generally available. Defences that apply to a more limited class of offences are dealt with elsewhere in this Code and in other laws.

Division 7—Circumstances involving lack of capacity

7.1 Children under 10

A child under 10 years old is not criminally responsible for an offence.

7.2 Children over 10 but under 14

- (1) A child aged 10 years or more but under 14 years old can only be criminally responsible for an offence if the child knows that his or her conduct is wrong.**
- (2) The question whether a child knows that his or her conduct is wrong is one of fact. The burden of proving this is on the prosecution.**

7.3 Mental impairment

- (1) A person is not criminally responsible for an offence if, at the time of carrying out the conduct constituting the offence, the person was suffering from a mental impairment that had the effect that:**
 - (a) the person did not know the nature and quality of the conduct; or**
 - (b) the person did not know that the conduct was wrong (that is, the person could not reason with a moderate degree of sense and composure about whether the conduct, as perceived by reasonable people, was wrong); or**
 - (c) the person was unable to control the conduct.**

Clause 7.3

- (2) The question whether the person was suffering from a mental impairment is one of fact.
- (3) A person is presumed not to have been suffering from such a mental impairment. The presumption is only displaced if it is proved on the balance of probabilities (by the prosecution or the defence) that the person was suffering from such a mental impairment.
- (4) The prosecution can only rely on this section if the court gives leave.
- (5) The tribunal of fact must return a special verdict that a person is not guilty of an offence because of mental impairment if and only if it is satisfied that the person is not criminally responsible for the offence only because of a mental impairment.
- (6) A person cannot rely on a mental impairment to deny voluntariness or the existence of a fault element but may rely on this section to deny criminal responsibility.
- (7) If the tribunal of fact is satisfied that a person carried out conduct as a result of a delusion caused by a mental impairment, the delusion cannot otherwise be relied on as a defence.
- (8) In this section:

mental impairment includes senility, intellectual disability, mental illness, brain damage and severe personality disorder.
- (9) The reference in subsection (8) to **mental illness** is a reference to an underlying pathological infirmity of the mind, whether of long or short duration and whether permanent or temporary, but does not include a condition that results from the reaction of a healthy mind to extraordinary external stimuli. However, such a condition may be evidence of a mental illness if it involves some abnormality and is prone to recur.

Division 8—Intoxication

8.1 Definition—self-induced intoxication

For the purposes of this Division, intoxication is self-induced unless it came about:

- (a) involuntarily; or
- (b) as a result of fraud, sudden or extraordinary emergency, accident, reasonable mistake, duress or force.

8.2 Intoxication (offences involving basic intent)

- (1) **Evidence of self-induced intoxication cannot be considered in determining whether a fault element of basic intent existed.**
- (2) A fault element of basic intent is a fault element of intention for a physical element that consists only of conduct.

Note: A fault element of intention with respect to a circumstance or with respect to a result is not a fault element of basic intent.
- (3) This section does not prevent evidence of self-induced intoxication being taken into consideration in determining whether conduct was accidental.
- (4) This section does not prevent evidence of self-induced intoxication being taken into consideration in determining whether a person had a mistaken belief about facts if the person had considered whether or not the facts existed.
- (5) A person may be regarded as having considered whether or not facts existed if:
 - (a) he or she had considered, on a previous occasion, whether those facts existed in circumstances surrounding that occasion; and
 - (b) he or she honestly and reasonably believed that the circumstances surrounding the present occasion were the same, or substantially the same, as those surrounding the previous occasion.

Clause 8.3

8.3 Intoxication (negligence as fault element)

- (1) If negligence is a fault element for a particular physical element of an offence, in determining whether that fault element existed in relation to a person who is intoxicated, regard must be had to the standard of a reasonable person who is not intoxicated.**
- (2) However, if intoxication is not self-induced, regard must be had to the standard of a reasonable person intoxicated to the same extent as the person concerned.

8.4 Intoxication (relevance to defences)

- (1) If any part of a defence is based on actual knowledge or belief, evidence of intoxication may be considered in determining whether that knowledge or belief existed.**
- (2) If any part of a defence is based on reasonable belief, in determining whether that reasonable belief existed, regard must be had to the standard of a reasonable person who is not intoxicated.**
- (3) If a person's intoxication is not self-induced, in determining whether any part of a defence based on reasonable belief exists, regard must be had to the standard of a reasonable person intoxicated to the same extent as the person concerned.
- (4) If, in relation to an offence:
 - (a) each physical element has a fault element of basic intent; and
 - (b) any part of a defence is based on actual knowledge or belief; evidence of self-induced intoxication cannot be considered in determining whether that knowledge or belief existed.
- (5) A fault element of basic intent is a fault element of intention for a physical element that consists only of conduct.

Note: A fault element of intention with respect to a circumstance or with respect to a result is not a fault element of basic intent.

8.5 Involuntary intoxication

A person is not criminally responsible for an offence if the person's conduct constituting the offence was as a result of intoxication that was not self-induced.

Clause 9.1

Division 9—Circumstances involving mistake or ignorance

9.1 Mistake or ignorance of fact (fault elements other than negligence)

- (1) A person is not criminally responsible for an offence that has a physical element for which there is a fault element other than negligence if:**
 - (a) at the time of the conduct constituting the physical element, the person is under a mistaken belief about, or is ignorant of, facts; and**
 - (b) the existence of that mistaken belief or ignorance negates any fault element applying to that physical element.**
- (2) In determining whether a person was under a mistaken belief about, or was ignorant of, facts, the tribunal of fact may consider whether the mistaken belief or ignorance was reasonable in the circumstances.**

9.2 Mistake of fact (strict liability)

- (1) A person is not criminally responsible for an offence that has a physical element for which there is no fault element if:**
 - (a) at or before the time of the conduct constituting the physical element, the person considered whether or not facts existed, and is under a mistaken but reasonable belief about those facts; and**
 - (b) had those facts existed, the conduct would not have constituted an offence.**
- (2) A person may be regarded as having considered whether or not facts existed if:**
 - (a) he or she had considered, on a previous occasion, whether those facts existed in the circumstances surrounding that occasion; and**

- (b) he or she honestly and reasonably believed that the circumstances surrounding the present occasion were the same, or substantially the same, as those surrounding the previous occasion.

Note: Section 6.2 prevents this section applying in situations of absolute liability.

9.3 Mistake or ignorance of statute law

- (1) **A person can be criminally responsible for an offence even if, at the time of the conduct constituting the offence, he or she is mistaken about, or ignorant of, the existence or content of an Act that directly or indirectly creates the offence or directly or indirectly affects the scope or operation of the offence.**
- (2) Subsection (1) does not apply, and the person is not criminally responsible for the offence in those circumstances, if:
 - (a) the Act is expressly or impliedly to the contrary effect; or
 - (b) the ignorance or mistake negates a fault element that applies to a physical element of the offence.

9.4 Mistake or ignorance of subordinate legislation

- (1) **A person can be criminally responsible for an offence even if, at the time of the conduct constituting the offence, he or she is mistaken about, or ignorant of, the existence or content of the subordinate legislation that directly or indirectly creates the offence or directly or indirectly affects the scope or operation of the offence.**
- (2) Subsection (1) does not apply, and the person is not criminally responsible for the offence in those circumstances, if:
 - (a) the subordinate legislation is expressly or impliedly to the contrary effect; or
 - (b) the ignorance or mistake negates a fault element that applies to a physical element of the offence; or
 - (c) at the time of the conduct, copies of the subordinate legislation have not been made available to the public or to

Clause 9.5

persons likely to be affected by it, and the person could not be aware of its content even if he or she exercised due diligence.

(3) In this section:

available includes available by sale.

subordinate legislation means an instrument of a legislative character made directly or indirectly under an Act, or in force directly or indirectly under an Act.

9.5 Claim of right

- (1) **A person is not criminally responsible for an offence that has a physical element relating to property if:**
 - (a) **at the time of the conduct constituting the offence, the person is under a mistaken belief about a proprietary or possessory right; and**
 - (b) **the existence of that right would negate a fault element for any physical element of the offence.**
- (2) A person is not criminally responsible for any other offence arising necessarily out of the exercise of the proprietary or possessory right that he or she mistakenly believes to exist.
- (3) This section does not negate criminal responsibility for an offence relating to the use of force against a person.

Division 10—Circumstances involving external factors

10.1 Intervening conduct or event

A person is not criminally responsible for an offence that has a physical element to which absolute liability or strict liability applies if:

- (a) the physical element is brought about by another person over whom the person has no control or by a non-human act or event over which the person has no control; and**
- (b) the person could not reasonably be expected to guard against the bringing about of that physical element.**

10.2 Duress

- (1) A person is not criminally responsible for an offence if he or she carries out the conduct constituting the offence under duress.**
- (2) A person carries out conduct under duress if and only if he or she reasonably believes that:
 - (a) a threat has been made that will be carried out unless an offence is committed; and
 - (b) there is no reasonable way that the threat can be rendered ineffective; and
 - (c) the conduct is a reasonable response to the threat.
- (3) This section does not apply if the threat is made by or on behalf of a person with whom the person under duress is voluntarily associating for the purpose of carrying out conduct of the kind actually carried out.

10.3 Sudden or extraordinary emergency

- (1) A person is not criminally responsible for an offence if he or she carries out the conduct constituting the offence in response to circumstances of sudden or extraordinary emergency.**

Clause 10.4

- (2) This section applies if and only if the person carrying out the conduct reasonably believes that:
- (a) circumstances of sudden or extraordinary emergency exist; and
 - (b) committing the offence is the only reasonable way to deal with the emergency; and
 - (c) the conduct is a reasonable response to the emergency.

