



**Reconciliation and Aboriginal and
Torres Strait Islander Affairs Legislation
Amendment (Application of Criminal
Code) Act 2001**

No. 112, 2001



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An Act relating to the application of the *Criminal Code* to certain offences, and for other purposes

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Reconciliation and Aboriginal and Torres Strait Islander Affairs Legislation Amendment (Application of Criminal Code) Act 2001

No. 112, 2001

An Act relating to the application of the *Criminal Code* to certain offences, and for other purposes

[Assented to 17 September 2001]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Reconciliation and Aboriginal and Torres Strait Islander Affairs Legislation Amendment (Application of Criminal Code) Act 2001*.

2 Commencement

This Act commences on the 28th day after the day on which it receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

4 Application of amendments

- (1) 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.

Schedule 1—Application of the Criminal Code

Aboriginal and Torres Strait Islander Commission Act 1989

1 At the end of Part 1

Add:

5A Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* (except Part 2.5) applies to all offences against this Act.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: Part 2.5 of the *Criminal Code* (which deals with corporate criminal responsibility) is excluded from applying to offences against this Act by subsection 199(10).

2 Subsection 78A(6)

Omit “, without reasonable excuse, refuses or”.

3 After subsection 78A(6)

Insert:

Strict liability

(6A) Subsection (6) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

Defence of reasonable excuse

(6B) Subsection (6) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (6B) (see subsection 13.3(3) of the *Criminal Code*).

4 Subsection 78A(7)

Omit “subsection (6), it is not a reasonable excuse for a person to refuse or”, substitute “subsection (6B), it is not a reasonable excuse for a person to”.

5 Paragraphs 90(4)(a) and 191(4)(a)

Repeal the paragraph, substitute:

- (a) an offence against section 6 of the *Crimes Act 1914*; or
- (aa) an offence against section 11.1, 11.4 or 11.5 of the *Criminal Code*; or

6 Subsection 193S(4)

Omit “intentionally or recklessly”.

7 Paragraph 198(1)(d)

Repeal the paragraph, substitute:

- (d) the doing of any act or thing by the first-mentioned person:
 - (i) with the intention of influencing the preferences set out in the vote of an elector; or
 - (ii) with the likely result that the preferences set out in the vote of an elector are influenced;

8 Subsection 198(2)

Omit “in order to influence or affect”, substitute “with the intention of influencing or affecting”.

9 Paragraph 198(2)(d)

Repeal the paragraph, substitute:

- (d) the doing of any act or thing by another person:
 - (i) with the intention of influencing the preferences set out in the vote of an elector; or
 - (ii) with the likely result that the preferences set out in the vote of an elector are influenced;

10 Paragraph 199(9)(b)

Omit all the words from and including “an offence created” to and including “*Criminal Code*”, substitute:

an offence created by:

- (i) section 6 of the *Crimes Act 1914*; or
 - (ii) section 11.1, 11.2, 11.4 or 11.5 of the *Criminal Code*; or
 - (iii) section 134.1, 134.2, 135.1, 135.2, 135.4 or 136.1 of the *Criminal Code*;
-

Aboriginal and Torres Strait Islanders (Queensland Reserves and Communities Self-Management) Act 1978

11 After section 4

Insert:

4A Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

12 Subsection 10(11)

Omit “charged proves that he”.

13 At the end of subsection 10(11)

Add:

Note: A defendant bears an evidential burden in relation to the matter in subsection (11) (see subsection 13.3(3) of the *Criminal Code*).

Aboriginal Councils and Associations Act 1976

14 At the end of Part I

Add:

3A Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

15 Subsection 30(11)

Omit “the person charged proves that”.

16 Subsection 30(11)

Omit “his attention”, substitute “the attention of the person charged”.

17 At the end of subsection 30(11)

Add:

Note: A defendant bears an evidential burden in relation to the matter in subsection (11) (see subsection 13.3(3) of the *Criminal Code*).

18 After subsection 35(1)

Insert:

(1A) Subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

19 Subsection 38(7)

Omit “, without reasonable excuse,”.

20 Subsection 38(8)

Repeal the subsection, substitute:

(8) Subsection (7) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(9) Subsection (7) does not apply if:

(a) the Council has a reasonable excuse; or

(b) the councillor did not know that the Council had failed to comply with a provision of this section.

Note: A defendant bears an evidential burden in relation to the matters in subsection (9) (see subsection 13.3(3) of the *Criminal Code*).

