



Agriculture, Fisheries and Forestry Legislation Amendment (Application of Criminal Code) Act 2001

No. 115, 2001



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

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Agriculture, Fisheries and Forestry Legislation Amendment (Application of Criminal Code) Act 2001

No. 115, 2001

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

[Assented to 18 September 2001]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Agriculture, Fisheries and Forestry 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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Amendment of Acts

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

1 Subsection 3(1) (definition of offence against this Act)

Repeal the definition, substitute:

offence against this Act includes an offence against:

- (a) section 6 of the *Crimes Act 1914*; or
 - (b) section 11.1, 11.4 or 11.5 of the *Criminal Code*;
- that relates to an offence against this Act.

2 After section 6

Insert:

6A 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.

3 Subsection 12(2)

Omit “, without reasonable excuse,”.

4 After subsection 12(2)

Insert:

(2A) Subsection (2) does not apply if the person has a reasonable excuse.

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

(2B) An offence under subsection (2) is an offence of strict liability.

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

5 Subsection 17(2)

Omit “, without reasonable excuse,”.

6 At the end of section 17

Add:

- (3) Subsection (2) does not apply if the person has a reasonable excuse.

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

- (4) An offence under subsection (2) is an offence of strict liability.

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

7 Subsection 18(4)

Omit “unless the person has a reasonable excuse for not doing so,”.

8 At the end of section 18

Add:

- (5) Subsection (4) does not apply if the person has a reasonable excuse.

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

- (6) An offence under subsection (4) is an offence of strict liability.

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

9 Subsection 21(3)

Omit “, without reasonable excuse,”.

10 At the end of section 21

Add:

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

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

- (5) An offence under subsection (3) is an offence of strict liability.

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

11 At the end of section 34

Add:

- (2) An offence under subsection (1) is an offence of strict liability.

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

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

12 Section 3 (definition of offence against this Act)

Repeal the definition, substitute:

offence against this Act includes an offence against:

- (a) section 6 of the *Crimes Act 1914*; or
(b) section 11.1, 11.4 or 11.5 of the *Criminal Code*;
that relates to an offence against this Act.

13 After section 5

Insert:

5A 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.

14 Subsection 15(2)

Omit “, without reasonable excuse,”.

15 After subsection 15(2)

Insert:

- (2A) Subsection (2) does not apply if the person has a reasonable excuse.

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

- (2B) An offence under subsection (2) is an offence of strict liability.

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

16 Subsection 20(3)

Omit “, without reasonable excuse,”.

17 At the end of section 20

Add:

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

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

- (5) An offence under subsection (3) is an offence of strict liability.

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

18 Subsection 23(3)

Omit “, without reasonable excuse,”.

19 At the end of section 23

Add:

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

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

- (5) An offence under subsection (3) is an offence of strict liability.

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

20 At the end of section 36

Add:

- (2) An offence under subsection (1) is an offence of strict liability.

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

***Agricultural and Veterinary Chemicals (Administration) Act
1992***

21 At the end of Part 1

Add:

5A Application of the *Criminal Code*

Chapter 2 (other than Part 2.5) 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.

22 Subsection 69B(1)

Omit “Except with the consent in writing of the NRA, a person must not, without reasonable excuse:”, substitute “A person must not:”.

23 After subsection 69B(1)

Insert:

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

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

(1B) Subsection (1) does not apply if the person has the NRA’s written consent.

Note: The defendant bears an evidential burden in relation to the matter in subsection (1B). See subsection 13.3(3) of the *Criminal Code*.

(1C) In subparagraph (1)(a)(i), strict liability applies to the physical element of circumstance, that the active constituent is neither an approved active constituent nor an exempt active constituent.

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

(1D) In subparagraph (1)(a)(ii), strict liability applies to the physical element of circumstance, that the chemical product is neither a registered chemical product nor an exempt chemical product.

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

24 Subsection 69C(5)

Omit “, without reasonable excuse,”.

25 After subsection 69C(5)

Insert:

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

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

(5B) In subsection (5), strict liability applies to the physical element of circumstance, that the condition or restriction that the conduct contravenes is a condition or restriction prescribed by a regulation made for the purposes of subsection (1).

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

26 After subsection 69E(2)

Insert:

(2A) An offence under subsection (1) is an offence of strict liability.

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

27 At the end of section 69EA

Add:

(2) An offence under subsection (1) is an offence of strict liability.

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

28 Subsection 69EB(6)

Omit “, without reasonable excuse,”.

29 At the end of section 69EB

Add:

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

Note: The defendant bears an evidential burden in relation to the matter in subsection (7). See subsection 13.3(3) of the *Criminal Code*.

(8) An offence under subsection (6) is an offence of strict liability.

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

30 Subsection 69EN(3)

Omit “, without reasonable excuse,”.

31 At the end of section 69EN

Add:

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

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

- (5) An offence under subsection (3) is an offence of strict liability.

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

32 Subsection 69EP(6)

Omit “, without reasonable excuse,”.

33 After subsection 69EP(6)

Insert:

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

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

- (6B) An offence under subsection (6) is an offence of strict liability.

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

34 Subsection 69EP(7)

Omit “, without reasonable excuse,”.