10.4 Self-defence

- (1) **A person is not criminally responsible for an offence if he or she carries out the conduct constituting the offence in self-defence.**
- (2) A person carries out conduct in self-defence if and only if he or she believes the conduct is necessary:
- (a) to defend himself or herself or another person; or
 - (b) to prevent or terminate the unlawful imprisonment of himself or herself or another person; or
 - (c) to protect property from unlawful appropriation, destruction, damage or interference; or
 - (d) to prevent criminal trespass to any land or premises; or
 - (e) to remove from any land or premises a person who is committing criminal trespass;
- and the conduct is a reasonable response in the circumstances as he or she perceives them.
- (3) This section does not apply if the person uses force that involves the intentional infliction of death or really serious injury:
- (a) to protect property; or
 - (b) to prevent criminal trespass; or
 - (c) to remove a person who is committing criminal trespass.
- (4) This section does not apply if:
- (a) the person is responding to lawful conduct; and
 - (b) he or she knew that the conduct was lawful.

However, conduct is not lawful merely because the person carrying it out is not criminally responsible for it.

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.

Part 2.4—Extensions of criminal responsibility

Division 11

11.1 Attempt

(1) A person who attempts to commit an offence is guilty of the offence of attempting to commit that offence and is punishable as if the offence attempted had been committed.

(2) For the person to be guilty, the person's conduct must be more than merely preparatory to the commission of the offence. The question whether conduct is more than merely preparatory to the commission of the offence is one of fact.

(3) For the offence of attempting to commit an offence, intention and knowledge are fault elements in relation to each physical element of the offence attempted.

Note: Under section 3.2, only one of the fault elements of intention or knowledge would need to be established in respect of each physical element of the offence attempted.

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

(4) A person may be found guilty even if:

- (a) committing the offence attempted is impossible; or
- (b) the person actually committed the offence attempted.

(5) A person who is found guilty of attempting to commit an offence cannot be subsequently charged with the completed offence.

(6) Any defences, procedures, limitations or qualifying provisions that apply to an offence apply also to the offence of attempting to commit that offence.

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

- (7) It is not an offence to attempt to commit an offence against section 11.2 (complicity and common purpose), section 11.5 (conspiracy to commit an offence) or section 135.4 (conspiracy to defraud).

11.2 Complicity and common purpose

- (1) **A person who aids, abets, counsels or procures the commission of an offence by another person is taken to have committed that offence and is punishable accordingly.**
- (2) For the person to be guilty:
- (a) the person's conduct must have in fact aided, abetted, counselled or procured the commission of the offence by the other person; and
 - (b) the offence must have been committed by the other person.
- (3) For the person to be guilty, the person must have intended that:
- (a) his or her conduct would aid, abet, counsel or procure the commission of any offence (including its fault elements) of the type the other person committed; or
 - (b) his or her conduct would aid, abet, counsel or procure the commission of an offence and have been reckless about the commission of the offence (including its fault elements) that the other person in fact committed.
- (3A) Subsection (3) has effect subject to subsection (6).
- (4) A person cannot be found guilty of aiding, abetting, counselling or procuring the commission of an offence if, before the offence was committed, the person:
- (a) terminated his or her involvement; and
 - (b) took all reasonable steps to prevent the commission of the offence.
- (5) A person may be found guilty of aiding, abetting, counselling or procuring the commission of an offence even if the principal offender has not been prosecuted or has not been found guilty.

Clause 11.3

- (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.

11.3 Innocent agency

A person who:

- (a) **has, in relation to each physical element of an offence, a fault element applicable to that physical element; and**
- (b) **procures conduct of another person that (whether or not together with conduct of the procurer) would have constituted an offence on the part of the procurer if the procurer had engaged in it;**

is taken to have committed that offence and is punishable accordingly.

11.4 Incitement

- (1) **A person who urges the commission of an offence is guilty of the offence of incitement.**
- (2) For the person to be guilty, the person must intend that the offence incited be committed.
- (2A) Subsection (2) has effect subject to subsection (4A).
- (3) A person may be found guilty even if committing the offence incited is impossible.
- (4) Any defences, procedures, limitations or qualifying provisions that apply to an offence apply also to the offence of incitement in respect of that offence.
- (4A) Any special liability provisions that apply to an offence apply also to the offence of incitement in respect of that offence.
- (5) It is not an offence to incite the commission of an offence against section 11.1 (attempt), this section or section 11.5 (conspiracy).

Penalty:

- (a) if the offence incited is punishable by life imprisonment—imprisonment for 10 years; or
- (b) if the offence incited is punishable by imprisonment for 14 years or more, but is not punishable by life imprisonment—imprisonment for 7 years; or
- (c) if the offence incited is punishable by imprisonment for 10 years or more, but is not punishable by imprisonment for 14 years or more—imprisonment for 5 years; or
- (d) if the offence is otherwise punishable by imprisonment—imprisonment for 3 years or for the maximum term of imprisonment for the offence incited, whichever is the lesser; or
- (e) if the offence incited is not punishable by imprisonment—the number of penalty units equal to the maximum number of penalty units applicable to the offence incited.

Note: Under section 4D of the *Crimes Act 1914*, these penalties are only maximum penalties. Subsection 4B(2) of that Act allows a court to impose an appropriate fine instead of, or in addition to, a term of imprisonment. If a body corporate is convicted of the offence, subsection 4B(3) of that Act allows a court to impose a fine of an amount not greater than 5 times the maximum fine that the court could impose on an individual convicted of the same offence. Penalty units are defined in section 4AA of that Act.

11.5 Conspiracy

- (1) **A person who conspires with another person to commit an offence punishable by imprisonment for more than 12 months, or by a fine of 200 penalty units or more, is guilty of the offence of conspiracy to commit that offence and is punishable as if the offence to which the conspiracy relates had been committed.**

Note: Penalty units are defined in section 4AA of the *Crimes Act 1914*.

- (2) For the person to be guilty:
 - (a) the person must have entered into an agreement with one or more other persons; and

Clause 11.5

- (b) the person and at least one other party to the agreement must have intended that an offence would be committed 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.
- (2A) Subsection (2) has effect subject to subsection (7A).
- (3) A person may be found guilty of conspiracy to commit an offence even if:
- (a) committing the offence is impossible; or
 - (b) the only other party to the agreement is a body corporate; or
 - (c) each other party to the agreement is at least one of the following:
 - (i) a person who is not criminally responsible;
 - (ii) a person for whose benefit or protection the offence exists; or
 - (d) subject to paragraph (4)(a), all other parties to the agreement have been acquitted of the conspiracy.
- (4) A person cannot be found guilty of conspiracy to commit an offence if:
- (a) all other parties to the agreement have been acquitted of the conspiracy and a finding of guilt would be inconsistent with their acquittal; or
 - (b) he or she is a person for whose benefit or protection the offence exists.
- (5) A person cannot be found guilty of conspiracy to commit an offence 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 commission of the offence.
- (6) A court may dismiss a charge of conspiracy if it thinks that the interests of justice require it to do so.

- (7) Any defences, procedures, limitations or qualifying provisions that apply to an offence apply also to the offence of conspiracy to commit that offence.
- (7A) Any special liability provisions that apply to an offence apply also to the offence of conspiracy to commit that offence.
- (8) Proceedings for an offence of conspiracy must not be commenced without the consent of the Director of Public Prosecutions. However, a person may be arrested for, charged with, or remanded in custody or on bail in connection with, an offence of conspiracy before the necessary consent has been given.

11.6 References in Acts to offences

- (1) A reference in a law of the Commonwealth to an offence against a law of the Commonwealth (including this Code) includes a reference to an offence against section 11.1 (attempt), 11.4 (incitement) or 11.5 (conspiracy) of this Code that relates to such an offence.
- (2) A reference in a law of the Commonwealth (including this Code) to a particular offence includes a reference to an offence against section 11.1 (attempt), 11.4 (incitement) or 11.5 (conspiracy) of this Code that relates to that particular offence.
- (3) Subsection (1) or (2) does not apply if a law of the Commonwealth is expressly or impliedly to the contrary effect.
- (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*;

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Chapter 2 General principles of criminal responsibility

Part 2.4 Extensions of criminal responsibility

Clause 11.6

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

Note: Sections 11.2 (complicity and common purpose) and 11.3 (innocent agency) of this Code operate as extensions of principal offences and are therefore not referred to in this section.

Part 2.5—Corporate criminal responsibility

Division 12

12.1 General principles

- (1) This Code applies to bodies corporate in the same way as it applies to individuals. It so applies with such modifications as are set out in this Part, and with such other modifications as are made necessary by the fact that criminal liability is being imposed on bodies corporate rather than individuals.**
- (2) A body corporate may be found guilty of any offence, including one punishable by imprisonment.**

Note: Section 4B of the *Crimes Act 1914* enables a fine to be imposed for offences that only specify imprisonment as a penalty.

12.2 Physical elements

If a physical element of an offence is committed by an employee, agent or officer of a body corporate acting within the actual or apparent scope of his or her employment, or within his or her actual or apparent authority, the physical element must also be attributed to the body corporate.