21 Subsection 39(5)

Omit “, without reasonable excuse,”.

22 After subsection 39(5)

Insert:

(6) Subsection (5) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(6A) Subsection (5) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (6A) (see subsection 13.3(3) of the *Criminal Code*).

23 After subsection 52(1)

Insert:

(1A) Subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

24 After subsection 53(3)

Insert:

(3A) Subsection (3) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

25 After subsection 54(1)

Insert:

(1A) Subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

26 After subsection 58(2)

Insert:

(2A) Subsection (2) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

27 Subsection 58(5)

Omit “, without reasonable excuse,”.

28 Subsection 58(6)

Repeal the subsection, substitute:

(6) Subsection (5) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(7) Subsection (5) does not apply if:

- (a) the Governing Committee has a reasonable excuse; or
- (b) the member did not know that the Committee had failed to comply with subsections (3) and (4).

Note: A defendant bears an evidential burden in relation to the matters in subsection (7) (see subsection 13.3(3) of the *Criminal Code*).

29 Subsection 59(7)

Omit “, without reasonable excuse,”.

30 Subsection 59(8)

Repeal the subsection, substitute:

(8) Subsection (7) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(9) Subsection (7) does not apply if:

(a) the Governing Committee has a reasonable excuse; or

(b) the member did not know that the Committee had failed to comply with a provision of this section.

Note: A defendant bears an evidential burden in relation to the matters in subsection (9) (see subsection 13.3(3) of the *Criminal Code*).

31 At the end of section 59A

Add:

(3) Subsection (2) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

32 Subsection 60(5)

Omit “, without reasonable excuse,”.

33 After subsection 60(5)

Insert:

(6) Subsection (5) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(6A) Subsection (5) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (6A) (see subsection 13.3(3) of the *Criminal Code*).

34 After subsection 64(2)

Insert:

(2A) Subsection (2) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

35 Subsection 69(1)

Omit “, without reasonable excuse, refuse or”.

36 At the end of section 69

Add:

- (2) Subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

- (3) Subsection (1) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

Aboriginal Land Grant (Jervis Bay Territory) Act 1986

37 At the end of Part I

Add:

3A Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

38 Subsections 48(3) and (4)

Repeal the subsections, substitute:

- (3) A person commits an offence if:
- (a) the person enters or remains in a place; and
 - (b) a declaration under subsection (1) is in force in relation to the place; and
 - (c) a sign is displayed in relation to the place; and
 - (d) the sign is displayed under subsection (2).

Penalty: \$1,000.

(3A) Strict liability applies to paragraphs (3)(b) and (d).

Schedule 1 Application of the Criminal Code

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(3B) Subsection (3) does not apply if:

- (a) the person enters or remains in the place:
 - (i) in performing functions under this Act; or
 - (ii) otherwise in accordance with this Act or a law in force in the Territory; or
 - (iii) with the consent of the Council; or
- (b) the person is an Aboriginal member of the Community.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3B) (see subsection 13.3(3) of the *Criminal Code*).

(4) A person commits an offence if:

- (a) the person does an act; and
- (b) the act results in damage or disturbance to a place; and
- (c) a declaration under subsection (1) is in force in relation to the place; and
- (d) a sign is displayed in relation to the place; and
- (e) the sign is displayed under subsection (2).

Penalty: \$5,000 or imprisonment for 2 years, or both.

(4A) Strict liability applies to paragraphs (4)(c) and (e).

Note: For strict liability, see section 6.1 of the *Criminal Code*.

Aboriginal Land (Lake Condah and Framlingham Forest) Act 1987

39 After section 4

Insert:

4A Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* (except Part 2.5) applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

40 Paragraph 30(1)(b)

Omit “for the purpose”, substitute “with the intention”.

41 Section 35

Omit “for the purposes of”, substitute “with the intention of”.

Aboriginal Land Rights (Northern Territory) Act 1976

42 At the end of Part I

Add:

3D Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* (except Part 2.5) applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

43 Subsection 23E(4)

Repeal the subsection, substitute:

- (4) A person commits an offence if:
- (a) information is communicated to the person (the ***first person***) in accordance with paragraph (3)(b) or (ba); and
 - (b) the information is communicated by a person (the ***second person***) to whom this section applies; and
 - (c) the second person acquired the information because of his or her membership of, or employment by, a Land Council or his or her activities as an authorised person; and
 - (d) the information concerns the affairs of a third person; and
 - (e) the first person, either directly or indirectly, makes a record of, or divulges or communicates the information to any other person.

