



# **Employment, Workplace Relations and Small Business Legislation Amendment (Application of Criminal Code) Act 2001**

**No. 142, 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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## **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 *Employment, Workplace Relations and Small Business Legislation Amendment (Application of Criminal Code) Act 2001*.

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## 2 Commencement

- (1) Subject to this section, this Act commences on the day after the day on which it receives the Royal Assent.
- (2) The commencement of the items of Schedule 1 to this Act that amend the *Occupational Health and Safety (Commonwealth Employment) Act 1991* is as follows:
  - (a) if section 1 of the *Occupational Health and Safety (Commonwealth Employment) Amendment Act 2001* does not commence on or before the commencement of section 1 of this Act, the items commence in accordance with subsection (1) of this section;
  - (b) if section 1 of the *Occupational Health and Safety (Commonwealth Employment) Amendment Act 2001* commences on or before the commencement of section 1 of this Act, the items never commence.
- (3) The commencement of the items of Schedule 1 to this Act that amend the *Occupational Health and Safety (Commonwealth Employment) Amendment Act 2001* is as follows:
  - (a) if section 1 of that Act does not commence on or before the commencement of section 1 of this Act, the items commence, or are taken to have commenced, on the day on which the *Occupational Health and Safety (Commonwealth Employment) Amendment Act 2001* receives the Royal Assent;
  - (b) if section 1 of that Act commences on or before the commencement of section 1 of this Act, the items never commence.
- (4) The commencement of the items of Schedule 1 to this Act that amend the *Safety, Rehabilitation and Compensation and Other Legislation Amendment Act 2001* is as follows:
  - (a) if Part 10 of Schedule 2 to that Act does not commence on or before the commencement of section 1 of this Act, the items commence, or are taken to have commenced, on the day on which the *Safety, Rehabilitation and Compensation and Other Legislation Amendment Act 2001* receives the Royal Assent;

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- (b) if Part 10 of Schedule 2 to that Act commences on or before the commencement of section 1 of this Act, the items never commence.
- (5) The commencement of items 143 to 147 of Schedule 1 to this Act is as follows:
- (a) if item 92 of Schedule 2 to the *Workplace Relations (Registered Organisations) (Consequential Provisions) Act 2001* does not commence on or before the commencement of section 1 of this Act, the items commence in accordance with subsection (1) of this section;
- (b) if item 92 of Schedule 2 to the *Workplace Relations (Registered Organisations) (Consequential Provisions) Act 2001* commences on or before the commencement of section 1 of this Act, the items never commence.
- (6) The commencement of item 155 of Schedule 1 to this Act is as follows:
- (a) if neither:
- (i) item 27 of Schedule 12 to the *Workplace Relations Legislation Amendment (More Jobs, Better Pay) Act 2001*; nor
- (ii) item 28 of Schedule 1 to the *Workplace Relations Amendment (Secret Ballots for Protected Action) Act 2001*;
- commences on or before the commencement of section 1 of this Act, the item commences in accordance with subsection (1) of this section;
- (b) if:
- (i) item 27 of Schedule 12 to the *Workplace Relations Legislation Amendment (More Jobs, Better Pay) Act 2001*; or
- (ii) item 28 of Schedule 1 to the *Workplace Relations Amendment (Secret Ballots for Protected Action) Act 2001*;
- commences on or before the commencement of section 1 of this Act, the item never commences.
- (7) The commencement of items 157 and 158 and items 160 to 167 of Schedule 1 to this Act is as follows:

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- (a) if item 99 of Schedule 2 to the *Workplace Relations (Registered Organisations) (Consequential Provisions) Act 2001* does not commence on or before the commencement of section 1 of this Act, the items commence in accordance with subsection (1) of this section;
  - (b) if item 99 of Schedule 2 to the *Workplace Relations (Registered Organisations) (Consequential Provisions) Act 2001* commences on or before the commencement of section 1 of this Act, the items never commence.
- (8) Item 159 of Schedule 1 to this Act commences on the later of the following times:
- (a) the commencement of section 1 of this Act;
  - (b) immediately after the commencement of:
    - (i) if item 28 of Schedule 12 to the *Workplace Relations Legislation Amendment (More Jobs, Better Pay) Act 2001* commences—that item; or
    - (ii) if item 29 of Schedule 1 to the *Workplace Relations Amendment (Secret Ballots for Protected Action) Act 2001* commences—that item.
- (9) The commencement of items 176 to 200 and item 202 of Schedule 1 to this Act is as follows:
- (a) if item 101 of Schedule 2 to the *Workplace Relations (Registered Organisations) (Consequential Provisions) Act 2001* does not commence on or before the commencement of section 1 of this Act, the items commence in accordance with subsection (1) of this section;
  - (b) if item 101 of Schedule 2 to the *Workplace Relations (Registered Organisations) (Consequential Provisions) Act 2001* commences on or before the commencement of section 1 of this Act, the items never commence.
- (10) The commencement of item 203 of Schedule 1 to this Act is as follows:
- (a) if item 155 of Schedule 2 to the *Workplace Relations Legislation Amendment (More Jobs, Better Pay) Act 2001* does not commence on or before the commencement of section 1 of this Act, item 203 of Schedule 1 to this Act commences immediately before the commencement of that item;
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- (b) if item 155 of Schedule 2 to the *Workplace Relations Legislation Amendment (More Jobs, Better Pay) Act 2001* commences on or before the commencement of section 1 of this Act, item 203 of Schedule 1 to this Act never commences.
- (11) The commencement of item 204 of Schedule 1 to this Act is as follows:
- (a) if item 6 of Schedule 15 to the *Workplace Relations Legislation Amendment (More Jobs, Better Pay) Act 2001* does not commence on or before the commencement of section 1 of this Act, item 204 of Schedule 1 to this Act commences immediately before the commencement of that item;
- (b) if item 6 of Schedule 15 to the *Workplace Relations Legislation Amendment (More Jobs, Better Pay) Act 2001* commences on or before the commencement of section 1 of this Act, item 204 of Schedule 1 to this Act never commences.
- (12) The items of Schedule 1 to this Act that amend the *Workplace Relations (Registered Organisations) Act 2001* commence on the later of the following times:
- (a) the commencement of section 1 of this Act;
- (b) the commencement of section 1 of the *Workplace Relations (Registered Organisations) Act 2001*.
- (13) Item 244 of Schedule 1 to this Act commences on the later of the following times:
- (a) the commencement of section 1 of this Act;
- (b) immediately after the commencement of item 49 of Schedule 1 to the *Workplace Relations (Registered Organisations) (Consequential Provisions) Act 2001*.

### **3 Schedule(s)**

Subject to section 2, 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.

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#### **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**

### ***Building Industry Act 1985***

#### **1 After section 3**

Insert:

#### **3A Application of *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.

### ***Coal Mining Industry (Long Service Leave) Payroll Levy Collection Act 1992***

#### **2 After section 3**

Insert:

#### **3A Application of *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 After subsection 5(1)**

Insert:

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

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

#### **4 After subsection 10(3)**

Insert:

(3A) Subsections (1), (2) and (3) are offences of strict liability.

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

**5 Subsection 13(8)**

Omit “, without reasonable excuse,”.

**6 After subsection 13(8)**

Insert:

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

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

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

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

**7 Subsection 13(9)**

Omit “knowingly give information or evidence that is false or misleading”, substitute “give information or evidence knowing that the information or evidence is false or misleading”.

**8 Subsection 14(3)**

Omit “, except for the purposes of this Act or in the performance of the person’s duties as an officer,”.

**9 After subsection 14(3)**

Insert:

(3A) Subsection (3) does not apply if the person is acting:

(a) for the purposes of this Act; or

(b) in the performance of the person’s duties as an officer.

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

***Equal Opportunity for Women in the Workplace Act 1999***

**10 At the end of Part 1**

Add:

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**5A Application of *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.

**11 Subsection 32(1)**

Omit “, except in the performance of a duty under or in connection with this Act or in the performance or exercise of such a function or power”.

**12 Paragraph 32(1)(c)**

Omit “;”, substitute “.”.