12.3 Fault elements other than negligence

- (1) If intention, knowledge or recklessness is a fault element in relation to a physical element of an offence, that fault element must be attributed to a body corporate that expressly, tacitly or impliedly authorised or permitted the commission of the offence.
- (2) The means by which such an authorisation or permission may be established include:
 - (a) proving that the body corporate's board of directors intentionally, knowingly or recklessly carried out the

Clause 12.3

- relevant conduct, or expressly, tacitly or impliedly authorised or permitted the commission of the offence; or
- (b) proving that a high managerial agent of the body corporate intentionally, knowingly or recklessly engaged in the relevant conduct, or expressly, tacitly or impliedly authorised or permitted the commission of the offence; or
 - (c) proving that a corporate culture existed within the body corporate that directed, encouraged, tolerated or led to non-compliance with the relevant provision; or
 - (d) proving that the body corporate failed to create and maintain a corporate culture that required compliance with the relevant provision.
- (3) Paragraph (2)(b) does not apply if the body corporate proves that it exercised due diligence to prevent the conduct, or the authorisation or permission.
- (4) Factors relevant to the application of paragraph (2)(c) or (d) include:
- (a) whether authority to commit an offence of the same or a similar character had been given by a high managerial agent of the body corporate; and
 - (b) whether the employee, agent or officer of the body corporate who committed the offence believed on reasonable grounds, or entertained a reasonable expectation, that a high managerial agent of the body corporate would have authorised or permitted the commission of the offence.
- (5) If recklessness is not a fault element in relation to a physical element of an offence, subsection (2) does not enable the fault element to be proved by proving that the board of directors, or a high managerial agent, of the body corporate recklessly engaged in the conduct or recklessly authorised or permitted the commission of the offence.
- (6) In this section:
- board of directors*** means the body (by whatever name called) exercising the executive authority of the body corporate.

corporate culture means an attitude, policy, rule, course of conduct or practice existing within the body corporate generally or in the part of the body corporate in which the relevant activities takes place.

high managerial agent means an employee, agent or officer of the body corporate with duties of such responsibility that his or her conduct may fairly be assumed to represent the body corporate's policy.

12.4 Negligence

- (1) The test of negligence for a body corporate is that set out in section 5.5.
- (2) If:
 - (a) negligence is a fault element in relation to a physical element of an offence; and
 - (b) no individual employee, agent or officer of the body corporate has that fault element;that fault element may exist on the part of the body corporate if the body corporate's conduct is negligent when viewed as a whole (that is, by aggregating the conduct of any number of its employees, agents or officers).
- (3) Negligence may be evidenced by the fact that the prohibited conduct was substantially attributable to:
 - (a) inadequate corporate management, control or supervision of the conduct of one or more of its employees, agents or officers; or
 - (b) failure to provide adequate systems for conveying relevant information to relevant persons in the body corporate.

12.5 Mistake of fact (strict liability)

- (1) A body corporate can only rely on section 9.2 (mistake of fact (strict liability)) in respect of conduct that would, apart from this section, constitute an offence on its part if:

Clause 12.6

- (a) the employee, agent or officer of the body corporate who carried out the conduct was under a mistaken but reasonable belief about facts that, had they existed, would have meant that the conduct would not have constituted an offence; and
 - s(b) the body corporate proves that it exercised due diligence to prevent the conduct.
- (2) A failure to exercise due diligence may be evidenced by the fact that the prohibited conduct was substantially attributable to:
- (a) inadequate corporate management, control or supervision of the conduct of one or more of its employees, agents or officers; or
 - (b) failure to provide adequate systems for conveying relevant information to relevant persons in the body corporate.

12.6 Intervening conduct or event

A body corporate cannot rely on section 10.1 (intervening conduct or event) in respect of a physical element of an offence brought about by another person if the other person is an employee, agent or officer of the body corporate.

Part 2.6—Proof of criminal responsibility

Division 13

13.1 Legal burden of proof—prosecution

- (1) The prosecution bears a legal burden of proving every element of an offence relevant to the guilt of the person charged.**

Note: See section 3.2 on what elements are relevant to a person's guilt.

- (2) The prosecution also bears a legal burden of disproving any matter in relation to which the defendant has discharged an evidential burden of proof imposed on the defendant.**

- (3) In this Code:

legal burden, in relation to a matter, means the burden of proving the existence of the matter.

13.2 Standard of proof—prosecution

- (1) A legal burden of proof on the prosecution must be discharged beyond reasonable doubt.**
- (2) Subsection (1) does not apply if the law creating the offence specifies a different standard of proof.

13.3 Evidential burden of proof—defence

- (1) Subject to section 13.4, a burden of proof that a law imposes on a defendant is an evidential burden only.**
- (2) A defendant who wishes to deny criminal responsibility by relying on a provision of Part 2.3 (other than section 7.3) bears an evidential burden in relation to that matter.

Clause 13.4

- (3) A defendant who wishes to rely on any exception, exemption, excuse, qualification or justification provided by the law creating an offence bears an evidential burden in relation to that matter. The exception, exemption, excuse, qualification or justification need not accompany the description of the offence.
- (4) The defendant no longer bears the evidential burden in relation to a matter if evidence sufficient to discharge the burden is adduced by the prosecution or by the court.
- (5) The question whether an evidential burden has been discharged is one of law.
- (6) In this Code:

evidential burden, in relation to a matter, means the burden of adducing or pointing to evidence that suggests a reasonable possibility that the matter exists or does not exist.

13.4 Legal burden of proof—defence

A burden of proof that a law imposes on the defendant is a legal burden if and only if the law expressly:

- (a) specifies that the burden of proof in relation to the matter in question is a legal burden; or
- (b) requires the defendant to prove the matter; or
- (c) creates a presumption that the matter exists unless the contrary is proved.

13.5 Standard of proof—defence

A legal burden of proof on the defendant must be discharged on the balance of probabilities.

13.6 Use of averments

A law that allows the prosecution to make an averment is taken not to allow the prosecution:

- (a) to aver any fault element of an offence; or

- (b) to make an averment in prosecuting for an offence that is directly punishable by imprisonment.

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

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- (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).

Clause 15.1

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

Clause 15.2

- (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

Clause 15.3

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;

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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

Clause 16.3

(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)).

Chapter 4—The integrity and security of the international community and foreign governments

Division 70—Bribery of foreign public officials

70.1 Definitions

In this Division:

benefit includes any advantage and is not limited to property.

business advantage means an advantage in the conduct of business.

control, in relation to a company, body or association, includes control as a result of, or by means of, trusts, agreements, arrangements, understandings and practices, whether or not having legal or equitable force and whether or not based on legal or equitable rights.

duty, in relation to a foreign public official, means any authority, duty, function or power that:

- (a) is conferred on the official; or
- (b) that the official holds himself or herself out as having.

foreign government body means:

- (a) the government of a foreign country or of part of a foreign country; or
- (b) an authority of the government of a foreign country; or
- (c) an authority of the government of part of a foreign country; or
- or
- (d) a foreign local government body or foreign regional government body; or
- (e) a foreign public enterprise.

Clause 70.1

foreign public enterprise means a company or any other body or association where:

- (a) in the case of a company—one of the following applies:
 - (i) the government of a foreign country or of part of a foreign country holds more than 50% of the issued share capital of the company;
 - (ii) the government of a foreign country or of part of a foreign country holds more than 50% of the voting power in the company;
 - (iii) the government of a foreign country or of part of a foreign country is in a position to appoint more than 50% of the company's board of directors;
 - (iv) the directors (however described) of the company are accustomed or under an obligation (whether formal or informal) to act in accordance with the directions, instructions or wishes of the government of a foreign country or of part of a foreign country;
 - (v) the government of a foreign country or of part of a foreign country is in a position to exercise control over the company; and
- (b) in the case of any other body or association—either of the following applies:
 - (i) the members of the executive committee (however described) of the body or association are accustomed or under an obligation (whether formal or informal) to act in accordance with the directions, instructions or wishes of the government of a foreign country or of part of a foreign country;
 - (ii) the government of a foreign country or of part of a foreign country is in a position to exercise control over the body or association; and
- (c) the company, body or association:
 - (i) enjoys special legal rights or a special legal status under a law of a foreign country or of part of a foreign country; or

(ii) enjoys special benefits or privileges under a law of a foreign country or of part of a foreign country; because of the relationship of the company, body or association with the government of the foreign country or of the part of the foreign country, as the case may be.

foreign public official means:

- (a) an employee or official of a foreign government body; or
- (b) an individual who performs work for a foreign government body under a contract; or
- (c) an individual who holds or performs the duties of an appointment, office or position under a law of a foreign country or of part of a foreign country; or
- (d) an individual who holds or performs the duties of an appointment, office or position created by custom or convention of a foreign country or of part of a foreign country; or
- (e) an individual who is otherwise in the service of a foreign government body (including service as a member of a military force or police force); or
- (f) a member of the executive, judiciary or magistracy of a foreign country or of part of a foreign country; or
- (g) an employee of a public international organisation; or
- (h) an individual who performs work for a public international organisation under a contract; or
- (i) an individual who holds or performs the duties of an office or position in a public international organisation; or
- (j) an individual who is otherwise in the service of a public international organisation; or
- (k) a member or officer of the legislature of a foreign country or of part of a foreign country; or
- (l) an individual who:
 - (i) is an authorised intermediary of a foreign public official covered by any of the above paragraphs; or

Clause 70.2

- (ii) holds himself or herself out to be the authorised intermediary of a foreign public official covered by any of the above paragraphs.

public international organisation means:

- (a) an organisation:
 - (i) of which 2 or more countries, or the governments of 2 or more countries, are members; or
 - (ii) that is constituted by persons representing 2 or more countries, or representing the governments of 2 or more countries; or
- (b) an organisation established by, or a group of organisations constituted by:
 - (i) organisations of which 2 or more countries, or the governments of 2 or more countries, are members; or
 - (ii) organisations that are constituted by the representatives of 2 or more countries, or the governments of 2 or more countries; or
- (c) an organisation that is:
 - (i) an organ of, or office within, an organisation described in paragraph (a) or (b); or
 - (ii) a commission, council or other body established by an organisation so described or such an organ; or
 - (iii) a committee, or subcommittee of a committee, of an organisation described in paragraph (a) or (b), or of such an organ, council or body.

share includes stock.