Penalty: \$1,000 or imprisonment for 6 months.

- (4A) Strict liability applies to paragraphs (4)(a), (b) and (c).

Note: For strict liability, see section 6.1 of the *Criminal Code*.

- (4B) Subsection (4) does not apply if the first person makes the record, or divulges or communicates the information, for the purpose of advising the Minister in connection with this Act.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4B) (see subsection 13.3(3) of the *Criminal Code*).

44 Subsection 54(6)

Omit “, without lawful excuse, refuse or”.

45 At the end of section 54

Add:

(7) Subsection (6) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

46 Subsection 54A(2)

Omit “, without lawful excuse, refuse or”.

47 After subsection 54A(2)

Insert:

(2A) Subsection (2) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

48 Subsection 54AA(3)

Omit “knowingly”, substitute “intentionally”.

49 Subsection 69(1)

Omit “Except in the performance of functions under this Act or otherwise in accordance with this Act or a law of the Northern Territory, a person”, substitute “A person”.

50 After subsection 69(2)

Insert:

(2A) In proceedings for an offence against subsection (1), it is a defence if the person enters or remains on the land in performing functions under this Act or otherwise in accordance with this Act or a law of the Northern Territory.

Note: A defendant bears an evidential burden in relation to the matters in subsection (2A) (see subsection 13.3(3) of the *Criminal Code*).

51 Subsection 70(1)

Omit “Except in the performance of functions under this Act or otherwise in accordance with this Act or a law of the Northern Territory, a person”, substitute “A person”.

52 After subsection 70(2)

Insert:

(2A) In proceedings for an offence against subsection (1), it is a defence if the person enters or remains on the land in performing functions under this Act or otherwise in accordance with this Act or a law of the Northern Territory.

Note: A defendant bears an evidential burden in relation to the matters in subsection (2A) (see subsection 13.3(3) of the *Criminal Code*).

Australian Institute of Aboriginal and Torres Strait Islander Studies Act 1989

53 At the end of Part 1

Add:

3A Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* (except Part 2.5) applies to all offences against this Act.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: Part 2.5 of the *Criminal Code* (which deals with corporate criminal responsibility) is excluded from applying to offences against this Act by subsection 47(10).

54 Paragraph 47(9)(b)

Repeal the paragraph, substitute:

(b) an offence created by:

- (i) section 6 of the *Crimes Act 1914*; or
- (ii) section 11.1, 11.2, 11.4 or 11.5 of the *Criminal Code*; or
- (iii) section 134.1, 134.2, 135.1, 135.2, 135.4 or 136.1 of the *Criminal Code*;

being an offence that relates to this Act or the regulations.

Schedule 2—Other amendments

Aboriginal and Torres Strait Islanders (Queensland Reserves and Communities Self-Management) Act 1978

1 Paragraph 6(1)(b)

Omit “he”, substitute “he or she”.

2 Paragraph 6(1)(b)

Omit “his”, substitute “his or her”.

3 Subsection 10(5)

Omit “he”, substitute “he or she”.

4 Paragraph 10(5)(b)

Omit “his”, substitute “the Minister’s”.

5 Subsections 12(2) and (4)

Omit “him” (wherever occurring), substitute “the person”.

6 Subsection 13(2)

Omit “him” (wherever occurring), substitute “him or her”.

Aboriginal Councils and Associations Act 1976

7 Subsections 4(3) and 5(2)

Omit “his”, substitute “his or her”.

8 Subsection 6(1)

Omit “by writing signed by him”, substitute “by signed writing”.

9 Subsection 6(2)

Omit “his” (wherever occurring), substitute “his or her”.

10 Subsection 6(2)

Omit “by writing signed by him”, substitute “by signed writing”.

11 Subsection 6(4)

Omit “his appointment by writing signed by him”, substitute “his or her appointment by signed writing”.

12 Section 7

Omit “his office by writing signed by him”, substitute “his or her office by signed writing”.

13 Subsection 8(1)

Omit “his”, substitute “his or her”.

14 Subsection 9(1)

Omit “by writing signed by him”, substitute “by signed writing”.

15 Subsection 9(1)

Omit “his”, substitute “his or her”.

16 Subsection 12(1)

Omit “he”, substitute “the Registrar”.

17 Paragraph 12(1)(a)

Omit “his”, substitute “his or her”.

18 Subsection 12(2)

Omit “his”, substitute “his or her”.

