



**Industry, Science and Resources  
Legislation Amendment (Application of  
Criminal Code) Act 2001**

**No. 140, 2001**

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



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# **Industry, Science and Resources Legislation Amendment (Application of Criminal Code) Act 2001**

**No. 140, 2001**

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

*[Assented to 1 October 2001]*

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Industry, Science and Resources Legislation Amendment (Application of Criminal Code) Act 2001*.

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## **2 Commencement**

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

### ***Atomic Energy Act 1953***

#### **1 At the end of Part 1**

Add:

#### **34A Application of the *Criminal Code***

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

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

#### **2 At the end of subsection 36(1)**

Add:

Penalty:

- (a) in the case of a natural person—\$2,000; or
- (b) in the case of a body corporate—\$10,000.

#### **3 Subsection 36(1A)**

Repeal the subsection.

#### **4 At the end of section 36**

Add:

- (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*.

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

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

#### **5 Subsection 37(2)**

Repeal the subsection, substitute:

- (2) A person must not refuse to comply with a notice served on the person under subsection (1).

Penalty:

- (a) in the case of a natural person—\$2,000; or  
(b) in the case of a body corporate—\$10,000.

- (3) Subsection (2) 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*.

- (4) A person must not fail to comply with a notice served on the person under subsection (1).

Penalty:

- (a) in the case of a natural person—\$2,000; or  
(b) in the case of a body corporate—\$10,000.

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

Note: A 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 against subsection (4) is an offence of strict liability.

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

## 6 Subsection 41D(1)

Omit “shall not refuse or fail”, substitute “must not refuse”.

Note: The heading to section 41D is replaced by the heading “**Offences relating to breach of condition etc.**”.

## 7 Subsection 41D(2)

Repeal the subsection, substitute:

- (2) A person must not fail to comply with a condition or restriction subject to which an authority has (whether before or after the commencement of this section) been conferred on the person under this Part.

Penalty:

- (a) in the case of a natural person—\$2,000; or
-



(b) in the case of a body corporate—\$10,000.

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

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

## **8 After section 41D**

Insert:

### **41E Offences relating to entry etc. on land**

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

- (a) the person enters land of which another person is in possession under this Part; or
- (b) the person is on land of which another person is in possession under this Part.

Penalty: \$1,000.

(2) Subsection (1) does not apply if the person enters, or is on, land:

- (a) with the consent of the person in possession of the land; or
- (b) because of a right or power conferred by law.

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

## ***Bounty and Capitalisation Grants (Textile Yarns) Act 1981***

### **9 At the end of Part 1**

Add:

#### **3B Application of the *Criminal Code***

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

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

### **10 Subsection 10B(1)**

Omit “becomes aware”, substitute “subsequently knows”.

### **11 Subsection 18(1)**

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Omit “, without reasonable excuse,”.

**12 After subsection 18(1)**

Insert:

- (2) 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 (2), see subsection 13.3(3) of the *Criminal Code*.

***Bounty (Bed Sheeting) Act 1977***

**13 After section 4A**

Insert:

**4B Application of the *Criminal Code***

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

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

**14 Subsection 10C(1)**

Omit “becomes aware”, substitute “subsequently knows”.

**15 Subsection 18(1)**

Omit “, without reasonable excuse,”.

**16 After subsection 18(1)**

Insert:

- (2) 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 (2), see subsection 13.3(3) of the *Criminal Code*.

***Bounty (Books) Act 1986***

**17 At the end of Part 1**

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Add:

**9A Application of the *Criminal Code***

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

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

**18 Subsection 16(1)**

Omit “becomes aware”, substitute “subsequently knows”.

**19 Subsection 27(1)**

Omit “, without reasonable excuse,”.

**20 After subsection 27(1)**

Insert:

(2) 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 (2), see subsection 13.3(3) of the *Criminal Code*.

***Bounty (Citric Acid) Act 1991***

**21 At the end of Part 1**

Add:

**5A Application of the *Criminal Code***

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

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

**22 Subsection 12(1)**

Omit “becomes aware”, substitute “subsequently knows”.

**23 Subsection 23(1)**

Omit “, without reasonable excuse,”.

**24 After subsection 23(1)**

Insert:

- (2) 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 (2), see subsection 13.3(3) of the *Criminal Code*.