35 After subsection 69EP(7)

Insert:

- (7A) Subsection (7) does not apply if the person has a reasonable excuse.

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

36 Subsection 69F(5)

Omit “unless the person has a reasonable excuse for not doing so,”.

37 After subsection 69F(5)

Insert:

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

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

(5B) An offence under subsection (5) is an offence of strict liability.

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

Agricultural and Veterinary Chemicals Code Act 1994

38 Paragraphs 5(4)(a) and (b)

Repeal the paragraphs, substitute:

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

39 At the end of Part 1 of the Schedule

Add:

8A Application of the *Criminal Code*

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

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

40 After subsection 26(1) of the Schedule

Insert:

(1A) An offence under subsection (1) is an offence of strict liability.

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

41 After subsection 32(3) of the Schedule

Insert:

(3A) An offence under subsection (3) is an offence of strict liability.

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

42 After subsection 33(2) of the Schedule

Insert:

(2A) An offence under subsection (2) is an offence of strict liability.

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

43 Paragraph 55(4)(b) of the Schedule

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

44 After subsection 55(6) of the Schedule

Insert:

(6A) In paragraph (4)(a), strict liability applies to the physical element of circumstance, that the publishing of the notice was under this section.

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

45 At the end of section 61 of the Schedule

Insert:

(2) An offence under subsection (1) is an offence of strict liability.

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

46 Subsection 70(5) of the Schedule

Omit “unless that secondary applicant has a reasonable excuse for failing to do so”.

47 After subsection 70(5) of the Schedule

Insert:

(5A) Subsection (5) does not apply if the secondary applicant has a reasonable excuse.

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

(5B) An offence under subsection (5) is an offence of strict liability.

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

48 Subsection 74(1) of the Schedule

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

Note: The heading to section 74 is amended by omitting “for the purpose” and substituting “with the intention”.

49 At the end of subsection 74(1) of the Schedule

Add:

Note: The defendant bears an evidential burden in relation to the matters in paragraphs (1)(a) to (d). See subsection 13.3(3) of the *Criminal Code*.

50 At the end of subsection 74(3) of the Schedule

Add:

Note: The defendant bears a legal burden in relation to the matter in subsection (3). See section 13.4 of the *Criminal Code*.

51 Subsection 75(1) of the Schedule

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

Note: The heading to section 75 is amended by omitting “for the purpose” and substituting “with the intention”.

52 At the end of subsection 75(1) of the Schedule

Add:

Note: The defendant bears an evidential burden in relation to the matters in paragraphs (1)(a) to (c). See subsection 13.3(3) of the *Criminal Code*.

53 At the end of subsection 75(3) of the Schedule

Add:

Note: The defendant bears a legal burden in relation to the matter in subsection (3). See section 13.4 of the *Criminal Code*.

54 At the end of subsection 76(1) of the Schedule

Add:

Note: The defendant bears an evidential burden in relation to the matters in paragraphs (1)(a) to (c). See subsection 13.3(3) of the *Criminal Code*.

55 At the end of subsection 76(3) of the Schedule

Add:

Note: The defendant bears a legal burden in relation to the matter in subsection (3). See section 13.4 of the *Criminal Code*.

56 At the end of subsection 77(1) of the Schedule

Add:

Note: The defendant bears an evidential burden in relation to establishing that the supply is in accordance with the conditions or is authorised by a permit. See subsection 13.3(3) of the *Criminal Code*.

57 At the end of subsection 77(2) of the Schedule

Add:

Note: The defendant bears a legal burden in relation to the matter in subsection (2). See section 13.4 of the *Criminal Code*.

58 At the end of subsection 78(1) of the Schedule

Add:

Note: The defendant bears an evidential burden in relation to the matters in paragraphs (1)(a) to (c). See subsection 13.3(3) of the *Criminal Code*.

59 At the end of subsection 78(3) of the Schedule

Add:

Note: The defendant bears a legal burden in relation to the matter in subsection (3). See section 13.4 of the *Criminal Code*.

60 At the end of subsection 79(1) of the Schedule

Add:

Note: The defendant bears an evidential burden in relation to establishing that the supply is in accordance with the conditions or is authorised by a permit. See subsection 13.3(3) of the *Criminal Code*.

61 At the end of subsection 79(2) of the Schedule

Add:

Note: The defendant bears a legal burden in relation to the matter in subsection (2). See section 13.4 of the *Criminal Code*.

62 At the end of subsection 80(1) of the Schedule

Add:

Note: The defendant bears an evidential burden in relation to establishing that the supply is authorised by a permit. See subsection 13.3(3) of the *Criminal Code*.

63 At the end of subsection 80(2) of the Schedule

Add:

Note: The defendant bears a legal burden in relation to the matter in subsection (2). See section 13.4 of the *Criminal Code*.

64 At the end of subsection 81(1) of the Schedule

Add:

Note: The defendant bears an evidential burden in relation to establishing that the supply is authorised by a permit. See subsection 13.3(3) of the *Criminal Code*.

65 At the end of subsection 81(2) of the Schedule

Add:

Note: The defendant bears a legal burden in relation to the matter in subsection (2). See section 13.4 of the *Criminal Code*.