**13 Subsection 32(1)**

Omit all the words after paragraph (c) (but not the penalty).

**14 After subsection 32(1)**

Insert:

(1A) Subsection (1) does not apply to a person’s conduct:

- (a) if the person is:
  - (i) performing a duty under, or in connection with, this Act; or
  - (ii) performing a function, or exercising a power, under an arrangement in force under section 33; or
- (b) to the extent that the conduct relates to a report, or to information, that is the subject of a consent under subsection 16(2).

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

***Industrial Chemicals (Notification and Assessment) Act 1989***

**15 After section 10**

Insert:

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**10AA Application of *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.

**16 Subsection 21(1)**

Omit “knowingly or recklessly”.

**17 Subsection 21(1)**

Omit all the words after “a new industrial chemical”.

**18 After subsection 21(1)**

Insert:

(1A) Subsection (1) does not apply if the person holds an assessment certificate in force in relation to the chemical.

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

**19 At the end of subsection 21(2)**

Add:

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

**20 At the end of subsection 21(3)**

Add:

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

**21 At the end of subsection 21(4)**

Add:

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

**22 Subsection 21L(4)**

Repeal the subsection, substitute:

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*Offence of contravening conditions*

- (4) A person commits an offence if:
- (a) the person is or was the holder, or any of the holders, of a commercial evaluation permit; and
  - (b) the person does an act or omits to do an act; and
  - (c) the act or omission contravenes a condition of the permit.

Penalty: 300 penalty units.

*Defence of reasonable excuse*

- (4A) 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 (4A) (see subsection 13.3(3) of the *Criminal Code*).

**23 Subsection 21W(5)**

Repeal the subsection, substitute:

- (5) A person commits an offence if:
- (a) the person is or was the holder, or any of the holders, of a low volume permit; and
  - (b) the person does an act or omits to do an act; and
  - (c) the act or omission contravenes a condition to which the permit is subject.

Penalty: 300 penalty units.

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

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

**24 Subsection 30C(4)**

Omit “knowingly or recklessly”.

**25 Subsection 48(7)**

Omit “unless he or she has a reasonable excuse”.

**26 At the end of section 48**

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Add:

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

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

**27 Section 56**

Omit “knowingly or recklessly”.

**28 Section 56**

Omit all the words after “a priority existing chemical”.

**29 At the end of section 56**

Add:

- (2) Subsection (1) does not apply if the person has applied under section 55 for the assessment of the chemical.

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

**30 Subsection 58(8)**

Omit “, without reasonable excuse,”.

**31 At the end of section 58**

Add:

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

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

- (10) For the purposes of an offence against subsection (8), strict liability applies to the physical element, that the notifier fails as mentioned in that subsection.

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

**32 Subsection 61(4)**

Omit “, without reasonable excuse,”.

**33 After subsection 61(4)**

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Insert:

- (4A) Subsection (4) does not apply if the importer or manufacturer has a reasonable excuse.

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

### **34 Subsection 61(5)**

Omit “, without reasonable excuse,”.

### **35 At the end of section 61**

Add:

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

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

- (7) For the purposes of an offence against subsection (4) or (5), strict liability applies to the physical element, that the importer or manufacturer, or the person, fails as mentioned in that subsection.

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

### **36 Subsection 67(2)**

Omit “knowingly or recklessly”.

### **37 Subsection 69(4)**

Omit “, without reasonable excuse,”.

### **38 At the end of section 69**

Add:

- (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) For the purposes of an offence against subsection (4), strict liability applies to the physical element, that the person fails as mentioned in that subsection.

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

**39 Section 80B**

Omit “knowingly or recklessly”.

**40 Paragraph 80B(b)**

Omit “;”, substitute “.”.

**41 Section 80B**

Omit all the words after paragraph (b).

**42 At the end of section 80B**

Add:

- (2) Subsection (1) does not apply if the person is registered in relation to the registration year.

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

**43 Subsection 80Q(2)**

Omit “, without reasonable excuse,”.

**44 At the end of section 80Q**

Add:

- (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) For the purposes of an offence against subsection (2), strict liability applies to the physical element, that the person fails as mentioned in that subsection.