***Bounty (Computers) Act 1984***

**25 At the end of Part 1**

Add:

**8A Application of the *Criminal Code***

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

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

**26 Subsection 15(1)**

Omit “becomes aware”, substitute “subsequently knows”.

**27 Subsection 27(1)**

Omit “, without reasonable excuse,”.

**28 After subsection 27(1)**

Insert:

- (2) 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 (2), see subsection 13.3(3) of the *Criminal Code*.

***Bounty (Fuel Ethanol) Act 1994***

**29 At the end of Part 1**

Add:

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## **9A Application of the *Criminal Code***

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

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

## **30 Subsection 30(1)**

Omit “becomes aware”, substitute “subsequently knows”.

## **31 Subsection 55(1)**

Repeal the subsection, substitute:

(1) A person must not fail:

- (a) to attend before an authorised officer; or
- (b) to take an oath or make an affirmation; or
- (c) to answer a question or produce an account or other document;

when so required under this Act.

Penalty: Imprisonment for 6 months.

(2) An offence against 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*.

(3A) A person must not refuse:

- (a) to attend before an authorised officer; or
- (b) to take an oath or make an affirmation; or
- (c) to answer a question or produce an account or other document;

when so required under this Act.

Penalty: Imprisonment for 6 months.

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

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

### ***Bounty (Machine Tools and Robots) Act 1985***

#### **32 At the end of Part 1**

Add:

#### **15A Application of the *Criminal Code***

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

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

#### **33 Subsection 23(1)**

Omit “becomes aware”, substitute “subsequently knows”.

#### **34 Subsection 24(7)**

Repeal the subsection.

#### **35 Subsection 35(1)**

Omit “, without reasonable excuse,”.

#### **36 After subsection 35(1)**

Insert:

(2) 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 (2), see subsection 13.3(3) of the *Criminal Code*.

### ***Bounty (Photographic Film) Act 1989***

#### **37 At the end of Part 1**

Add:

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**6A Application of the *Criminal Code***

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

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

**38 Subsection 13(1)**

Omit “becomes aware”, substitute “subsequently knows”.

**39 Subsection 24(1)**

Omit “, without reasonable excuse,”.

**40 After subsection 24(1)**

Insert:

(2) 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 (2), see subsection 13.3(3) of the *Criminal Code*.

***Bounty (Printed Fabrics) Act 1981***

**41 After section 4**

Insert:

**4A Application of the *Criminal Code***

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

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

**42 Subsection 10B(1)**

Omit “becomes aware”, substitute “subsequently knows”.

**43 Subsection 18(1)**

Omit “, without reasonable excuse,”.

**44 After subsection 18(1)**

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Insert:

(1A) 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 (1A), see subsection 13.3(3) of the *Criminal Code*.

**45 Subsection 18(2)**

Omit “knowingly obtain or attempt to obtain”, substitute “obtain”.

**46 Subsection 18(3)**

Omit “or attempt to obtain”.

***Bounty (Ships) Act 1989***

**47 At the end of Part 1**

Add:

**7A Application of the *Criminal Code***

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

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

**48 Subsection 14(1)**

Omit “becomes aware”, substitute “subsequently knows”.

**49 Subsection 25(1)**

Omit “shall not, without reasonable excuse, refuse or fail”, substitute “must not refuse”.

**50 After subsection 25(1)**

Insert:

(2) 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 (2), see subsection 13.3(3) of the *Criminal Code*.

(3) A person must not fail:

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- (a) to attend before an authorised officer; or
- (b) to take an oath or make an affirmation; or
- (c) to answer a question or produce an account, book, document or other record;

when so required under this Act.

Penalty: \$3,000 or imprisonment for 6 months, or both.

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

Note: A 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 against subsection (3) is an offence of strict liability.

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

## ***Designs Act 1906***

### **51 At the end of Part 1**

Add:

### **7A Application of the *Criminal Code***

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

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

### **52 Section 36**

Omit “wilfully”.

### **53 Subsection 42B(1)**

Omit “shall not, without lawful excuse, and”, substitute “must not,”.

### **54 Subsection 42B(2)**

Omit “shall not, without lawful excuse, and”, substitute “must not,”.

### **55 At the end of section 42B**

Add:

- (3) Subsection (1) or (2) does not apply if the person has a lawful 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*.