66 Subsection 82(1) of the Schedule

Omit “Except with the written consent of an inspector, a person”, substitute “A person”.

67 After subsection 82(1) of the Schedule

Insert:

(1A) Subsection (1) does not apply if the person had the written consent of an inspector to engage in the conduct concerned.

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

68 At the end of subsection 82(2) of the Schedule

Add:

Note: The defendant bears a legal burden in relation to the matter in subsection (2). See section 13.4 of the *Criminal Code*.

69 At the end of section 82 of the Schedule

Add:

(3) In subsection (1), strict liability applies to the physical element of circumstance, that, in opening the container, the inspector was acting under paragraph 131(1)(f).

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

70 Section 83 of the Schedule

Omit “, without reasonable excuse,”.

71 At the end of section 83 of the Schedule

Add:

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

Note: The defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

72 Subsection 84(1) of the Schedule

Omit “Except to the extent that the person is authorised by a permit, a person must not, without reasonable excuse,”, substitute “A person must not”.

73 At the end of section 84 of the Schedule

Add:

- (3) Subsection (1) does not apply to the extent that the person is authorised by a permit to engage in the conduct concerned.

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

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

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

74 Subsection 85(1) of the Schedule

Omit “Except to the extent that the person is authorised by a permit, a person”, substitute “A person”.

75 Subsection 85(1) of the Schedule

Omit “without reasonable excuse,”.

76 At the end of section 85 of the Schedule

Add:

- (3) Subsection (1) does not apply to the extent that the person is authorised by a permit to engage in the conduct concerned.

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

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

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

- (5) In subsection (1), strict liability applies to the physical element of circumstance, that it is the regulations that require an expiry date to be contained on a label attached to a container of the product.

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

77 Subsection 86(1) of the Schedule

Omit “, without reasonable excuse,”.

78 At the end of section 86 of the Schedule

Add:

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

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

79 Subsection 87(2) of the Schedule

Omit “Except to the extent that the person concerned is authorised by a permit, a person must not, without reasonable excuse,”, substitute “A person must not”.

80 At the end of section 87 of the Schedule

Add:

- (3) Subsection (2) does not apply to the extent that the conduct is authorised by a permit.

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

- (4) Subsection (2) does not apply if the person has a reasonable excuse.

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

81 At the end of subsection 88(2) of the Schedule

Add:

Note: The defendant bears an evidential burden in relation to the matters in paragraphs (2)(c) and (d). See subsection 13.3(3) of the *Criminal Code*.

82 At the end of subsection 88(3) of the Schedule

Add:

Note: The defendant bears a legal burden in relation to the matter in subsection (3). See section 13.4 of the *Criminal Code*.

83 Subsection 89(1) of the Schedule

Omit “, without reasonable excuse,”.

84 At the end of section 89 of the Schedule

Add:

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

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

(7) In paragraph (1)(f), strict liability applies to the physical element of circumstance, that the particular qualities concerned were prescribed by the regulations for the purposes of that paragraph.

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

85 Section 90 of the Schedule

Omit “unless the person has a reasonable excuse for not doing so”.

86 At the end of section 90 of the Schedule

Add:

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

Note: The defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

(3) In subsection (1), strict liability applies to the physical element of circumstance, that the relevant matter is prescribed by the regulations.

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

87 Subsection 91(1) of the Schedule

Omit “Except to the extent that the person is otherwise authorised by a permit, a person must not, without reasonable excuse,”, substitute “A person must not”.

88 After subsection 91(1) of the Schedule

Insert:

(1A) Subsection (1) does not apply to the extent that the person’s conduct is otherwise authorised by a permit.

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

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

Note: The defendant bears an evidential burden in relation to the matter in subsection (1B). See subsection 13.3(3) of the *Criminal Code*.

(1C) In subsection (1), strict liability applies to the physical elements of circumstance, that:

- (a) the NRA has not approved the relevant matter as mentioned in paragraph (1)(a); and
- (b) an expiry date was required to be contained on the label as a condition of the registration of the product.

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

89 Subsection 91(2) of the Schedule

Omit “without reasonable excuse,”.

90 At the end of section 91 of the Schedule

Add:

(3) Subsection (2) does not apply if the person has a reasonable excuse.

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

91 Subsection 92(1) of the Schedule

Omit “, without reasonable excuse,”.

92 At the end of section 92 of the Schedule

Add:

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

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

93 Section 94 of the Schedule

Omit “, without reasonable excuse,”.

94 At the end of section 94 of the Schedule

Add:

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

Note: The defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

95 Section 95 of the Schedule

Omit “, without reasonable excuse,”.

96 At the end of section 95 of the Schedule

Add:

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

Note: The defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

97 After subsection 97(2) of the Schedule

Insert:

- (2A) An offence under subsection (2) is an offence of strict liability.

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

98 Subsection 97(6) of the Schedule

Omit “without reasonable excuse,”.

99 After subsection 97(6) of the Schedule

Insert:

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

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

(6B) An offence under subsection (6) is an offence of strict liability.

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

100 Subsection 99(5) of the Schedule

Omit “, without reasonable excuse”.

101 After subsection 99(5) of the Schedule

Insert:

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

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

(5B) An offence under subsection (5) is an offence of strict liability.