70.2 Bribing a foreign public official

- (1) A person is guilty of an offence if:
 - (a) the person:
 - (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 benefit is not legitimately due to the other person; and
- (c) the first-mentioned person does so with the intention of influencing a foreign public official (who may be the other person) in the exercise of the official's duties as a foreign public official in order to:
 - (i) obtain or retain business; or
 - (ii) obtain or retain a business advantage that is not legitimately due to the recipient, or intended recipient, of the business advantage (who may be the first-mentioned person).

Penalty: Imprisonment for 10 years.

Note 1: For defences, see sections 70.3 and 70.4.

Note 2: Section 4B of the *Crimes Act 1914* allows a court to impose a fine instead of imprisonment or in addition to imprisonment.

Benefit that is not legitimately due

- (2) For the purposes of this section, in working out if a benefit is ***not legitimately due*** to a person in a particular situation, disregard the following:
 - (a) the fact that the benefit may be customary, or perceived to be customary, in the situation;
 - (b) the value of the benefit;
 - (c) any official tolerance of the benefit.

Business advantage that is not legitimately due

- (3) For the purposes of this section, in working out if a business advantage is ***not legitimately due*** to a person in a particular situation, disregard the following:
 - (a) the fact that the business advantage may be customary, or perceived to be customary, in the situation;
 - (b) the value of the business advantage;
 - (c) any official tolerance of the business advantage.

Clause 70.3

70.3 Defence—conduct lawful in foreign public official’s country

(1) A person is not guilty of an offence against section 70.2 in the cases set out in the following table:

Defence of lawful conduct			
Item	In a case where the person’s conduct occurred in relation to this kind of foreign public official...	and if it were assumed that the person’s conduct had occurred wholly...	the person would not have been guilty of an offence against...
1	an employee or official of a foreign government body	in the place where the central administration of the body is located	a law in force in that place
2	an individual who performs work for a foreign government body under a contract	in the place where the central administration of the body is located	a law in force in that place
3	an individual who holds or performs the duties of an appointment, office or position under a law of a foreign country or of part of a foreign country	in the foreign country or in the part of the foreign country, as the case may be	a law in force in the foreign country or in the part of the foreign country, as the case may be
4	an individual who holds or performs the duties of an appointment, office or position created by custom or convention of a foreign country or of part of a foreign country	in the foreign country or in the part of the foreign country, as the case may be	a law in force in the foreign country or in the part of the foreign country, as the case may be
5	an individual who is otherwise in the service of a foreign government body (including service as a member of a military force or police force)	in the place where the central administration of the body is located	a law in force in that place

Clause 70.3

Defence of lawful conduct			
Item	In a case where the person's conduct occurred in relation to this kind of foreign public official...	and if it were assumed that the person's conduct had occurred wholly...	the person would not have been guilty of an offence against...
6	a member of the executive, judiciary or magistracy of a foreign country or of part of a foreign country	in the foreign country or in the part of the foreign country, as the case may be	a law in force in the foreign country or in the part of the foreign country, as the case may be
7	an employee of a public international organisation	in the place where the headquarters of the organisation is located	a law in force in that place
8	an individual who performs work for a public international organisation under a contract	in the place where the headquarters of the organisation is located	a law in force in that place
9	an individual who holds or performs the duties of a public office or position in a public international organisation	in the place where the headquarters of the organisation is located	a law in force in that place
10	an individual who is otherwise in the service of a public international organisation	in the place where the headquarters of the organisation is located	a law in force in that place
11	a member or officer of the legislature of a foreign country or of part of a foreign country	in the foreign country or in the part of the foreign country, as the case may be	a law in force in the foreign country or in the part of the foreign country, as the case may be

Note: A defendant bears an evidential burden in relation to the matter in subsection (1). See subsection 13.3(3).

- (2) A person is not guilty of an offence against section 70.2 if:
- (a) the person's conduct occurred in relation to a foreign public official covered by paragraph (l) of the definition of *foreign*

Clause 70.4

public official in section 70.1 (which deals with intermediaries of foreign public officials covered by other paragraphs of that definition); and

- (b) assuming that the first-mentioned person's conduct had occurred instead in relation to:
- (i) the other foreign public official of whom the first-mentioned foreign public official was an authorised intermediary; or
 - (ii) the other foreign public official in relation to whom the first-mentioned foreign public official held himself or herself out to be an authorised intermediary;
- subsection (1) would have applied in relation to the first-mentioned person.

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

- (3) To avoid doubt, if:
- (a) a person's conduct occurred in relation to a foreign public official covered by 2 or more paragraphs of the definition of *foreign public official* in section 70.1; and
 - (b) at least one of the corresponding items in subsection (1) is applicable to the conduct of the first-mentioned person;
- subsection (1) applies to the conduct of the first-mentioned person.

70.4 Defence—facilitation payments

- (1) A person is not guilty of an offence against section 70.2 if:
- (a) the value of the benefit was of a minor nature; and
 - (b) the person's conduct was engaged in for the sole or dominant purpose of expediting or securing the performance of a routine government action of a minor nature; and
 - (c) as soon as practicable after the conduct occurred, the person made a record of the conduct that complies with subsection (3); and
 - (d) any of the following subparagraphs applies:
 - (i) the person has retained that record at all relevant times;

- (ii) that record has been lost or destroyed because of the actions of another person over whom the first-mentioned person had no control, or because of a non-human act or event over which the first-mentioned person had no control, and the first-mentioned person could not reasonably be expected to have guarded against the bringing about of that loss or that destruction;
- (iii) a prosecution for the offence is instituted more than 7 years after the conduct occurred.

Note: A defendant bears an evidential burden in relation to the matter in subsection (1). See subsection 13.3(3).

Routine government action

- (2) For the purposes of this section, a ***routine government action*** is an action of a foreign public official that:
 - (a) is ordinarily and commonly performed by the official; and
 - (b) is covered by any of the following subparagraphs:
 - (i) granting a permit, licence or other official document that qualifies a person to do business in a foreign country or in a part of a foreign country;
 - (ii) processing government papers such as a visa or work permit;
 - (iii) providing police protection or mail collection or delivery;
 - (iv) scheduling inspections associated with contract performance or related to the transit of goods;
 - (v) providing telecommunications services, power or water;
 - (vi) loading and unloading cargo;
 - (vii) protecting perishable products, or commodities, from deterioration;
 - (viii) any other action of a similar nature; and
 - (c) does not involve a decision about:
 - (i) whether to award new business; or
 - (ii) whether to continue existing business with a particular person; or

Clause 70.5

- (iii) the terms of new business or existing business; and
- (d) does not involve encouraging a decision about:
 - (i) whether to award new business; or
 - (ii) whether to continue existing business with a particular person; or
 - (iii) the terms of new business or existing business.

Content of records

- (3) A record of particular conduct engaged in by a person complies with this subsection if the record sets out:
 - (a) the value of the benefit concerned; and
 - (b) the date on which the conduct occurred; and
 - (c) the identity of the foreign public official in relation to whom the conduct occurred; and
 - (d) if that foreign public official is not the other person mentioned in paragraph 70.2(1)(a)—the identity of that other person; and
 - (e) particulars of the routine government action that was sought to be expedited or secured by the conduct; and
 - (f) the person's signature or some other means of verifying the person's identity.

70.5 Territorial and nationality requirements

- (1) A person does not commit an offence against section 70.2 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:
 - (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.

Note: The expression *offence against section 70.2* is given an extended meaning by subsections 11.2(1) and 11.6(2).

- (2) Proceedings for an offence against section 70.2 must not be commenced without the Attorney-General's written consent if:
 - (a) the conduct constituting the alleged offence occurs wholly outside Australia; and
 - (b) at the time of the alleged offence, the person alleged to have committed the offence is:
 - (i) a resident of Australia; and
 - (ii) not an Australian citizen.
- (3) However, a person may be arrested for, charged with, or remanded in custody or released on bail in connection with an offence against section 70.2 before the necessary consent has been given.

70.6 Saving of other laws

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

Clause 71.1

Division 71—Offences against United Nations and associated personnel

71.1 Purpose

The purpose of this Division is to protect United Nations and associated personnel and give effect to the Convention on the Safety of United Nations and Associated Personnel.

71.2 Murder of a UN or associated person

- (1) A person is guilty of an offence if:
- (a) the person's conduct causes the death of another person; and
 - (b) that other person is a UN or associated person; and
 - (c) the UN or associated person is engaged in a UN operation that is not a UN enforcement action; and
 - (d) the first-mentioned person intends to cause, or is reckless as to causing, the death of the UN or associated person or any other person by the conduct.

Maximum penalty: Imprisonment for life.

Note: Section 71.23 defines *UN enforcement action*, *UN operation* and *UN or associated person*.

- (2) Strict liability applies to paragraphs (1)(b) and (c).

71.3 Manslaughter of a UN or associated person

- (1) A person is guilty of an offence if:
- (a) the person's conduct causes the death of another person; and
 - (b) that other person is a UN or associated person; and
 - (c) the UN or associated person is engaged in a UN operation that is not a UN enforcement action; and
 - (d) the first-mentioned person intends to cause, or is reckless as to causing, serious harm to the UN or associated person or any other person by the conduct.

Maximum penalty: Imprisonment for 25 years.

Note: Section 71.23 defines *UN enforcement action*, *UN operation* and *UN or associated person*.

(2) Strict liability applies to paragraphs (1)(b) and (c).