**56 Section 42C**

Omit “shall not, without lawful excuse,”, substitute “must not”.

**57 At the end of section 42C**

Add:

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

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

**58 Subsection 45(1)**

Omit “knowingly”.

**59 Subsections 45A(1) and (2)**

Repeal the subsections.

Note: The heading to section 45A is omitted and the following heading substituted “**Conduct of employees and agents of natural persons**”.

**60 Subsection 45A(6)**

Omit “(1) or”.

**61 Subsection 45A(7)**

Repeal the subsection.

**62 Subsection 45A(9)**

Omit all the words after “reference to an offence”, substitute:  
created by:

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

**63 At the end of section 45A**

Add:

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Note: For provisions relating to proof of offences by bodies corporate, see Part 2.5 of the *Criminal Code*.

### ***Liquefied Petroleum Gas (Grants) Act 1980***

#### **64 After section 3B**

Insert:

#### **3C Application of the *Criminal Code***

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

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

#### **65 Subsection 7A(12)**

Omit “knowingly obtain or attempt to obtain”, substitute “obtain”.

### ***Liquid Fuel Emergency Act 1984***

#### **66 Subsection 3(1) (definition of *relevant provision of this Act*)**

Omit “or section 28”.

#### **67 At the end of Part 1**

Add:

#### **11A Application of the *Criminal Code***

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

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

#### **68 Subsection 14(5)**

Omit “knowingly maintain or make available statistical information that”, substitute “maintain or make available statistical information knowing that it”.

#### **69 Section 28**

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Repeal the section.

**70 After subsection 29(5)**

Insert:

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

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

**71 Subsection 30(2)**

Repeal the subsection, substitute:

(2) A person must not:

- (a) refuse to comply with a notice under this section; or
- (b) fail to comply with a notice under this section.

Penalty: \$1,000.

(2A) Subsection (2) does not apply to the extent that the person is not capable of complying with the notice.

Note: A 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 against paragraph (2)(b) is an offence of strict liability.

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

**72 Subsection 30(3)**

Omit “knowingly furnish information that”, substitute “furnish information knowing that it”.

**73 Subsection 34(3)**

Omit all the words after “includes”, substitute:

a reference to:

- (a) a contravention of that provision arising by operation of Part 2.4 of the *Criminal Code*; or
- (b) a contravention of a provision of Part 2.4 of the *Criminal Code* that relates to that provision.

***Management and Investment Companies Act 1983***

**74 At the end of Part 1**

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Add:

**4A Application of the *Criminal Code***

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

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

***National Measurement Act 1960***

**75 At the end of Part 1**

Add:

**6A Application of the *Criminal Code***

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

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

**76 Section 18J**

Repeal the section.

***Offshore Minerals Act 1994***

**77 Subsection 11(1)**

Omit “intentionally or recklessly”.

**78 After section 11**

Insert:

**11A Application of the *Criminal Code***

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

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

**79 Paragraph 44(b)**

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Omit “the person intentionally or recklessly carries out those activities in a way that interferes”, substitute “those activities interfere”.

**80 Subsection 364(3)**

Repeal the subsection, substitute:

- (3) A person must not fail to comply with a request under subsection (1).

Maximum penalty: 50 penalty units.

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

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

**81 Subsection 372(1)**

Omit “, without reasonable excuse,”.

**82 After subsection 372(1)**

Insert:

- (1A) 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 (1A), see subsection 13.3(3) of the *Criminal Code*.

**83 At the end of subsection 404(4)**

Add:

Note: The defendant bears a legal burden in relation to the matter in subsection (4), see section 13.4 of the *Criminal Code*.

**84 Subsection 404(5)**

Repeal the subsection, substitute:

- (5) An owner is not criminally responsible for an offence against subsection (3) if the owner proves that the owner did not know that the person in command or in charge of the vessel was in contravention of subsection (3).

Note: The defendant bears a legal burden in relation to the matter in subsection (5), see section 13.4 of the *Criminal Code*.

**85 Section 423**

Repeal the section, substitute:

**423 Return of identity card**

- (1) A person who stops being an inspector must return his or her identity card to the Designated Authority as soon as practicable.

Maximum penalty: One penalty unit.

- (2) 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 (2), see subsection 13.3(3) of the *Criminal Code*.