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

102 Section 105 of the Schedule

Omit “, without reasonable excuse,”.

103 At the end of section 105 of the Schedule

Add:

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

Note: The defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

(3) An offence under subsection (1) is an offence of strict liability.

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

104 Subsections 121(3), (4) and (5) of the Schedule

Omit “, without reasonable excuse,”.

105 At the end of section 121 of the Schedule

Add:

- (6) Subsections (3), (4) and (5) do not apply if the person has a reasonable excuse.

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

- (7) An offence under subsection (3), (4) or (5) is an offence of strict liability.

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

106 Subsection 131(8) of the Schedule

Omit “, without reasonable excuse,”.

107 At the end of section 131 of the Schedule

Add:

- (9) Subsection (8) does not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (9). See subsection 13.3(3) of the *Criminal Code*.

- (10) An offence under subsection (8) is an offence of strict liability.

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

108 Subsection 144(3) of the Schedule

Omit “, without reasonable excuse,”.

109 At the end of section 144 of the Schedule

Add:

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

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

- (5) An offence under subsection (3) is an offence of strict liability.

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

110 At the end of section 152 of the Schedule

Add:

- (3) For an offence that arises because of subsection (2), strict liability applies to paragraphs (2)(a) and (b).

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

111 Subsection 162(1) of the Schedule

Omit “Except in the performance of functions or duties, or the exercise of powers, under this Code, a person”, substitute “A person”.

112 Subsection 162(1) of the Schedule

Omit “intentionally or recklessly”.

113 After subsection 162(1) of the Schedule

Insert:

- (1A) Subsection (1) does not apply to the extent that the person engages in the conduct in the performance of functions or duties, or the exercise of powers, under this Code.

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

114 At the end of subsection 162(7) of the Schedule

Add:

Note: The defendant bears an evidential burden in relation to the matter in subsection (7). See subsection 13.3(3) of the *Criminal Code*.

115 Subsection 162(8) of the Schedule

Omit “Except for the purpose of providing advice to the NRA in accordance with section 8 of the *Agricultural and Veterinary Chemicals (Administration) Act 1992* or making a recommendation to the NRA in accordance with paragraph 111(1)(c), a person”, substitute “A person”.

116 Subsection 162(8) of the Schedule

Omit “intentionally or recklessly”.

117 After subsection 162(8) of the Schedule

Insert:

- (8A) Subsection (8) does not apply to conduct engaged in with the intention of providing advice to the NRA in accordance with section 8 of the *Agricultural and Veterinary Chemicals (Administration) Act 1992* or making a recommendation to the NRA in accordance with paragraph 111(1)(c).

Note: The defendant bears an evidential burden in relation to the matter in subsection (8A). See subsection 13.3(3) of the *Criminal Code*.

- (8B) In subsection (8), strict liability applies to the physical element of circumstance, that the disclosure was under subsection (7).

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

118 Subsection 162(9) of the Schedule

Omit “intentionally or recklessly”.

119 After subsection 162(9) of the Schedule

Insert:

- (9A) In subsection (9), strict liability applies to the physical elements of circumstance, that:

- (a) the acquisition of the information by the first-mentioned person was in the performance of functions or duties, or the exercise of powers, under this Code; and
- (b) the disclosure mentioned first in that subsection was made other than under subsection (3) or (7).

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

Australian Meat and Live-stock Industry Act 1997

120 At the end of section 47

Add:

- (4) An offence under subsection (3) is an offence of strict liability.

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

121 At the end of section 49

Add:

- (4) An offence under subsection (3) is an offence of strict liability.

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

122 Subsection 51(2)

Omit “nature”, substitute “notice”.

Australian Wine and Brandy Corporation Act 1980

123 After section 4A

Insert:

4B Application of the *Criminal Code*

Chapter 2 (other than Part 2.5) 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.

124 After subsection 9(5)

Insert:

(5A) An offence under subsection (4) or (5) is an offence of strict liability.

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

125 Paragraphs 39ZAAA(1)(a) and (b)

Omit “knowingly or recklessly”, substitute “intentionally”.

126 Subsection 39ZAB(1)

Omit “, without reasonable excuse,”.

127 After subsection 39ZAB(1)

Insert:

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

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

128 At the end of section 39ZAB

Add:

- (3) In subsection (1), strict liability applies to the physical element of circumstance, that the notice is under section 39ZAA.

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

129 At the end of section 39ZB

Add:

- (4) An offence under subsection (3) is an offence of strict liability.

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

130 Subsection 39ZH(2)

Omit “, without reasonable excuse,”.

131 After subsection 39ZH(2)

Insert:

- (2A) Subsection (2) does not apply if the person has a reasonable excuse.

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

- (2B) An offence under subsection (2) is an offence of strict liability.

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

132 Subsections 40C(1), (2) and (3)

Omit “knowingly”, substitute “intentionally”.

133 Subsections 40E(1), (2) and (3)

Omit “knowingly”, substitute “intentionally”.

134 Subsection 40H(2)

Omit “knowingly”, substitute “intentionally”.

135 Subsection 42(2)

Omit “, without reasonable excuse,”.

136 After subsection 42(2)

Insert:

(2A) Subsection (2) does not apply if the person has a reasonable excuse.