71.4 Intentionally causing serious harm to a UN or associated person

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

- (a) the person's conduct causes serious harm to another person;
and
- (b) that other person is a UN or associated person; and
- (c) the UN or associated person is engaged in a UN operation that is not a UN enforcement action; and
- (d) the first-mentioned person intends to cause serious harm to the UN or associated person or any other person by the conduct.

Maximum penalty: Imprisonment for 20 years.

Maximum penalty (aggravated offence): Imprisonment for 25 years.

Note 1: Section 71.23 defines *UN enforcement action*, *UN operation* and *UN or associated person*.

Note 2: Section 71.13 defines *aggravated offence*.

(2) Strict liability applies to paragraphs (1)(b) and (c).

71.5 Recklessly causing serious harm to a UN or associated person

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

- (a) the person's conduct causes serious harm to another person;
and
- (b) that other person is a UN or associated person; and
- (c) the UN or associated person is engaged in a UN operation that is not a UN enforcement action; and

Clause 71.6

- (d) the first-mentioned person is reckless as to causing serious harm to the UN or associated person or any other person by the conduct.

Maximum penalty: Imprisonment for 15 years.

Maximum penalty (aggravated offence): Imprisonment for 19 years.

Note 1: Section 71.23 defines *UN enforcement action*, *UN operation* and *UN or associated person*.

Note 2: Section 71.13 defines *aggravated offence*.

- (2) Strict liability applies to paragraphs (1)(b) and (c).

71.6 Intentionally causing harm to a UN or associated person

- (1) A person is guilty of an offence if:
- (a) the person's conduct causes harm to another person without the consent of that person; and
 - (b) that other person is a UN or associated person; and
 - (c) the UN or associated person is engaged in a UN operation that is not a UN enforcement action; and
 - (d) the first-mentioned person intends to cause harm to the UN or associated person or any other person by the conduct.

Maximum penalty: Imprisonment for 10 years.

Maximum penalty (aggravated offence): Imprisonment for 13 years.

Note 1: Section 71.23 defines *UN enforcement action*, *UN operation* and *UN or associated person*.

Note 2: Section 71.13 defines *aggravated offence*.

- (2) Strict liability applies to paragraphs (1)(b) and (c).

71.7 Recklessly causing harm to a UN or associated person

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

Clause 71.8

- (a) the person's conduct causes harm to another person without the consent of that person; and
- (b) that other person is a UN or associated person; and
- (c) the UN or associated person is engaged in a UN operation that is not a UN enforcement action; and
- (d) the first-mentioned person is reckless as to causing harm to the UN or associated person or any other person by the conduct.

Maximum penalty: Imprisonment for 7 years.

Maximum penalty (aggravated offence): Imprisonment for 9 years.

Note 1: Section 71.23 defines *UN enforcement action*, *UN operation* and *UN or associated person*.

Note 2: Section 71.13 defines *aggravated offence*.

- (2) Strict liability applies to paragraphs (1)(b) and (c).

71.8 Unlawful sexual penetration

- (1) A person is guilty of an offence if:
 - (a) the person sexually penetrates another person without the consent of that person; and
 - (b) that other person is a UN or associated person; and
 - (c) the UN or associated person is engaged in a UN operation that is not a UN enforcement action; and
 - (d) the first-mentioned person knows about, or is reckless as to, the lack of consent.

Maximum penalty: Imprisonment for 15 years.

Maximum penalty (aggravated offence): Imprisonment for 20 years.

Note 1: Section 71.23 defines *UN enforcement action*, *UN operation* and *UN or associated person*.

Note 2: Section 71.13 defines *aggravated offence*.

- (2) Strict liability applies to paragraphs (1)(b) and (c).

Clause 71.9

(3) In this section:

sexually penetrate means:

- (a) penetrate (to any extent) the genitalia or anus of a person by any part of the body of another person or by any object manipulated by that other person; or
 - (b) penetrate (to any extent) the mouth of a person by the penis of another person; or
 - (c) continue to sexually penetrate as defined in paragraph (a) or (b).
- (4) In this section, being *reckless* as to a lack of consent to sexual penetration includes not giving any thought to whether or not the person is consenting to sexual penetration.
- (5) In this section, the genitalia or others parts of the body of a person include surgically constructed genitalia or other parts of the body of the person.

71.9 Kidnapping a UN or associated person

- (1) A person is guilty of an offence if:
- (a) the person takes or detains another person without his or her consent; and
 - (b) that other person is a UN or associated person; and
 - (c) the UN or associated person is engaged in a UN operation that is not a UN enforcement action; and
 - (d) the first-mentioned person takes or detains the UN or associated person with the intention of:
 - (i) holding him or her to ransom or as a hostage; or
 - (ii) taking or sending him or her out of the country; or
 - (iii) committing a serious offence against him or her or another person.

Maximum penalty: Imprisonment for 15 years.

Maximum penalty (aggravated offence): Imprisonment for 19 years.

Clause 71.10

Note 1: Section 71.23 defines *UN enforcement action*, *UN operation* and *UN or associated person*.

Note 2: Section 71.13 defines *aggravated offence*.

- (2) Strict liability applies to paragraphs (1)(b) and (c).
- (3) In this section, *serious offence* means an offence under a law of the Commonwealth, a State or Territory or a foreign law the maximum penalty for which is death, or imprisonment for not less than 12 months.

71.10 Unlawful detention of UN or associated person

- (1) A person is guilty of an offence if:
 - (a) the person takes or detains another person without that other person's consent; and
 - (b) that other person is a UN or associated person; and
 - (c) the UN or associated person is engaged in a UN operation that is not a UN enforcement action.

Maximum penalty: Imprisonment for 5 years.

Maximum penalty (aggravated offence): Imprisonment for 6 years.

Note 1: Section 71.23 defines *UN enforcement action*, *UN operation* and *UN or associated person*.

Note 2: Section 71.13 defines *aggravated offence*.

- (2) Strict liability applies to paragraphs (1)(b) and (c).

71.11 Intentionally causing damage to UN or associated person's property etc.

- (1) A person is guilty of an offence if:
 - (a) the person's conduct causes damage to official premises, private accommodation or a means of transportation (the *property*); and
 - (b) the property is occupied or used by a UN or associated person; and

Clause 71.12

- (c) the conduct gives rise to a danger of serious harm to a person; and
- (d) that person is the UN or associated person referred to in paragraph (b); and
- (e) the UN or associated person is engaged in a UN operation that is not a UN enforcement action; and
- (f) the first-mentioned person intends to cause the damage to the property; and
- (g) the first-mentioned person is reckless as to the danger to the person referred to in paragraph (c).

Maximum penalty: Imprisonment for 10 years.

Note: Section 71.23 defines *UN enforcement action*, *UN operation* and *UN or associated person*.

- (2) Strict liability applies to paragraphs (1)(b), (d) and (e).

71.12 Threatening to commit other offences

A person is guilty of an offence if the person:

- (a) threatens to commit an offence (the *threatened offence*) under any of sections 71.2 to 71.11; and
- (b) intends to compel any other person to do or omit to do an act by making the threat.

Maximum penalty:

- (a) if the threatened offence is the offence under section 71.2 (murder of a UN or associated person)—imprisonment for 10 years; or
- (b) if the threatened offence is the offence under section 71.3, 71.4, 71.5, 71.8 or 71.9 (manslaughter of, causing serious harm to, kidnapping, or sexually penetrating, a UN or associated person)—imprisonment for 7 years; or
- (c) if the threatened offence is the offence under section 71.6 or 71.11 (causing harm to, or damaging the property etc. of, a UN or associated person)—imprisonment for 5 years; or

Clause 71.13

- (d) if the threatened offence is the offence under section 71.7 or 71.10 (recklessly causing harm to, or unlawful detention of, a UN or associated person)—imprisonment for 3 years.

Note: Section 71.23 defines *UN or associated person*.

71.13 Aggravated offences

- (1) For the purposes of this Division, an offence against section 71.4, 71.5, 71.6, 71.7, 71.8, 71.9 or 71.10 is an *aggravated offence* if:
- (a) the offence was committed during torture; or
 - (b) the offence was committed by the use or threatened use of an offensive weapon; or
 - (c) the offence was committed against a person in an abuse of authority.
- (2) If the prosecution intends to prove an aggravated offence, the charge must allege the relevant aggravated offence.
- (3) In order to prove an aggravated offence, the prosecution must prove that the defendant intended to commit, or was reckless as to committing, the matters referred to in paragraph (1)(a), (b) or (c).
- (4) 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.

torture means the deliberate and systematic infliction of severe pain over a period of time.

71.14 Defence—activities involving serious harm

A person is not criminally responsible for an offence against section 71.4 or 71.5 if the conduct causing serious harm to another person is engaged in by the first-mentioned person:

Clause 71.15

- (a) for the purpose of benefiting the other person or in pursuance of a socially acceptable function or activity; and
- (b) having regard to the purpose, function or activity, the conduct was reasonable.

Note 1: If a person causes less than serious harm to another person, the prosecution is obliged to prove that the harm was caused without the consent of the person harmed (see for example section 71.6).

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

71.15 Defence—medical or hygienic procedures

A person is not criminally responsible for an offence against section 71.8 in respect of any sexual penetration carried out in the course of a procedure in good faith for medical or hygienic purposes.

Note: A defendant bears an evidential burden in relation to the matter in this section, see subsection 13.3(3).