19 Subsection 12(2)

Omit “he”, substitute “the Registrar”.

20 Subsection 16(4)

Omit “he” (first occurring), substitute “he or she”.

21 Subsection 16(4)

Omit “he” (second occurring), substitute “the Registrar”.

22 Subsections 16(4) and (5)

Omit “his”, substitute “his or her”.

23 Paragraph 16(6)(b)

Omit “him”, substitute “him or her”.

24 Subsection 17(1)

Omit “he” (first occurring), substitute “the Minister”.

25 Subsection 17(1)

Omit “he” (second occurring), substitute “he or she”.

26 Subsection 17(3)

Omit “he”, substitute “the Minister”.

27 Subsection 17(5)

Omit “he”, substitute “he or she”.

28 Section 18

Omit “he”, substitute “the Minister”.

29 Paragraph 21(2)(a)

Omit “his”, substitute “the Registrar’s”.

30 Paragraph 21(4)(a)

Omit “he”, substitute “the person”.

31 Subparagraphs 21(4)(b)(i) and (ii)

Omit “he”, substitute “the person”.

32 Subsection 21(6)

Omit “he”, substitute “the Registrar”.

33 Subsections 22(4) and (6)

Omit “his”, substitute “his or her”.

34 Subsection 22(8)

Omit “he”, substitute “the Registrar”.

35 Paragraph 25(2)(a)

Omit “his”, substitute “the Registrar’s”.

36 Paragraph 25(3)(a)

Omit “he”, substitute “the person”.

37 Subparagraphs 25(3)(b)(i) and (ii)

Omit “he”, substitute “the person”.

38 Subsection 25(5)

Omit “he”, substitute “the Registrar”.

39 Subsections 27(2) and 30(5)

Omit “he”, substitute “he or she”.

40 Paragraph 30(5)(b)

Omit “his”, substitute “the Minister’s”.

41 Subsection 30(8)

Omit “his”, substitute “his or her”.

42 Section 32

Omit “his”, substitute “his or her”.

43 Subsections 33(4), (6) and (8)

Omit “he”, substitute “he or she”.

44 Paragraphs 35(2)(a) and (b)

Omit “he”, substitute “the Registrar”.

45 Subsection 35(3)

Omit “his approval, or his refusal of approval,”, substitute “his or her approval or refusal of approval”.

46 Subsection 36(3)

Omit “his office by writing signed by him”, substitute “his or her office by signed writing”.

47 Subsection 36(4)

Omit “he”, substitute “the officer”.

48 Subsection 36(4)

Omit “his”, substitute “the officer’s”.

49 Subsection 36(5)

Omit “he”, substitute “the Registrar”.

50 Subsection 36(5)

Omit “him”, substitute “the Registrar”.

51 Section 44

Omit “his”, substitute “his or her”.

52 Paragraph 45(1)(a)

Omit “he”, substitute “the Registrar”.

53 Paragraph 45(1)(a)

Omit “him”, substitute “him or her”.

54 Paragraph 45(1)(b)

Omit “he”, substitute “the Registrar”.

55 Paragraph 45(1)(b)

Omit “his refusal and of the reasons for his refusal”, substitute “his or her refusal and of the reasons for that refusal”.

56 Subsection 45(4)

Omit “he”, substitute “the Registrar”.

57 Paragraphs 45(4)(a) and (b)

Omit “his”, substitute “his or her”.

58 Subsection 45(5)

Omit “he”, substitute “the Registrar”.

59 Subsection 48(2)

Omit “he”, substitute “the person”.

60 Paragraph 52(2)(a)

Omit “he”, substitute “the Registrar”.

61 Paragraph 52(2)(a)

Omit “for him”.

62 Paragraph 52(2)(b)

Omit “he”, substitute “the Registrar”.

63 Paragraph 52(2)(b)

Omit “of his refusal and of the reasons for his refusal”, substitute “of his or her refusal and of the reasons for that refusal”.

64 Subsections 52(2B) and (2C)

Omit “he”, substitute “the Minister”.

65 Subsection 53(1)

Omit “his”.

66 Subsection 53(2)

Omit “to him”.

67 Subsection 53(4)

Omit “he”, substitute “he or she”.

68 Paragraphs 54(2)(a) and (b)

Omit “he”, substitute “the Registrar”.

69 Subsection 54(3)

Omit “of his approval, or his refusal of approval,”, substitute “of his or her approval or refusal of approval”.