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

(2B) An offence under subsection (2) is an offence of strict liability.

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

137 After subsection 44(1)

Insert:

(1A) An offence under subsection (1) is an offence of strict liability.

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

138 Paragraph 44A(9)(b)

Repeal the paragraph, substitute:

(b) an offence against section 6 of the *Crimes Act 1914*, or section 11.1, 11.4 or 11.5 of the *Criminal Code*, that relates to this Act or the regulations.

Biological Control Act 1984

139 After section 6

Insert:

6A 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.

140 Section 43

Omit “, without reasonable excuse”.

141 At the end of section 43

Add:

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

Note: The defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

(3) An offence under subsection (1) is an offence of strict liability.

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

142 Section 45

Omit “, without reasonable excuse”.

143 At the end of section 45

Add:

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

Note: The defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

(3) An offence under subsection (1) is an offence of strict liability.

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

Dairy Produce Act 1986

144 At the end of Part I

Add:

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.

145 Subsection 54(1)

Omit “unless the person is a licensee”.

146 After subsection 54(1)

Insert:

(1A) Subsection (1) does not apply if the person is a licensee.

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

147 At the end of section 54

Add:

- (3) In subsection (2), strict liability applies to the physical element of circumstance, that the regulations were made under subsection 52(1).

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

148 Subsection 55(3)

Omit “, without reasonable excuse,”.

149 At the end of section 55

Add:

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

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

150 Subsection 113(1)

Omit “, without reasonable excuse,”.

151 After subsection 113(1)

Insert:

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

Note: The defendant bears an evidential burden in relation to the matter in subsection (1B). See subsection 13.3(3) of the *Criminal Code*.

152 Subsection 113(3)

Omit “knowingly”, substitute “intentionally”.

153 Subsection 113(3)

Omit “that is false or misleading in a material particular to a person”, substitute “knowing that it is false or misleading in a material particular, to a person”.

154 Subsection 119(2)

Omit “, except for the purposes of this Act or as otherwise required by law”.

155 After subsection 119(4)

Insert:

(4A) Subsection (2) does not apply to conduct engaged in for the purposes of this Act or as otherwise required by law.

Note: The defendant bears an evidential burden in relation to the matters in subsections (2A), (2B), (3), (4) and (4A). See subsection 13.3(3) of the *Criminal Code*.

156 Subclause 16(9) of Schedule 2

Omit “clause 134”, substitute “section 136.1 of the *Criminal Code*”.

157 Subclause 16(9) of Schedule 2 (note)

Omit “Clause 134”, substitute “Section 136.1 of the *Criminal Code*”.

158 Subclause 17(5) of Schedule 2

Omit “clause 134”, substitute “section 136.1 of the *Criminal Code*”.

159 Subclause 17(5) of Schedule 2 (note)

Omit “Clause 134”, substitute “Section 136.1 of the *Criminal Code*”.

160 Paragraphs 38(6)(c), (d) and (e) of Schedule 2

Repeal the paragraphs, substitute:

- (c) section 136.1 of the *Criminal Code*;
- (d) section 137.1 of the *Criminal Code*;
- (e) section 137.2 of the *Criminal Code*.

161 Paragraph 40(2)(d) of Schedule 2

Omit “clause 134, 135 or 136”, substitute “section 136.1, 137.1 or 137.2 of the *Criminal Code*”.

162 Paragraph 114(2)(e) of Schedule 2

Omit “clause 135 or 136”, substitute “section 137.1 or 137.2 of the *Criminal Code*”.

163 At the end of clause 116 of Schedule 2

Add:

- (2) In paragraph (1)(a), strict liability applies to the physical element of circumstance, that the authorised person's power is under clause 115.

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

- (3) In paragraph (1)(b), strict liability applies to the physical element of circumstance, that the issue of the warrant was under clause 118.

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

164 After subclause 117(1) of Schedule 2

Insert:

- (1A) In subclause (1), strict liability applies to the physical elements of circumstance, that:

- (a) the authorised person's power is under clause 115; and
- (b) the issue of the warrant was under clause 118.

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

165 Clauses 132, 134, 135 and 136 of Schedule 2

Repeal the clauses.

Export Control Act 1982

166 Section 3 (definition of offence against this Act)

Repeal the definition, substitute:

offence against this Act includes an offence against:

- (a) section 6 of the *Crimes Act 1914*; or
 - (b) section 11.1, 11.4 or 11.5 of the *Criminal Code*;
- that relates to an offence against this Act.

167 After section 4

Insert:

4AA 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.

168 At the end of section 6

Add:

- (4) In subsection (1), strict liability applies to the physical element of circumstance, that the requirement to give notice as mentioned in that subsection is under the regulations.

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

169 At the end of section 7A

Add:

- (3) In paragraphs (1)(a) and (2)(a), strict liability applies to the physical element of circumstance, that the relevant prohibition is under the regulations.

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

170 At the end of section 8

Add:

- (7) In subsections (1), (2), (3) and (4), strict liability applies to the physical element of circumstance, that the relevant prohibition is under the regulations.

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

171 At the end of section 9

Add:

- (2) An offence under subsection (1) is an offence of strict liability.