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

**45 At the end of section 80QD**

Add:

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

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

**46 Subsection 80W(3)**

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Omit “, without reasonable excuse,”.

**47 At the end of section 80W**

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*).

- (5) For the purposes of an offence against subsection (3), strict liability applies to the physical element, that the person fails as mentioned in that subsection.

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

**48 Paragraphs 83(1)(b) and (c)**

Repeal the paragraphs, substitute:

- (b) section 6 of the *Crimes Act 1914* in relation to an offence against this Act or the regulations; or
- (c) section 11.1, 11.4 or 11.5 of the *Criminal Code* in relation to an offence against this Act or the regulations;

**49 At the end of section 85**

Add:

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

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

**50 Subsection 87(8) (paragraphs (b) and (c) of the definition of offence against this Act)**

Repeal the paragraphs, substitute:

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

**51 Subsection 88(3)**

Omit “, without reasonable excuse,”.

**52 After subsection 88(3)**

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Insert:

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

**53 Subsection 106(5)**

Omit “, without reasonable excuse,”.

**54 At the end of section 106**

Add:

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

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

(7) For the purposes of an offence against subsection (5), strict liability applies to the physical element, that the introduction or exportation of the industrial chemical is in contravention of a regulation or condition as mentioned in that subsection.

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

**55 Subsections 109(1) and (2)**

Repeal the subsections.

Note: The heading to section 109 is altered by omitting “**directors**,”.

**56 Subsection 109(6)**

Omit “subsection (1) or”.

**57 Subsection 109(7)**

Repeal the subsection.

***National Occupational Health and Safety Commission Act  
1985***

**58 At the end of Part I**

Add:

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## **5A Application of *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.

## **59 Subparagraphs 43(7)(b)(i) and (ii)**

Repeal the subparagraphs, substitute:

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

## **60 Section 46**

Omit “, without reasonable excuse”.

## **61 Paragraph 46(b)**

Omit “unless excused, or released from further attendance, by the Commissioner conducting the inquiry”.

## **62 At the end of section 46**

Add:

- (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) Paragraph (1)(b) does not apply if the person is excused, or released from further attendance, by the Commissioner conducting the inquiry.

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

## **63 Subsection 47(1)**

Omit “, without reasonable excuse”.

## **64 After subsection 47(1)**

Insert:

- (1A) Subsection (1) does not apply if the person has a reasonable excuse.
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Note: A defendant bears an evidential burden in relation to the matter in subsection (1A) (see subsection 13.3(3) of the *Criminal Code*).

**65 Subsection 47(2)**

Omit “subsection (1)”, substitute “subsection (1A)”.

**66 Paragraphs 52(1)(b) and (c)**

Omit “or procure”.

**67 Subsection 62(2)**

Omit “, without reasonable excuse,”.

**68 Subsection 62(2)**

Omit “to the extent that the person is capable of complying with it”.

**69 After subsection 62(2)**

Insert:

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

**70 Subsection 62(5)**

Omit “subsection (2)”, substitute “subsection (3)”.

***Occupational Health and Safety (Commonwealth  
Employment) Act 1991***

**71 Subsection 5(6)**

Omit all the words from and including “to an offence against”, substitute:

to:

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

**72 At the end of Part 1**

Add:

**15A Application of *Criminal Code***

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

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

Note 2: For the purposes of this Act, corporate criminal responsibility is dealt with by section 78, rather than by Part 2.5 of the *Criminal Code*.

**73 Subsection 43(2)**

Omit “, without reasonable excuse,”.

**74 At the end of section 43**

Add:

- (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*).

**75 Section 50**

Omit “, without reasonable excuse”.

**76 At the end of section 50**

Add:

- (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*).

**77 Subsection 54(2)**

Omit “, without reasonable excuse,”.

**78 At the end of section 54**

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Add:

- (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*).

**79 Section 57**

Omit “, without reasonable excuse”.

**80 Paragraph 57(b)**

Omit all the words after “day to day”.