70 Subsection 56(3)

Omit “his office by writing signed by him”, substitute “his or her office by signed writing”.

71 Subsection 56(4)

Omit “he”, substitute “the officer”.

72 Subsection 56(4)

Omit “his”, substitute “the officer’s”.

73 Subsection 56(5)

Omit “him”, substitute “the Registrar”.

74 Subsection 58(1)

Omit “his”, substitute “his or her”.

75 Paragraph 58(1)(c)

Omit “he”, substitute “he or she”.

76 Subsection 58(2)

Omit “him”, substitute “the officer”.

77 Subparagraph 63(3)(a)(ii)

Omit “his”, substitute “his or her”.

78 Subsection 65(2)

Omit “he”, substitute “he or she”.

79 Subsection 69(2)

Omit “he”, substitute “the person”.

80 Subsection 70(1)

Omit “his”, substitute “his or her”.

81 Subsection 70(1)

Omit “he” (first occurring), substitute “the Registrar”.

82 Paragraphs 70(1)(a) and (b)

Omit “he”, substitute “the Registrar”.

83 Subsection 70(3)

Omit “his”, substitute “his or her”.

84 Section 79

Omit “he”, substitute “he or she”.

85 Subsection 80(1)

Omit “him at his”, substitute “his or her”.

Aboriginal Land Rights (Northern Territory) Act 1976

86 Subsection 7(1A)

Omit “by writing under his hand”, substitute “by signed writing”.

87 Subsection 7(2)

Omit “him”, substitute “the Minister”.

88 Subsection 7(7)

Omit “his”, substitute “his or her”.

89 Subsection 7(8)

Omit “his” (wherever occurring), substitute “his or her”.

90 Section 8

Omit “he” (first occurring), substitute “the member”.

91 Section 8

Omit “his”, substitute “his or her”.

92 Section 8

Omit “he” (second occurring), substitute “the Minister”.

93 Section 9

Omit “his office by writing under his hand”, substitute “his or her office by signed writing”.

94 Paragraph 11(1)(a)

Omit “him”, substitute “the Minister”.

95 Subparagraphs 11(1)(c)(i) and (ii)

Omit “he”, substitute “the Minister”.

96 Subsection 11(1AA)

Omit “him”, substitute “the Minister”.

97 Subsection 11(1AD)

Omit “he”, substitute “he or she”.

98 Subsection 12A(1)

Omit “his”, substitute “his or her”.

99 Paragraph 12B(2)(b)

Omit “he”, substitute “the Director”.

100 Subparagraph 13(2)(b)(i)

Omit “his” (wherever occurring), substitute “the person’s”.

101 Subparagraph 13(2)(b)(iii)

Omit “his”, substitute “his or her”.

102 Subparagraph 18B(1)(a)(ii)

Omit “he”, substitute “he or she”.

103 Subparagraph 19(2)(a)(i)

Omit “his”, substitute “his or her”.

104 Paragraph 19(2)(b)

Omit “him”, substitute “him or her”.

105 Subsection 19(8)

Omit “his” (wherever occurring), substitute “his or her”.

106 Subsection 20(2)

Omit “he”, substitute “the person”.

107 Paragraph 20(2)(a)

Omit “him”, substitute “the person”.

108 Subsection 21(6)

Omit “he”, substitute “he or she”.

109 Subsection 23A(3)

Omit “him”, substitute “the person”.

110 Subsection 23C(3)

Omit “his”, substitute “his or her”.

111 Subsection 23D(3)

Omit “his”, substitute “his or her”.

112 Subsection 23E(4)

Omit “him”, substitute “him or her”.

113 Subsection 23E(4)

Omit “his” (wherever occurring), substitute “his or her”.

114 Subsection 25(3)

Omit “he”, substitute “he or she”.

115 Subsection 27(4)

Omit “he”, substitute “the Minister”.

116 Subsection 31(1)

Omit “his”, substitute “his or her”.

117 Subsection 31(1)

Omit “he” (first occurring), substitute “he or she”.

118 Subsection 31(1)

Omit “he” (second occurring), substitute “the Chair”.

119 Subsection 31(2)

Omit “he”, substitute “the Deputy Chair”.

120 Subsection 31(3)

Omit “he”, substitute “he or she”.

121 Subsection 31(9)

Omit “him”, substitute “him or her”.

122 Subsection 34(1)

Omit “his”, substitute “his or her”.

123 Subparagraph 50(1)(a)(ii)

Omit “his”, substitute “his or her”.