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

172 At the end of section 11P

Add:

- (5) An offence under subsection (4) is an offence of strict liability.
-

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

173 At the end of section 14

Add:

- (2) In subsection (1), strict liability applies to the physical element of circumstance, that the person's conduct contravenes the regulations.

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

174 After subsection 15(1A)

Insert:

- (1B) In subsections (1) and (1A), strict liability applies to the physical element of circumstance, that the relevant goods are prescribed.

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

- (1C) In subsection (1A), strict liability applies to the physical element of circumstance, that the giving of the notice is (or was) under subsection 6(1).

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

175 At the end of section 21

Add:

- (3) An offence under subsection (2) is an offence of strict liability.

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

176 Subsection 24(1)

Omit "Except as approved in writing by the Secretary, the", substitute "The".

177 After subsection 24(1)

Insert:

- (1AA) Subsection (1) does not apply to conduct that is approved in writing by the Secretary.

Note: The defendant bears an evidential burden in relation to the matter in subsection (1AA). See subsection 13.3(3) of the *Criminal Code*.

178 Subsection 24(1A)

Omit “, unless the supply of the goods or services has been approved in writing by the Secretary under subsection (1)”.

179 After subsection 24(1A)

Insert:

(1B) Subsection (1A) does not apply if the supply of the goods or services has been approved in writing by the Secretary under subsection (1AA).

Note: The defendant bears an evidential burden in relation to the matter in subsection (1B). See subsection 13.3(3) of the *Criminal Code*.

Export Inspection and Meat Charges Collection Act 1985

180 After section 3B

Insert:

3C 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.

181 After subsections 9(1) and (1A)

Insert:

Penalty:

- (a) in the case of a natural person—\$1,000; or
- (b) in the case of a body corporate—\$5,000.

182 At the end of section 9

Add:

(3) An offence under this section is an offence of strict liability.

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

183 Subsection 10(1)

Omit “, without reasonable excuse,”.

184 After subsection 10(1)

Insert:

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

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

(1B) An offence under subsection (1) is an offence of strict liability.

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

185 Subsection 15(8)

Omit “, without reasonable excuse,”.

186 After subsection 15(8)

Insert:

(8A) Subsection (8) does not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (8A). See subsection 13.3(3) of the *Criminal Code*.

(8B) In subsection (8), strict liability applies to the physical element of circumstance, that the authorized person is acting pursuant to subsection (1) or (7) or to a warrant issued under subsection (3).

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

Farm Household Support Act 1992

187 At the end of Part 1

Add:

6AA 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.

188 Subsection 41(5)

Omit “, without reasonable excuse, refuse or fail to comply with a notice under subsection (1) to the extent that the person is capable of complying with the notice”, substitute “refuse or fail to comply with a notice under subsection (1)”.

189 After subsection 41(5)

Insert:

(5A) Subsection (5) does not apply to the extent that the person is not capable of complying with the notice.

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

(5B) Subsection (5) does not apply to the extent that the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (5B). See subsection 13.3(3) of the *Criminal Code*.

(5C) An offence under subsection (5) is an offence of strict liability.

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

190 Subsection 42(5)

Omit “, without reasonable excuse, refuse or fail to comply with a notice under subsection (1) to the extent that the person is capable of complying with the notice”, substitute “refuse or fail to comply with a notice under subsection (1)”.

191 After subsection 42(5)

Insert:

(5A) Subsection (5) does not apply to the extent that the person is not capable of complying with the notice.

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

(5B) Subsection (5) does not apply to the extent that the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (5B). See subsection 13.3(3) of the *Criminal Code*.

(5C) An offence under subsection (5) is an offence of strict liability.

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

192 Subsection 54(7)

Omit “, without reasonable excuse.”.

193 After subsection 54(7)

Insert:

(7A) Subsection (7) does not apply if the person has a reasonable excuse.

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

(7B) An offence under subsection (7) is an offence of strict liability.

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

Fisheries Management Act 1991

194 After section 6

Insert:

6A Application of the *Criminal Code*

Chapter 2 (other than Part 2.5) 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.

195 After subsection 13(1)

Insert:

(1A) In subsection (1), strict liability applies to the physical element of circumstance, that the relevant conduct is engaged in within the AFZ.

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

196 After subsection 13(4)

Insert:

(4A) In subsections (2), (3) and (4), strict liability applies to the physical element of circumstance, that the relevant conduct is engaged in outside the AFZ.

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

197 At the end of section 15

Add:

(4) An offence under this section is an offence of strict liability.

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

198 At the end of section 15A

Add:

(3) An offence under this section is an offence of strict liability.

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

199 Section 57

Omit “wilfully”, substitute “intentionally”.

200 Paragraphs 84(7)(a) and (b)

Repeal the paragraphs, substitute:

(a) section 6 of the *Crimes Act 1914*; or

(b) section 11.1, 11.4 or 11.5 of the *Criminal Code*;

201 Subsection 89(4)

Omit “, without reasonable excuse,”.

202 At the end of section 89

Add:

(5) Subsection (4) does not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (5). See subsection 13.3(3) of the *Criminal Code*.

(6) An offence under subsection (4) is an offence of strict liability.