**81 At the end of section 57**

Add:

- (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) Paragraph (1)(b) does not apply if the person has been excused, or is released from further attendance, by a member of the Commission.

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

**82 Section 59**

Omit “, without reasonable excuse”.

**83 At the end of section 59**

Add:

- (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*).

**84 Paragraph 64(b)**

Repeal the paragraph, substitute:

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(b) do an act that results in an employee being injured in his or her employment; or

(ba) threaten to injure an employee in his or her employment; or

**85 Section 72**

Omit “, without reasonable cause, wilfully or recklessly”.

**86 Section 72**

Omit “which the person knew or ought reasonably to have known was protective equipment or a safety device”.

**87 At the end of section 72**

Add:

(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*).

**88 Paragraph 76(1)(b)**

Repeal the paragraph, substitute:

(b) do an act that results in an employee being injured in his or her employment; or

***Occupational Health and Safety (Commonwealth Employment) Amendment Act 2001***

**89 Item 23 of Schedule 1**

Repeal the item.

**90 After item 77 of Schedule 1**

Insert:

**77A Subsection 43(3)**

Repeal the subsection (including the note).

**91 After item 110 of Schedule 1**

Insert:

**110A Subsection 54(3)**

Repeal the subsection (including the note).

**92 Item 111 of Schedule 1**

Repeal the item.

**93 Items 112 and 113 of Schedule 1**

Repeal the items, substitute:

**112 Subsection 57(1) (penalty)**

Repeal the penalty, substitute:

Note: A person who breaches section 57 may be subject to a criminal prosecution (see Schedule 2).

**113 Subsections 57(2) and (3)**

Repeal the subsections (including the notes).

**94 Item 114 of Schedule 1**

Repeal the item.

**95 Items 116 and 117 of Schedule 1**

Repeal the items, substitute:

**116 Subsection 59(1) (penalty)**

Repeal the penalty, substitute:

Note: A person who breaches section 59 may be subject to a criminal prosecution (see Schedule 2).

**117 Subsection 59(2)**

Repeal the subsection (including the note).

**96 Items 129 and 130 of Schedule 1**

Repeal the items.

**97 Items 131 and 132 of Schedule 1**

Repeal the items, substitute:

**131 Subsection 72(1) (penalty)**

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Repeal the penalty, substitute:

Note: A person who breaches section 72 may be subject to a criminal prosecution (see Schedule 2).

**132 Subsection 72(2)**

Repeal the subsection (including the note).

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

**98 At the end of Division 3 of Part 1**

Add:

**8A Application of *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.

**99 At the end of section 13**

Add:

- (4) For the purposes of an offence against this section, strict liability applies to the physical element, that the obligations set out in subsections 11(1) to (6) apply as set out in subsection (1) of this section.

**100 At the end of section 85**

Add:

- (4) Subsection (3) is an offence of strict liability.

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

**101 Subsection 90(2)**

Omit “, without reasonable excuse,”.

**102 At the end of section 90**

Add:

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- (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*).

**103 Section 105**

Omit “, without reasonable excuse”.

**104 At the end of section 105**

Add:

- (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*).

**105 Section 111**

Omit “, without reasonable excuse, intentionally or recklessly”.

**106 Section 111**

Omit “which the person knew or ought reasonably to have known was protective equipment or a safety device”.

**107 At the end of section 111**

Add:

- (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*).

**108 Paragraph 115(1)(b)**

Repeal the paragraph, substitute:

- (b) do an act that results in an employee being damaged in his or her employment; or

**109 Subsections 117(1) and (2)**

Repeal the subsections.

Note: The heading to section 117 is altered by omitting “**directors**”.

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**110 Subsection 117(6)**

Omit “(1) or”.

***Safety, Rehabilitation and Compensation Act 1988***

**111 At the end of Part 1**

Add:

**13A Application of *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.

**112 At the end of section 46**

Add:

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

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

**113 At the end of section 47**

Add:

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

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

**114 After subsection 48(2)**

Insert:

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

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

**115 At the end of section 120**

Add:

(5) Subsection (4) is an offence of strict liability.