***Patents Act 1990***

**86 At the end of Chapter 1**

Add:

**12A Application of the *Criminal Code***

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

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

**87 Section 179**

Omit “, without lawful excuse,”.

**88 At the end of section 179**

Add:

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

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

**89 Section 180**

Omit “, without lawful excuse,”.

**90 At the end of section 180**

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Add:

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

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

**91 Section 181**

Omit “, without lawful excuse,”.

**92 At the end of section 181**

Add:

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

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

**93 Section 191**

Omit “knowingly or recklessly”.

**94 Subsections 225(1) and (2)**

Repeal the subsections.

Note: The heading to section 225 is omitted and the following heading substituted “**Conduct of employees and agents of natural persons**”.

**95 Subsection 225(5)**

Repeal the subsection, substitute:

(5) A reference in this section to an offence under this Act includes a reference to an offence created by:

- (a) section 6 of the *Crimes Act 1914* that relates to this Act or the regulations; or
- (b) section 11.1, 11.2, 11.4 or 11.5 of the *Criminal Code* that relates to this Act or the regulations.

**96 Subsection 225(7)**

Omit “(1) or”.

**97 Subsection 225(8)**

Repeal the subsection.

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**98 At the end of section 225**

Add:

Note: For provisions relating to proof of offences by bodies corporate, see Part 2.5 of the *Criminal Code*.

***Petroleum Excise (Prices) Act 1987***

**99 At the end of Part 1**

Add:

**4A Application of the *Criminal Code***

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

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

**100 At the end of section 10**

Add:

(8) An offence against subsection (7) is an offence of strict liability.

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

***Petroleum Retail Marketing Sites Act 1980***

**101 After section 8**

Insert:

**9 Application of the *Criminal Code***

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

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

**102 Subsection 14(2)**

Omit “, without reasonable excuse,”.

**103 After subsection 14(2)**

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Insert:

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

Note: A 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 against subsection (2) is an offence of strict liability.

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

### ***Petroleum (Submerged Lands) Act 1967***

#### **104 At the end of Part 1**

Add:

#### **8AB Application of the *Criminal Code***

(1) Subject to subsection (2), Chapter 2 of the *Criminal Code* applies to all offences created by this Act.

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

(2) Part 2.5 of the *Criminal Code* does not apply to offences created by Schedule 7 to this Act.

#### **105 After subsection 82(1)**

Insert:

(1A) For the purposes of an offence against paragraph (1)(c), strict liability applies to the physical element of the offence, that the instrument is an instrument of the kind referred to in paragraph 81(4)(b).

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

#### **106 Subsection 84(2)**

Omit “shall not knowingly furnish information that”, substitute “must not furnish information knowing that it”.

#### **107 Subsection 85(2)**

Repeal the subsection, substitute:

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- (2) A person must not fail to comply with a requirement given to the person under subsection (1) or (1A).

Penalty: 50 penalty units.

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

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

- (4) A person must not refuse to comply with a requirement given to the person under subsection (1) or (1A).

Penalty: 50 penalty units.

### **108 Section 90**

Omit “wilfully”.

### **109 At the end of subsection 97(6) (before the penalty)**

Add:

Note: The defendant bears a legal burden in relation to the matter in subsection (6), see section 13.4 of the *Criminal Code*.

### **110 After subsection 98(3)**

Insert:

- (3A) The offences against subsections (2) and (3) are offences of strict liability.

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

### **111 After subsection 101(7)**

Insert:

- (7A) An offence against subsection (7) is an offence of strict liability.

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

### **112 At the end of subsection 101(8)**

Add:

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

### **113 Section 117**

Repeal the section, substitute:

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**117 Failing to furnish information etc.**

- (1) A person must not:
- (a) refuse to comply with a requirement in an instrument under section 115; or
  - (b) fail to comply with a requirement in an instrument under section 115; or
  - (c) in purported compliance with such a requirement, furnish information knowing that it is false or misleading in a material particular; or
  - (d) when attending before the Designated Authority or an inspector because of such a requirement, make a statement or produce a document knowing that it is false or misleading in a material particular.

Penalty: 100 penalty units.

- (2) Paragraph (1)(a) or (b) does not apply to the extent to which the person is not capable of complying with the requirement.