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

203 Section 93

Omit “, without reasonable excuse,”.

204 At the end of section 93

Add:

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

Note: The defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

- (3) In subsection (1), strict liability applies to the physical element of circumstance, that the requirement is under section 92 or under regulations made for the purposes of that section.

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

205 Subsection 98(1)

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

206 After subsection 102(5)

Insert:

- (5A) An offence under this section is an offence of strict liability.

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

207 Subsection 103(1)

Omit “without reasonable excuse,”.

208 After subsection 103(1)

Insert:

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

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

209 At the end of section 103

Add:

- (4) An offence under subsection (1) is an offence of strict liability.

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

210 After subsection 104(4)

Insert:

- (4A) An offence mentioned in subsection (1) is an offence of strict liability.

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

211 Subsection 104(6)

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

212 Paragraphs 108(b) and (c)

Omit “without reasonable excuse,”.

213 At the end of section 108

Add:

- (2) Paragraphs (1)(b) and (c) do not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

- (3) In paragraph (1)(c), strict liability applies to the physical element of circumstance, that the requirement is under section 84.

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

214 Subsection 153(1)

Omit “, without reasonable excuse”.

215 After subsection 153(1)

Insert:

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

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

- (1B) In paragraph (1)(a), strict liability applies to the physical element of circumstance, that the requirement is under section 146.

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

216 Subsection 153(2)

Omit “, without reasonable excuse,”.

217 After subsection 153(2)

Insert:

(2A) Subsection (2) does not apply if the person has a reasonable excuse.

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

(2B) In subsection (2), strict liability applies to the physical element of circumstance, that the requirement is under section 146.

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

218 Subsection 153(3)

Omit “knowingly give evidence that is”, substitute “intentionally give evidence, knowing that it is”.

219 Section 156

Omit “, without reasonable excuse”.

220 At the end of section 156

Add:

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

Note: The defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

(3) An offence under subsection (1) is an offence of strict liability.

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

221 Paragraph 164(9)(b)

Repeal the paragraph, substitute:

(b) an offence against section 6 of the *Crimes Act 1914*, or section 11.1, 11.4 or 11.5 of the *Criminal Code*, that relates to an offence against this Act or the regulations.

***Horticulture Marketing and Research and Development
Services (Repeals and Consequential Provisions)
Act 2000***

222 At the end of section 45

Add:

- (4) Chapter 2 (other than Part 2.5) of the *Criminal Code* applies to all offences against Part V of the Act.

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

- (5) The offences in subsections 118(1) and (2) of the Act are offences of strict liability.

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

- (6) For the purposes of subsection 118(2) of the Act, the defendant bears an evidential burden in relation to the matter of whether the defendant has a reasonable excuse.

Note: For evidential burdens, see subsection 13.3(3) of the *Criminal Code*.

Imported Food Control Act 1992

223 After section 6

Insert:

6A Application of the *Criminal Code*

Chapter 2 (other than Part 2.5) 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.

224 Subsection 20(8)

Omit “, without reasonable excuse, knowingly”, substitute “intentionally”.

225 After subsection 20(8)

Insert:

(8A) Subsection (8) does not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (8A). See subsection 13.3(3) of the *Criminal Code*.

226 Subsection 22(4)

Omit “, without reasonable excuse,”.

227 At the end of section 22

Add:

(5) Subsection (4) does not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (5). See subsection 13.3(3) of the *Criminal Code*.

(6) An offence under subsection (4) is an offence of strict liability.

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

228 Subsection 30(4)

Omit “, without reasonable excuse,”.

229 After subsection 30(4)

Insert:

(4A) Subsection (4) does not apply if the person has a reasonable excuse.

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

230 After subsection 30(5)

Insert:

(5A) An offence under subsection (4) is an offence of strict liability.

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

231 Subsection 32(2)

Omit “, without reasonable excuse,”.

232 After subsection 32(2)

Insert:

(2A) Subsection (2) does not apply if the person has a reasonable excuse.

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

233 At the end of section 32

Add:

(4) An offence under subsection (2) is an offence of strict liability.

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

Loan (Income Equalization Deposits) Act 1976

234 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.

Meat Inspection Act 1983

235 Subsection 3(1) (definition of *offence against this Act*)

Repeal the definition, substitute:

offence against this Act includes an offence against:

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

that relates to an offence against this Act.

236 After section 5

Insert:

5A 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.

237 After subsection 28(1)

Insert:

(1A) In subsection (1), strict liability applies to the physical elements of circumstance, that:

- (a) the boarding or entry takes place under section 25; and
- (b) the powers to be exercised by the authorized officer are under section 25 or 26 (or both).

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

238 At the end of section 29

Add:

(5) An offence referred to in subsection (1) (other than an offence under section 22, 23 or 24) is an offence of strict liability.

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

239 After subsection 33(2)

Insert:

(2A) An offence under subsection (2) is an offence of strict liability.

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

240 Subsection 35(1)

Omit “Except as approved in writing by the Secretary, the”, substitute “The”.

241 After subsection 35(1)

Insert:

(1AA) Subsection (1) does not apply to conduct that is approved in writing by the Secretary.