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

***Safety, Rehabilitation and Compensation and Other  
Legislation Amendment Act 2001***

**116 Item 61 of Schedule 2 (heading)**

Omit “Section 46”, substitute “Subsection 46(1)”.

**117 Item 62 of Schedule 2 (new section 47)**

Omit “If:”, substitute:

(1) If:

**118 At the end of item 62 of Schedule 2 (at the end of new section 47)**

Add:

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

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

***Seafarers Rehabilitation and Compensation Act 1992***

**119 After section 21**

Insert:

**21A Application of *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.

**120 At the end of section 56**

Add:

(2) 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 section 57**

Add:

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

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

**122 After subsection 58(2)**

Insert:

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

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

**123 Subsection 68(1)**

Omit “, without reasonable excuse,”.

**124 After subsection 68(1)**

Insert:

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

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

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

**125 After subsection 93(1)**

Insert:

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

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

**126 At the end of section 94**

Add:

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

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

**127 At the end of section 98**

Add:

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

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

**128 Subsection 106(3)**

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Omit “without reasonable excuse”.

**129 At the end of section 106**

Add:

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

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

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

**130 After subsection 130(1)**

Insert:

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

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

**131 At the end of section 131**

Add:

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

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

**132 At the end of section 140**

Add:

(5) Subsections (3) and (4) are offences of strict liability.

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

***Seafarers Rehabilitation and Compensation Levy Collection Act 1992***

**133 After section 3**

Insert:



### **3A Application of *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.

### **134 Subsection 7(1)**

Omit “, without reasonable excuse, knowingly”.

### **135 After subsection 7(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*).

(1B) For the purposes of an offence against subsection (1), strict liability applies to the physical element, that the person is required to give a return under section 6.

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

### **136 Subsection 7(2)**

Repeal the subsection, substitute:

(2) A person must not give a return that does not contain all or any of the information required by section 6 to be included in the return.

Penalty: 20 penalty units.

(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) For the purposes of an offence against subsection (2), strict liability applies to the physical element, that the person is required under section 6 to include information in a return.

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

### **137 Subsection 7(3)**

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After “subsection (2)”, insert “or section 137.1 or 137.2 of the *Criminal Code* in relation to giving the return”.

**138 Subsection 14(5)**

Omit “, without reasonable excuse,”.

**139 At the end of section 14**

Add:

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

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

- (7) Subsection (5) is an offence of strict liability.

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

***Workplace Relations Act 1996***

**140 At the end of Part 1**

Add:

**7B Application of *Criminal Code***

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

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

Note 2: For the purposes of this Act, corporate criminal responsibility is dealt with by section 349, rather than by Part 2.5 of the *Criminal Code*.

**141 Subsection 83BG(5)**

Omit “without a reasonable excuse”.

**142 After subsection 83BG(5)**

Insert:

- (5A) Subsection (5) is an offence of strict liability.

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

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

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

**143 At the end of subsection 214(1)**

Add:

Penalty: \$1,000 plus \$250 for each complete week in the penalty period.

**144 At the end of section 214**

Add:

(3) In this section:

*penalty period* means the period starting on the day prescribed for the purposes of subsection (1) or the later day allowed by the Industrial Registrar, as the case requires, and ending on:

- (a) if the prescribed information is lodged in the Industrial Registry before the day on which the organisation is convicted—the day on which the information is lodged; or
- (b) in any other case—the day on which the organisation is convicted.

**145 At the end of subsection 275(1)**

Add:

Penalty: \$1,000.

**146 After subsection 275(1)**

Insert:

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

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

**147 At the end of subsections 275(3), (4), (5), (6) and (7)**

Add:

Penalty: \$500.

**148 Paragraph 299(1)(a)**

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Omit “wilfully”.

**149 Subsection 303(1)**

Omit “, without reasonable excuse”.

**150 After subsection 303(1)**

Insert:

(1A) For the purposes of an offence against subsection (1), strict liability applies to the physical element, that the person fails as mentioned in paragraph (1)(b), (c) or (d).

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

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

**151 Section 305**

Omit “, without reasonable excuse,”.

**152 At the end of section 305**

Add:

(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*).