Note: A 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 against paragraph (1)(b) is an offence of strict liability.

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

**114 At the end of section 119**

Add:

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

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

**115 Subsection 124A(1)**

Repeal the subsection, substitute:

- (1) A person must not perform an act that results in:
- (a) damage to, or interference with, any structure or vessel in an adjacent area that is, or is to be, used in exploring for, recovering, processing, storing, preparing for transport, or transporting, petroleum; or

- (b) interference with any operations or activities being carried out, or any works being executed, on, by means of, or in connection with, such a structure or vessel.

Penalty: Imprisonment for 10 years.

**116 At the end of subsection 126(2)**

Add:

Penalty: 50 penalty units.

**117 Subsection 126(3)**

Omit “, without reasonable excuse,”.

**118 At the end of section 126**

Add:

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

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

**119 Paragraph 133(1)(b)**

Repeal the paragraph, substitute:

- (b) of an offence against section 6 of the *Crimes Act 1914* in relation to an offence referred to in paragraph (a); or
- (ba) of an offence against section 11.1, 11.4 or 11.5 of the *Criminal Code* in relation to an offence referred to in paragraph (a);

**120 After subsection 140D(1)**

Insert:

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

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

**121 At the end of subsection 140D(2)**

Add:

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

**122 After subsection 140E(2)**

Insert:

(2A) An offence against paragraph (2)(a) is an offence of strict liability.

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

**123 Clause 2 of Schedule 7 (definition of *contravention*)**

Repeal the definition, substitute:

*contravention*, if the contravention is an offence against this Schedule or the regulations, 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*.

**124 Subclause 32(2) of Schedule 7**

Omit “, without reasonable excuse,”.

**125 After subclause 32(2) of Schedule 7**

Insert:

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

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

(2B) An offence against subclause (2) is an offence of strict liability.

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

**126 Subclause 32(3) of Schedule 7**

Omit “knowingly or recklessly”.

**127 Clause 39 of Schedule 7**

Omit “, without reasonable excuse”.

**128 At the end of clause 39 of Schedule 7**

Add:

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

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

(3) An offence against subclause (1) is an offence of strict liability.

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

**129 Clause 45 of Schedule 7**

Repeal the clause, substitute:

**45 Interference etc. with equipment etc.**

- (1) A person must not perform an act that results in the interference with, or the rendering ineffective of, any protective equipment or safety device provided for the health, safety or welfare of employees or contractors at work which the person knew (or ought reasonably to have known) was protective equipment or a safety device.

Penalty: Imprisonment for 6 months.

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

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

**130 Paragraphs 48(1)(b) and (c) of Schedule 7**

Repeal the paragraphs, substitute:

- (b) perform an act that results in injury to an employee in his or her employment; or
- (c) perform an act that prejudicially alters the employee's position (whether by deducting or withholding remuneration or by any other means); or

**131 At the end of subclause 48(2) of Schedule 7**

Add:

Note: A defendant bears a legal burden in relation to the matter in subclause (2), see section 13.4 of the *Criminal Code*.

**132 At the end of clause 52 of Schedule 7**

Add:

Note: A defendant bears a legal burden in relation to the matter in this clause, see section 13.4 of the *Criminal Code*.

***Petroleum (Timor Gap Zone of Cooperation) Act 1990***

**133 At the end of Part 1**

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Add:

**5A Application of the *Criminal Code***

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

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

**134 At the end of subsection 9(2)**

Add:

Penalty: \$5,000.

**135 Subsection 9(3)**

Omit “, without reasonable excuse,”.

**136 At the end of section 9**

Add:

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

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

***Pooled Development Funds Act 1992***

**137 At the end of Part 1**

Add:

**4B Application of the *Criminal Code***

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

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

**138 Subsection 28(2B)**

Repeal the subsection, substitute:

(2B) A PDF contravenes this subsection if:

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- (a) an approval is given for the purposes of subsection 25(1); and
- (b) the PDF makes the investment; and
- (c) the PDF engages in conduct; and
- (d) the PDF's conduct contravenes the condition covered by subsection (2A).

**139 Subsection 28(3)**

Insert:

*engage in conduct* means:

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

**140 Subsection 42(1)**

Omit “becoming aware of an event referred to in subsection (2), a PDF”, substitute “a PDF knows of an event referred to in subsection (2), the PDF”.