Note: The defendant bears an evidential burden in relation to the matter in subsection (1AA). See subsection 13.3(3) of the *Criminal Code*.

242 Subsection 35(1A)

Omit “, unless the supply of the goods or services has been approved in writing by the Secretary under subsection (1)”.

243 After subsection 35(1A)

Insert:

(1B) Subsection (1A) does not apply if the supply of the goods or services has been approved in writing by the Secretary under subsection (1AA).

Note: The defendant bears an evidential burden in relation to the matter in subsection (1B). See subsection 13.3(3) of the *Criminal Code*.

Plant Breeder’s Rights Act 1994

244 After section 9

Insert:

9A Application of the *Criminal Code*

Chapter 2 (other than Part 2.5) 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.

245 Subsection 74(1)

Omit “intentionally or recklessly”.

246 After subsection 74(1)

Insert:

(1A) In subsection (1), strict liability applies to the physical element of circumstance, that the infringement of the PBR would be under section 53.

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

247 Subsections 75(1), (2), (3) and (4)

Omit “intentionally or recklessly”.

Primary Industries Levies and Charges Collection Act 1991

248 Subsection 4(3)

Omit “section 6, 7 or 7A, or paragraph 86(1)(a) of the *Crimes Act 1914*”, substitute “section 6 of the *Crimes Act 1914*, or section 11.1, 11.4 or 11.5 of the *Criminal Code*,”.

249 After section 5

Insert:

5A Application of the *Criminal Code*

Chapter 2 (other than Part 2.5) 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.

250 At the end of section 19A

Add:

- (2) In subsection (1), strict liability applies to the physical element of circumstance, that the exercise of the power by the authorised person is under section 19 in accordance with a warrant issued under section 20.

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

251 At the end of section 19B

Add:

- (2) An offence under subsection (1) is an offence of strict liability.

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

252 Subsection 22(4)

Omit “, without reasonable excuse,”.

253 After subsection 22(4)

Insert:

(4A) Subsection (4) does not apply if the person has a reasonable excuse.

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

(4B) An offence under subsection (4) is an offence of strict liability.

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

254 Subsection 24(1)

Omit “, without reasonable excuse.”.

255 After subsection 24(1)

Insert:

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

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

(1B) An offence under subsection (1) is an offence of strict liability.

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

256 Subsections 24A(3) and (4)

Omit “intentionally or recklessly”.

Torres Strait Fisheries Act 1984

257 After section 4

Insert:

4A Application of the *Criminal Code*

Chapter 2 (other than Part 2.5) 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.

258 After subsection 14(12)

Insert:

(12A) An offence under subsection (12) is an offence of strict liability.

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

259 After subsection 14(14)

Insert:

(14AA) An offence under subsection (14) is an offence of strict liability.

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

260 Paragraphs 42(6A)(a) and (b)

Repeal the paragraphs, substitute:

(a) section 6 of the *Crimes Act 1914*; or

(b) section 11.1, 11.4 or 11.5 of the *Criminal Code*;

261 Paragraphs 43(1)(b), (c) and (ca)

Omit “, without reasonable excuse,”.

262 After subsection 43(1)

Insert:

(1A) Paragraphs (1)(b), (c) and (ca) do not apply if the person has a reasonable excuse.

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

263 Paragraph 44(1)(c)

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

264 After subsection 44(3)

Insert:

(3AA) An offence under subsection (2) or (3) consisting of a contravention of paragraph (1)(a) or (b) is an offence of strict liability.

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

(3AB) In the case of an offence under subsection (2) or (3) consisting of a contravention of paragraph (1)(c), strict liability applies to the physical elements of circumstance, that:

(a) the relevant conduct occurs in an area of Australian jurisdiction; and

(b) the relevant notice is in force under section 16.

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

265 After subsection 45(4)

Insert:

(4AA) An offence under subsection (2), (3) or (4) is an offence of strict liability.

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

266 Subsection 46(1)

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

267 At the end of section 46

Add:

(3) In subsection (2), strict liability applies to the physical element of circumstance, that the relevant boat is in an area of Australian jurisdiction.

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

268 Section 47

Omit “unless he or she is the owner of the net, trap or other equipment or is acting with the authority of the owner”.

269 At the end of section 47

Add:

(2) Subsection (1) does not apply if the person is the owner of the net, trap or other equipment or is acting with the authority of the owner.

Note: The defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3) of the *Criminal Code*.

(3) In subsection (1), strict liability applies to the physical element of circumstance, that the removal occurs in an area of Australian jurisdiction.

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

270 At the end of section 48

Add:

(2) An offence under subsection (1) is an offence of strict liability.

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

271 After subsection 49(2)

Insert:

(2A) An offence under subsection (1) is an offence of strict liability.

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

272 At the end of section 50

Add:

(3) An offence under subsection (1) is an offence of strict liability.

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

273 After subsection 51(4)

Insert:

(4A) An offence under subsection (2) or (3) is an offence of strict liability.

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

274 At the end of section 54

Add:

(5) An offence under subsection (2) is an offence of strict liability.

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

Wheat Marketing Act 1989

275 At the end of Part 1

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.

*[Minister's second reading speech made in—
House of Representatives on 27 June 2001
Senate on 27 August 2001]*

(123/01)