124 Subparagraph 50(1)(a)(ii)

Omit “he”, substitute “the Commissioner”.

125 Paragraph 50(1)(b)

Omit “his”, substitute “his or her”.

126 Subsection 50(2)

Omit “him”, substitute “the Commissioner”.

127 Subsection 50(4)

Omit “his”, substitute “his or her”.

128 Section 51

Omit “his”, substitute “his or her”.

129 Subsection 52(2)

Omit “the instrument of his appointment”, substitute “his or her instrument of appointment”.

130 Subsection 52(3)

Omit “he”, substitute “he or she”.

131 Subsections 53(1) and (2)

Omit “he”, substitute “he or she”.

132 Subsection 53(3)

Repeal the subsection, substitute:

- (3) The appointment of a Judge as a Commissioner and the Judge’s service as a Commissioner does not affect:
 - (a) his or her tenure of judicial office; or
 - (b) the Judge’s rank, title, status, precedence, salary or annual allowances or other judicial privileges as the holder of that judicial office.

(3A) For all purposes, the Judge's service as a Commissioner is taken to be service as the holder of his or her judicial office.

133 Subsection 53A(1)

Omit "his", substitute "his or her".

134 Subsection 54(1)

Omit "he", substitute "the Commissioner".

135 Subsection 54(1)

Omit "his", substitute "his or her".

136 Subsection 54(1)

Omit "him", substitute "him or her".

137 Subsection 54(3)

Repeal the subsection, substitute:

- (3) A person is not excused from:
- (a) answering a question; or
 - (b) producing any documents or other records;
- when required to do so under this section on the ground that the answer to the question, or the production of the records or other documents:
- (c) might tend to incriminate the person; or
 - (d) might make the person liable to a penalty.

(3A) However, the person's answer to any such question is not admissible in evidence against him or her in proceedings, other than proceedings for an offence against paragraph (6)(b) or section 54B.

138 Subsection 54(5)

Omit "him", substitute "him or her".

139 Subsection 54A(1)

Omit "his", substitute "the Commissioner's".

140 Subsection 54A(1)

Omit “he”, substitute “the person”.

141 Subsection 54A(2)

Omit “him”, substitute “him or her”.

142 Subsection 54A(3)

Repeal the subsection, substitute:

(3) A person is not excused from answering a question referred to in subsection (2) on the ground that the answer to the question:

- (a) might tend to incriminate the person; or
- (b) might make the person liable to a penalty.

(3A) However, the person’s answer to any such question is not admissible in evidence against him or her in proceedings other than proceedings for an offence against that subsection or section 54B.

143 Paragraph 54B(a)

Omit “he”, substitute “the person”.

144 Paragraph 54B(b)

Omit “his” (first occurring), substitute “his or her”.

145 Paragraph 54B(b)

Omit “his” (second occurring), substitute “the person’s”.

146 Section 55

Omit “he”, substitute “he or she”.

147 Subsection 57(2)

Omit “his” (wherever occurring), substitute “his or her”.

148 Subsections 57(3) and (4)

Omit “he”, substitute “the person”.

149 Subsection 57(6)

Omit “his appointment by writing under his hand”, substitute “his or her appointment by signed writing”.

150 Section 58

Omit “his office by writing under his hand”, substitute “his or her office by signed writing”.

151 Subsection 61(1)

Omit “his”, substitute “his or her”.

152 Subsection 61(3)

Omit “to him”.

153 Subsection 64A(1)

Omit “his” (first occurring), substitute “his or her”.

154 Subsection 64A(1)

Omit “by instrument under his hand”, substitute “by signed instrument”.

155 Subsections 64A(1) and (3)

Omit “he”, substitute “the Minister”.

156 Subsection 64A(4)

Omit “by instrument under his hand”, substitute “by signed instrument”.

157 Paragraph 64A(7)(e)

Omit “by instrument under his hand”, substitute “by signed instrument”.

158 Paragraph 70(2)(b)

Omit “his”, substitute “his or her”.

159 Paragraph 74A(1)(c)

Omit “him”, substitute “him or her”.

160 Subsection 76(1)

Omit “by writing signed by him”, substitute “by signed writing”.

161 Subsection 76(1)

Omit “his”, substitute “the Minister’s”.

162 Subsection 77(2)

Schedule 2 Other amendments

Omit “he”, substitute “the person”.

*[Minister’s second reading speech made in—
House of Representatives on 6 June 2001
Senate on 23 August 2001]*

(97/01)