**141 Section 49**

Omit “becomes aware”, substitute “knows”.

**142 Paragraphs 50(3)(a), (b) and (d)**

Omit “knowingly or recklessly”.

**143 Subsections 51(1) and (2)**

Omit “, without reasonable excuse,”.

**144 At the end of section 51**

Add:

- (3) Subsection (1) or (2) 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*.

***Scout Association Act 1924***

**145 After section 1**

Insert:

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### **1A Application of the *Criminal Code***

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

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

### **146 At the end of section 4 (after the penalty)**

Add:

Note: The defendant bears a legal burden in relation to the matter in this section, see section 13.4 of the *Criminal Code*.

### ***Trade Marks Act 1995***

### **147 Reader's Guide (last paragraph under the heading "*Crimes Act 1914*")**

Repeal the paragraph.

### **148 Reader's Guide (before the heading "*Trade Marks Act 1955*")**

Insert:

#### *Criminal Code*

The *Criminal Code* is set out in the Schedule to the *Criminal Code Act 1995*. It contains many general rules that apply to offences. Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility. For example, it has default fault elements that apply to offences that do not specify a fault element and provides the consequences of an offence being an offence of strict liability.

### **149 After section 4**

Insert:

### **4A Application of the *Criminal Code***

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

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

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**150 Subsection 143(2)**

Omit “intentionally or recklessly”.

**151 Subsection 145(1)**

Omit “, intentionally or recklessly,”.

**152 Subsection 146(1)**

Omit “, intentionally or recklessly,”.

**153 At the end of section 147**

Add:

- (4) For the purposes of an offence against subsection (1), (2) or (3), strict liability applies to the physical element of the offence, that the offence referred to in paragraph (1)(a), (1)(b), (2)(a) or (2)(b) or subsection (3) is an offence against section 145 or 146.

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

**154 Subsection 150(2)**

Omit “5 of the *Crimes Act 1914*”, substitute “11.2 of the *Criminal Code*”.

**155 Subsections 151(1), (2), (3) and (4)**

Omit “intentionally or recklessly”.

**156 Subsections 153(1) and (2)**

Omit “, without reasonable excuse,”.

**157 After subsection 153(2)**

Insert:

- (2A) Subsections (1) and (2) do not apply if the person has a reasonable excuse.

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

**158 Subsection 153(3) (note 2)**

Repeal the note, substitute:

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

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**159 Subsection 154(1)**

Omit “, without reasonable excuse”.

**160 After subsection 154(1)**

Insert:

(1A) 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 (1A), see subsection 13.3(3) of the *Criminal Code*.

**161 Subsection 154(2) (note 2)**

Repeal the note, substitute:

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

**162 Paragraph 156(3)(b)**

Omit “knowingly”.

**163 Subsection 156(6) (note)**

Repeal the note, substitute:

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

**164 Subsection 157(2) (note 2)**

Repeal the note, substitute:

Note 2: For *strict liability*, see section 6.1 of the *Criminal Code*.

**165 Paragraph 160(1)(b)**

Repeal the paragraph, substitute:

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

Note: The heading to section 160 is omitted and the following heading substituted “**Conduct of employees and agents of natural persons**”.

**166 At the end of subsection 160(1)**

Add:

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Note: For provisions relating to proof of offences by bodies corporate, see Part 2.5 of the *Criminal Code*.

**167 Subsections 160(2) and (3)**

Repeal the subsections.

**168 Subsection 160(7) (definition of *director*)**

Repeal the definition.

***Tradex Scheme Act 1999***

**169 At the end of section 26**

Add:

- (2) For the purposes of an offence against subsection (1), strict liability applies to the physical element of the offence, that the requirement is a requirement made by subsection 9(6).

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

**170 At the end of section 27**

Add:

- (2) For the purposes of an offence against subsection (1), strict liability applies to the physical element of the offence, that the requirement is a requirement made by section 15.

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

**171 At the end of section 29**

Add:

- (2) For the purposes of an offence against subsection (1), strict liability applies to the physical element of the offence, that the requirement is a requirement made by section 22.

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

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[*Minister's second reading speech made in—  
Senate on 22 August 2001  
House of Representatives on 27 September 2001*]

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(157/01)

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