71.16 Jurisdictional requirement

- (1) A person commits an offence under this Division only if:
 - (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:
 - (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
 - (iii) at the time of the alleged offence, the person is a stateless person whose habitual residence is in Australia; or

- (iv) the conduct is subject to the jurisdiction of another State Party to the Convention established in accordance with paragraph 1 or 2 of article 10 and the person enters Australia; or
 - (c) the alleged offence is committed against an Australian citizen; or
 - (d) by engaging in the conduct constituting the alleged offence, the person intends to compel a legislative, executive or judicial institution of the Commonwealth, a State or a Territory to do or omit to do an act.
- (2) In this section:

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.

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.

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.

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.

Clause 71.17

71.17 Exclusion of this Division if State/Territory laws provide for corresponding offences

- (1) A State or Territory court does not have jurisdiction to determine a charge of an offence under this Division if the conduct constituting the offence also constitutes an offence (the *State offence*) against the law of that State or Territory.
- (2) If:
 - (a) a prosecution is brought against a person under this Division;
and
 - (b) a court finds that there is a corresponding State offence;then this section does not prevent the person from being prosecuted for the State offence.

71.18 Double jeopardy

If a person has been convicted or acquitted of an offence in respect of conduct under the law of a foreign country, the person cannot be convicted of an offence under this Division in respect of that conduct.

71.19 Saving of other laws

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

71.20 Bringing proceedings under this Division

- (1) Proceedings for an offence under this Division must not be commenced without the Attorney-General's written consent.
- (2) However, a person may be arrested, charged, remanded in custody, or released on bail, in connection with an offence under this Division before the necessary consent has been given.

71.21 Ministerial certificates relating to proceedings

- (1) The Minister for Foreign Affairs may issue a certificate stating any of the following matters:
 - (a) the Convention entered into force for Australia on a specified day;
 - (b) the Convention remains in force for Australia or any other State Party on a specified day;
 - (c) a matter relevant to the establishment of jurisdiction by a State Party under paragraph 1 or 2 of article 10 of the Convention;
 - (d) a matter relevant to whether a person is or was a UN or associated person;
 - (e) a matter relevant to whether an operation is or was a UN operation.
- (2) The Minister for Immigration and Multicultural Affairs may issue a certificate stating that:
 - (a) a person is or was an Australian citizen at a particular time;
or
 - (b) a person is or was a stateless person whose habitual residence is or was in Australia.
- (3) In any proceedings, a certificate under this section is prima facie evidence of the matters in the certificate.

71.22 Jurisdiction of State courts preserved

For the purposes of section 38 of the *Judiciary Act 1903*, a matter arising under this Act, including a question of interpretation of the Convention, is taken not to be a matter arising directly under a treaty.

71.23 Definitions

- (1) In this Division:
associated personnel means:

Clause 71.23

- (a) persons assigned by a government, or an intergovernmental organisation, with the agreement of the competent organ of the United Nations; or
 - (b) persons engaged by the Secretary-General of the United Nations, a specialised agency or the International Atomic Energy Agency; or
 - (c) persons deployed by a humanitarian non-governmental organisation or agency under an agreement with the Secretary-General of the United Nations, a specialised agency or the International Atomic Energy Agency;
- to carry out activities in support of the fulfilment of the mandate of a UN operation.

Convention means the Convention on the Safety of United Nations and Associated Personnel, done at New York on 9 December 1994.

Note: The text of the Convention is set out in Australian Treaty Series 1995 No. 1. In 2000 this was available in the Australian Treaties Library of the Department of Foreign Affairs and Trade, accessible on the Internet through that Department's world-wide web site.

UN enforcement action means a UN operation:

- (a) that is authorised by the Security Council as an enforcement action under Chapter VII of the Charter of the United Nations; and
- (b) in which any of the UN or associated personnel are engaged as combatants against organised armed forces; and
- (c) to which the law of international armed conflict applies.

UN operation means an operation established by the competent organ of the United Nations in accordance with the Charter of the United Nations and conducted under United Nations authority and control if:

- (a) the operation is for the purpose of maintaining or restoring international peace and security; or
- (b) the Security Council or the General Assembly has declared, for the purposes of the Convention, that there exists an exceptional risk to the safety of the personnel engaged in the operation.

UN or associated person means a person who is a member of any UN personnel or associated personnel.

UN personnel means:

- (a) persons engaged or deployed by the Secretary-General of the United Nations as members of the military, police or civilian components of a UN operation; or
 - (b) any other officials or experts on mission of the United Nations, its specialised agencies or the International Atomic Energy Agency who are present in an official capacity in the area where a UN operation is being conducted.
- (2) In this Division, a person's conduct ***causes*** death or harm if it substantially contributes to the death or harm.

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

Clause 130.3

(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.

Clause 131.3

- (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:

Clause 131.8

- (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.

Clause 132.1

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:
-

Clause 132.1

- (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.

Clause 132.2

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

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(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.

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- (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:

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- (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.

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Chapter 7 The proper administration of Government

Part 7.2 Theft and other property offences

Clause 132.9

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.

Clause 134.1

- (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:
- (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

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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.

- (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:

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- (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).

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- (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

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- (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:

Clause 138.2

- (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

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Part 7.5 Unwarranted demands

Clause 139.3

- (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

Clause 142.3

- (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.

Clause 143.2

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

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- (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.

Clause 144.1

- (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.

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- (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

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- (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

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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

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- (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

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- (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.

Clause 147.2

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
-

Clause 147.2

- (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.

Schedule The Criminal Code

Chapter 7 The proper administration of Government

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

Clause 148.1

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

Clause 148.2

- (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.
-

Schedule The Criminal Code

Chapter 7 The proper administration of Government

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

Clause 148.2

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.

Schedule The Criminal Code

Chapter 7 The proper administration of Government

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

Clause 149.1

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

Clause 149.1

- (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.

Chapter 8—Offences against humanity

Division 270—Slavery, sexual servitude and deceptive recruiting

270.1 Definition of *slavery*

For the purposes of this Division, *slavery* is the condition of a person over whom any or all of the powers attaching to the right of ownership are exercised, including where such a condition results from a debt or contract made by the person.

270.2 Slavery is unlawful

Slavery remains unlawful and its abolition is maintained, despite the repeal by the *Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999* of Imperial Acts relating to slavery.

270.3 Slavery offences

- (1) A person who, whether within or outside Australia, intentionally:
 - (a) possesses a slave or exercises over a slave any of the other powers attaching to the right of ownership; or
 - (b) engages in slave trading; or
 - (c) enters into any commercial transaction involving a slave; or
 - (d) exercises control or direction over, or provides finance for:
 - (i) any act of slave trading; or
 - (ii) any commercial transaction involving a slave;is guilty of an offence.

Penalty: Imprisonment for 25 years.

- (2) A person who:
 - (a) whether within or outside Australia:

Clause 270.4

- (i) enters into any commercial transaction involving a slave; or
 - (ii) exercises control or direction over, or provides finance for, any commercial transaction involving a slave; or
 - (iii) exercises control or direction over, or provides finance for, any act of slave trading; and
- (b) is reckless as to whether the transaction or act involves a slave, slavery or slave trading;
is guilty of an offence.

Penalty: Imprisonment for 17 years.

- (3) In this section:

slave trading includes:

- (a) the capture, transport or disposal of a person with the intention of reducing the person to slavery; or
 - (b) the purchase or sale of a slave.
- (4) A person who engages in any conduct with the intention of securing the release of a person from slavery is not guilty of an offence against this section.
- (5) The defendant bears a legal burden of proving the matter mentioned in subsection (4).

270.4 Definition of *sexual servitude*

- (1) For the purposes of this Division, *sexual servitude* is the condition of a person who provides sexual services and who, because of the use of force or threats:
- (a) is not free to cease providing sexual services; or
 - (b) is not free to leave the place or area where the person provides sexual services.

- (2) In this section:

sexual service means the commercial use or display of the body of the person providing the service for the sexual gratification of others.

threat means:

- (a) a threat of force; or
- (b) a threat to cause a person's deportation; or
- (c) a threat of any other detrimental action unless there are reasonable grounds for the threat of that action in connection with the provision of sexual services by a person.

270.5 Jurisdictional requirement

A person commits an offence against section 270.6 or 270.7 only if:

- (a) all of the following subparagraphs apply:
 - (i) the person is an Australian citizen, a resident of Australia, a body corporate incorporated by or under a law of the Commonwealth or of a State or Territory or any other body corporate that carries on its activities principally in Australia; and
 - (ii) the conduct constituting the offence is engaged in outside Australia; and
 - (iii) the sexual services to which the alleged offence relates are provided, or to be provided, outside Australia; or
- (b) both:
 - (i) the conduct constituting the alleged offence is to any extent engaged in outside Australia; and
 - (ii) the sexual services to which the alleged offence relates are to any extent provided, or to be provided, within Australia; or
- (c) both:
 - (i) the conduct constituting the alleged offence is to any extent engaged in within Australia; and
 - (ii) the sexual services to which the alleged offence relates are to any extent provided, or to be provided, outside Australia.

270.6 Sexual servitude offences

- (1) A person:
-

Clause 270.7

- (a) whose conduct causes another person to enter into or remain in sexual servitude; and
 - (b) who intends to cause, or is reckless as to causing, that sexual servitude;
- is guilty of an offence.

Penalty:

- (c) in the case of an aggravated offence (see section 270.8)—imprisonment for 19 years; or
 - (d) in any other case—imprisonment for 15 years.
- (2) A person:
- (a) who conducts any business that involves the sexual servitude of other persons; and
 - (b) who knows about, or is reckless as to, that sexual servitude;
- is guilty of an offence.

Penalty:

- (c) in the case of an aggravated offence (see section 270.8)—imprisonment for 19 years; or
 - (d) in any other case—imprisonment for 15 years.
- (3) In this section:

conducting a business includes:

- (a) taking any part in the management of the business; or
- (b) exercising control or direction over the business; or
- (c) providing finance for the business.

270.7 Deceptive recruiting for sexual services

- (1) A person who, with the intention of inducing another person to enter into an engagement to provide sexual services, deceives that other person about the fact that the engagement will involve the provision of sexual services is guilty of an offence.

Penalty:

- (a) in the case of an aggravated offence (see section 270.8)—imprisonment for 9 years; or

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

(2) In this section:

sexual service means the commercial use or display of the body of the person providing the service for the sexual gratification of others.

270.8 Aggravated offences

- (1) For the purposes of this Division, an offence against section 270.6 or 270.7 is an *aggravated offence* if the offence was committed against a person who is under 18.
- (2) If the prosecution intends to prove an aggravated offence, the charge must allege that the offence was committed against a person under that age.
- (3) In order to prove an aggravated offence, the prosecution must prove that the defendant intended to commit, or was reckless as to committing, the offence against a person under that age.

270.9 Alternative verdict if aggravated offence not proven

If, on a trial for an aggravated offence against section 270.6 or 270.7, the jury is not satisfied that the defendant is guilty of an aggravated offence, but is otherwise satisfied that he or she is guilty of an offence against that section, it may find the defendant not guilty of the aggravated offence but guilty of an offence against that section.

270.10 No nationality requirement

In determining whether a person has committed an offence against this Division (other than an offence to which paragraph 270.5(a) applies), it does not matter whether the person is or is not an Australian citizen or a resident of Australia.

Clause 270.11

270.11 Attorney-General's consent required

- (1) Proceedings for an offence against this Division must not be commenced without the Attorney-General's written consent if:
 - (a) the conduct constituting the alleged offence is to any extent engaged in outside Australia; and
 - (b) the person alleged to have committed the offence is not:
 - (i) an Australian citizen; or
 - (ii) a resident of Australia; or
 - (iii) a body corporate incorporated by or under a law of the Commonwealth or of a State or Territory; or
 - (iv) any other body corporate that carries on its activities principally in Australia.
- (2) However, a person may be arrested for, charged with, or remanded in custody or released on bail in connection with an offence against this Division before the necessary consent has been given.

270.12 Other laws not excluded

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

270.13 Double jeopardy

If a person has been convicted or acquitted in a country outside Australia of an offence against the law of that country in respect of any conduct, the person cannot be convicted of an offence against this Division in respect of that conduct.

270.14 External Territories

In this Division:

Australia, when used in a geographical sense, includes the external Territories.

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

Clause 470.2

- (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.

Clause 471.2

- (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

Clause 471.3

- (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

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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.

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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.

Dictionary

aggravated burglary means an offence against section 132.5.

aggravated robbery means an offence against section 132.3.

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.

Australia, when used in a geographical sense, includes the external Territories.

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.

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.

burglary means an offence against section 132.4.

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 Act 2001*; or
 - (iv) the *Norfolk Island Act 1979*; or

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- (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.

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.

Commonwealth entity means:

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

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).

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 Act 2001*; 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

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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 Act 2001*; 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.

conduct is defined in subsection 4.1(2).

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.

death means:

- (a) the irreversible cessation of all function of a person's brain (including the brain stem); or
- (b) the irreversible cessation of circulation of blood in a person's body.

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.

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.

detaining a person includes causing the person to remain where he or she is.

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.

employee includes a servant.

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

evidential burden is defined in subsection 13.3(6).

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.

harm means physical harm or harm to a person's mental health, whether temporary or permanent. However, it does not include being subjected to any force or impact that is within the limits of

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what is acceptable as incidental to social interaction or to life in the community.

harm to a person's mental health includes significant psychological harm, but does not include mere ordinary emotional reactions such as those of only distress, grief, fear or anger.

intention has the meaning given in section 5.2.

knowledge has the meaning given in section 5.3.

law means a law of the Commonwealth, and includes this Code.

legal burden is defined in subsection 13.1(3).

negligence has the meaning given in section 5.5.

offence means an offence against a law of the Commonwealth.

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.

physical harm includes unconsciousness, pain, disfigurement, infection with a disease and 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).

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

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.

receiving means an offence against section 132.1.

recklessness has the meaning given in section 5.4.

resident of Australia means an individual who is a resident of Australia.

robbery means an offence against section 132.2.

serious harm means harm (including the cumulative effect of any harm):

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

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.

sexual servitude has the meaning given by section 270.4.

sexually penetrate is defined in section 71.8.

slavery has the meaning given by section 270.1.

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

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- (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.

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.

taking a person includes causing the person to accompany another person and causing the person to be taken.

theft means an offence against section 131.1.

Table of Acts**Notes to the *Criminal Code Act 1995*****Note 1**

The *Criminal Code Act 1995* as shown in this compilation comprises Act No. 12, 1995 amended as indicated in the Tables below.

For application, saving or transitional provisions made by the *Corporations (Repeals, Consequential and Transitional) Act 2001*, see Act No. 55, 2001.

For all other relevant information pertaining to application, saving or transitional provisions see Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Criminal Code Act 1995</i>	12, 1995	15 Mar 1995	1 Jan 1997 (see <i>Gazette</i> 1996, No. S534)	
<i>Criminal Code Amendment Act 1998</i>	12, 1998	13 Apr 1998	13 Apr 1998	—
<i>Criminal Code Amendment (Bribery of Foreign Public Officials) Act 1999</i>	43, 1999	17 June 1999	17 Dec 1999	—
<i>Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999</i>	104, 1999	24 Aug 1999	21 Sept 1999	—
<i>Criminal Code Amendment (Application) Act 2000</i>	4, 2000	29 Feb 2000	29 Feb 2000	—
<i>Criminal Code Amendment (United Nations and Associated Personnel) Act 2000</i>	124, 2000	26 Oct 2000	1 Jan 2001 (see <i>Gazette</i> 2000, No. GN45)	—
<i>Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000</i>	137, 2000	24 Nov 2000	Ss. 1-3, Schedule 1 (items 1, 4, 6, 7, 9-11, 32): Royal Assent Remainder: 24 May 2001	—
<i>Law and Justice Legislation Amendment (Application of Criminal Code) Act 2001</i>	24, 2001	6 Apr 2001	S. 4(1) and (2): (a) Schedule 1 (item 3): 4 May 2001 (a)	S. 4(1) and (2) [see Table A]

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Corporations (Repeals, Consequential and Transitional) Act 2001</i>	55, 2001	28 June 2001	Ss. 4-14 and Schedule 3 (items 148-150): 15 July 2001 (<i>see Gazette</i> 2001, No. S285) (b)	Ss. 4-14

Act Notes

(a) The *Criminal Code Act 1995* was amended by Schedule 1 (item 3) only of the *Law and Justice Legislation Amendment (Application of Criminal Code) Act 2001*, subsections 2(1)(a) and (2) of which provide as follows:

- (1) Subject to this section, this Act commences at the later of the following times:
 - (a) immediately after the commencement of item 15 of Schedule 1 to the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000*;
 - (2) Schedule 1 commences on the 28th day after the day on which this Act receives the Royal Assent.

Item 15 commenced on 24 May 2001.

(b) The *Criminal Code Act 1995* was amended by Schedule 3 (items 148-150) only of the *Corporations (Repeals, Consequential and Transitional) Act 2001*, subsection 2(3) of which provides as follows:

- (3) Subject to subsections (4) to (10), Schedule 3 commences, or is taken to have commenced, at the same time as the *Corporations Act 2001*.

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 2.....	am. No. 12, 1998
S. 3AA.....	ad. No. 24, 2001
S. 3A.....	ad. No. 43, 1999
S. 3B.....	ad. No. 43, 1999 am. No. 137, 2000
S. 5.....	ad. No. 137, 2000
Schedule	
Chapter 2	
Part 2.1	
Division 2	
S. 2.2.....	am. No. 12, 1998; No. 4, 2000
S. 2.3.....	ad. No. 12, 1998
Part 2.2	
Division 3	
Note to s. 3.2	
Renumbered Note 1.....	No. 137, 2000
Note 2 to s. 3.2.....	ad. No. 137, 2000
Division 4	
S. 4.1.....	am. No. 137, 2000
Division 5	
S. 5.1.....	am. No. 137, 2000
S. 5.6.....	am. No. 137, 2000
Part 2.3	
Division 10	
S. 10.5.....	ad. No. 137, 2000
Part 2.4	
Division 11	
S. 11.1.....	am. No. 137, 2000
S. 11.2.....	am. No. 137, 2000
S. 11.4.....	am. No. 137, 2000
S. 11.5.....	am. No. 137, 2000
S. 11.6.....	am. No. 137, 2000
Part 2.7	
Part 2.7 of Chapt. 2.....	ad. No. 137, 2000 (ss. 14.1 to 16.4)
Division 14	
S. 14.1.....	ad. No. 137, 2000
Division 15	
S. 15.1.....	ad. No. 137, 2000

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 15.2.....	ad. No. 137, 2000
S. 15.3.....	ad. No. 137, 2000
S. 15.4.....	ad. No. 137, 2000
Division 16	
S. 16.1.....	ad. No. 137, 2000
S. 16.2.....	ad. No. 137, 2000
S. 16.3.....	ad. No. 137, 2000
S. 16.4.....	ad. No. 137, 2000
Chapter 4	
Chapt. 4..... (ss. 70.1 to 70.6)	ad. No. 43, 1999
Division 70	
Div. 70 of Chapt. 4..... (ss. 70.1 to 70.6)	ad. No. 43, 1999
S. 70.1.....	ad. No. 43, 1999 am. No. 137, 2000
S. 70.2.....	ad. No. 43, 1999
S. 70.3.....	ad. No. 43, 1999
S. 70.4.....	ad. No. 43, 1999
S. 70.5.....	ad. No. 43, 1999 am. No. 137, 2000
S. 70.6.....	ad. No. 43, 1999
Division 71	
Div. 71 of Chapt. 4..... (ss. 71.1 to 71.23)	ad. No. 124, 2000
S. 71.1.....	ad. No. 124, 2000
S. 71.2.....	ad. No. 124, 2000
S. 71.3.....	ad. No. 124, 2000
S. 71.4.....	ad. No. 124, 2000
S. 71.5.....	ad. No. 124, 2000
S. 71.6.....	ad. No. 124, 2000
S. 71.7.....	ad. No. 124, 2000
S. 71.8.....	ad. No. 124, 2000
S. 71.9.....	ad. No. 124, 2000
S. 71.10.....	ad. No. 124, 2000
S. 71.11.....	ad. No. 124, 2000
S. 71.12.....	ad. No. 124, 2000
S. 71.13.....	ad. No. 124, 2000
S. 71.14.....	ad. No. 124, 2000
S. 71.15.....	ad. No. 124, 2000
S. 71.16.....	ad. No. 124, 2000

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 71.17.....	ad. No. 124, 2000
S. 71.18.....	ad. No. 124, 2000
S. 71.19.....	ad. No. 124, 2000
S. 71.20.....	ad. No. 124, 2000
S. 71.21.....	ad. No. 124, 2000
S. 71.22.....	ad. No. 124, 2000
S. 71.23.....	ad. No. 124, 2000
Chapter 7	
Chap. 7..... (ss. 130.1. to 261.3)	ad. No. 137, 2000
Part 7.1	
Part 7.1 of Chapt. 7 (ss. 130.1 to 130.4)	ad. No. 137, 2000
Division 130	
S. 130.1.....	ad. No. 137, 2000
S. 130.2.....	ad. No. 137, 2000
S. 130.3.....	ad. No. 137, 2000
S. 130.4.....	ad. No. 137, 2000
Part 7.2	
Part 7.2 of Chapt. 7 (ss. 131.1 to 132.9)	ad. No. 137, 2000
Division 131	
S. 131.1.....	ad. No. 137, 2000
S. 131.2.....	ad. No. 137, 2000
S. 131.3.....	ad. No. 137, 2000
S. 131.4.....	ad. No. 137, 2000
S. 131.5.....	ad. No. 137, 2000
S. 131.6.....	ad. No. 137, 2000
S. 131.7.....	ad. No. 137, 2000
S. 131.8.....	ad. No. 137, 2000
S. 131.9.....	ad. No. 137, 2000
S. 131.10.....	ad. No. 137, 2000
S. 131.11.....	ad. No. 137, 2000
Division 132	
S. 132.1.....	ad. No. 137, 2000
S. 132.2.....	ad. No. 137, 2000
S. 132.3.....	ad. No. 137, 2000
S. 132.4.....	ad. No. 137, 2000
S. 132.5.....	ad. No. 137, 2000
S. 132.6.....	ad. No. 137, 2000

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 132.7.....	ad. No. 137, 2000
S. 132.8.....	ad. No. 137, 2000
S. 132.9.....	ad. No. 137, 2000
Part 7.3	
Part 7.3 of Chapt. 7	ad. No. 137, 2000 (ss. 133.1 to 135.5)
Division 133	
S. 133.1.....	ad. No. 137, 2000
Division 134	
S. 134.1.....	ad. No. 137, 2000
S. 134.2.....	ad. No. 137, 2000
S. 134.3.....	ad. No. 137, 2000
Division 135	
S. 135.1.....	ad. No. 137, 2000
S. 135.2.....	ad. No. 137, 2000
S. 135.4.....	ad. No. 137, 2000
S. 135.5.....	ad. No. 137, 2000
Part 7.4	
Part 7.4 of Chapt. 7	ad. No. 137, 2000 (ss. 136.1 to 137.3)
Division 136	
S. 136.1.....	ad. No. 137, 2000
Division 137	
S. 137.1.....	ad. No. 137, 2000
S. 137.2.....	ad. No. 137, 2000
S. 137.3.....	ad. No. 137, 2000
Part 7.5	
Part 7.5 of Chapt. 7	ad. No. 137, 2000 (ss. 138.1 to 139.3)
Division 138	
S. 138.1.....	ad. No. 137, 2000
S. 138.2.....	ad. No. 137, 2000
Division 139	
S. 139.1.....	ad. No. 137, 2000
S. 139.2.....	ad. No. 137, 2000
S. 139.3.....	ad. No. 137, 2000
Part 7.6	
Part 7.6 of Chapt. 7	ad. No. 137, 2000 (ss. 140.1 to 142.3)
Division 140	
S. 140.1.....	ad. No. 137, 2000

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 140.2.....	ad. No. 137, 2000
Division 141	
S. 141.1.....	ad. No. 137, 2000
Division 142	
S. 142.1.....	ad. No. 137, 2000
S. 142.2.....	ad. No. 137, 2000
S. 142.3.....	ad. No. 137, 2000
Part 7.7	
Part 7.7 of Chapt. 7	ad. No. 137, 2000 (ss. 143.1 to 145.6)
Division 143	
S. 143.1.....	ad. No. 137, 2000
S. 143.2.....	ad. No. 137, 2000
S. 143.3.....	ad. No. 137, 2000
S. 143.4.....	ad. No. 137, 2000
Division 144	
S. 144.1.....	ad. No. 137, 2000
Division 145	
S. 145.1.....	ad. No. 137, 2000
S. 145.2.....	ad. No. 137, 2000
S. 145.3.....	ad. No. 137, 2000
S. 145.4.....	ad. No. 137, 2000
S. 145.5.....	ad. No. 137, 2000
S. 145.6.....	ad. No. 137, 2000
Part 7.8	
Part 7.8 of Chapt. 7	ad. No. 137, 2000 (ss. 146.1 to 149.1)
Division 146	
S. 146.1.....	ad. No. 137, 2000
S. 146.2.....	ad. No. 137, 2000
Division 147	
S. 147.1.....	ad. No. 137, 2000
S. 147.2.....	ad. No. 137, 2000
S. 147.3.....	ad. No. 137, 2000
Division 148	
S. 148.1.....	ad. No. 137, 2000
S. 148.2.....	ad. No. 137, 2000
S. 148.3.....	ad. No. 137, 2000
Division 149	
S. 149.1.....	ad. No. 137, 2000

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 7.20	
Part 7.20 of Chapt. 7 (ss. 261.1 to 261.3)	ad. No. 137, 2000
Division 261	
S. 261.1.....	ad. No. 137, 2000
S. 261.2.....	ad. No. 137, 2000
S. 261.3.....	ad. No. 137, 2000
Chapter 8	
Chapt. 8..... (ss. 270.1 to 270.14)	ad. No. 104, 1999
Division 270	
Div. 270 of Chapt. 8..... (ss. 270.1 to 270.14)	ad. No. 104, 1999
S. 270.1.....	ad. No. 104, 1999
S. 270.2.....	ad. No. 104, 1999
S. 270.3.....	ad. No. 104, 1999
S. 270.4.....	ad. No. 104, 1999
S. 270.5.....	ad. No. 104, 1999
S. 270.6.....	ad. No. 104, 1999
S. 270.7.....	ad. No. 104, 1999
S. 270.8.....	ad. No. 104, 1999
S. 270.9.....	ad. No. 104, 1999
S. 270.10.....	ad. No. 104, 1999
S. 270.11.....	ad. No. 104, 1999
S. 270.12.....	ad. No. 104, 1999
S. 270.13.....	ad. No. 104, 1999
S. 270.14.....	ad. No. 104, 1999
Chapter 10	
Chapt. 10..... (ss. 470.1 to 475.1)	ad. No. 137, 2000
Part 10.5	
Part 10.5 of Chapt. 10 (ss. 470.1 to 472.2)	ad. No. 137, 2000
Division 470	
S. 470.1.....	ad. No. 137, 2000
S. 470.2.....	ad. No. 137, 2000
S. 470.3.....	ad. No. 137, 2000
Division 471	
S. 471.1.....	ad. No. 137, 2000
S. 471.2.....	ad. No. 137, 2000
S. 471.3.....	ad. No. 137, 2000

Table of Amendments

 ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 471.4.....	ad. No. 137, 2000
S. 471.5.....	ad. No. 137, 2000
S. 471.6.....	ad. No. 137, 2000
S. 471.7.....	ad. No. 137, 2000
S. 471.8.....	ad. No. 137, 2000
S. 471.9.....	ad. No. 137, 2000
Division 472	
S. 472.1.....	ad. No. 137, 2000
S. 472.2.....	ad. No. 137, 2000
Part 10.6	
Part 10.6 of Chapt. 10	ad. No. 137, 2000 (ss. 473.1 to 475.1)
Division 473	
S. 473.1.....	ad. No. 137, 2000
S. 473.2.....	ad. No. 137, 2000
S. 473.3.....	ad. No. 137, 2000
Division 474	
S. 474.1.....	ad. No. 137, 2000
Division 475	
S. 475.1.....	ad. No. 137, 2000
Dictionary	am. Nos. 43 and 104, 1999; Nos. 124 and 137, 2000; No. 55, 2001

Table A

Table A

Application, saving or transitional provisions

*Law and Justice Legislation Amendment (Application of Criminal Code)
Act 2001 (No. 24, 2001)*

4 Application of amendments

- (1) Subject to subsection (3), each amendment made by this Act applies to acts and omissions that take place after the amendment commences.
- (2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.