**153 Section 305A**

Omit “, without reasonable excuse,”.

**154 At the end of section 305A**

Add:

(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*).

**155 At the end of section 307**

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Add:

- (2) For the purposes of an offence against subsection (1), strict liability applies to the physical element, that the application is made under subsection 136(1).

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

**156 At the end of section 308**

Add:

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

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

**157 Section 310**

Repeal the section.

**158 Section 313**

Repeal the section, substitute:

- (1) A person must not:
  - (a) refuse or fail to comply with a direction under subsection 215(1); or
  - (b) hinder or obstruct:
    - (i) an electoral official in the performance of functions in relation to an election for an office in, or in a branch of, an organisation; or
    - (ii) any other person in complying with a direction under that subsection.

Penalty:

- (a) in the case of a natural person—\$500 or imprisonment for 6 months, or both; and
  - (b) in the case of a body corporate—\$1,000.
- (2) Paragraph (1)(a) does not apply so far as the person is not capable of complying with the direction.

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) For the purposes of an offence against subsection (1), strict liability applies to the physical element, that the person fails as mentioned in paragraph (1)(a).

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

**159 Section 314A**

Omit “knowingly or recklessly”.

**160 Subsection 315(1)**

Omit “, without lawful authority or excuse”.

**161 Paragraph 315(1)(b)**

Repeal the paragraph, substitute:

- (b) do an act that results in a nomination paper, ballot paper or envelope being destroyed, defaced, altered, taken or otherwise interfered with;

**162 Paragraph 315(1)(j)**

Repeal the paragraph, substitute:

- (j) do an act that results in a ballot box or other ballot receptacle being destroyed, taken, opened or otherwise interfered with.

**163 Subsection 315(2)**

Omit “, without lawful authority or excuse”.

**164 Subsection 315(2)**

Omit “cause, inflict or procure”, substitute “cause or inflict”.

**165 Subsection 315(3)**

Omit “, without lawful authority or excuse”.

**166 Subsection 315(4)**

Omit “, without lawful authority or excuse,”.

**167 Subsection 315(4)**

Omit “cause, inflict or procure”, substitute “cause or inflict”.

**168 Subsection 317(1)**

Omit “so far as he or she is capable”.

---

**169 After subsection 317(1)**

Insert:

(1A) Subsection (1) does not apply so far as the person is not capable of complying with the requirement.

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

**170 Subsection 317(2)**

Omit “, without lawful authority or excuse”.

**171 Paragraph 317(2)(b)**

Repeal the paragraph, substitute:

(b) do an act that results in a ballot paper or envelope being destroyed, defaced, altered, taken or otherwise interfered with;

**172 Paragraph 317(2)(j)**

Repeal the paragraph, substitute:

(j) do an act that results in a ballot box or other ballot receptacle being destroyed, taken, opened or otherwise interfered with.

**173 Subsection 317(3)**

Omit “, without lawful authority or excuse”.

**174 Paragraph 317(3)(c)**

Omit “cause, inflict or procure”, substitute “cause or inflict”.

**175 Subsection 317(4)**

Omit “, without lawful authority or excuse”.

**176 At the end of section 319**

Add:

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

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

**177 At the end of section 321**

Add:

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(6) Subsections (1) to (5) are offences of strict liability.

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

**178 After subsection 322(1)**

Insert:

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

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

**179 At the end of section 323**

Add:

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

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

**180 Section 324**

Repeal the section.

**181 At the end of section 325**

Add:

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

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

**182 Paragraph 326(1)(b)**

Omit “, without reasonable excuse,”.

**183 After subsection 326(1)**

Insert:

(1A) For the purposes of an offence against subsection (1), strict liability applies to the physical element, that the person fails as mentioned in paragraph (1)(b).

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

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

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



**184 After section 326**

Insert:

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

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

**185 After subsection 327(1)**

Insert:

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

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

**186 After subsection 327(2)**

Insert:

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

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

**187 After subsection 327(3)**

Insert:

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

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

**188 After subsection 327(4)**

Insert:

(4A) Subsection (4) is an offence of strict liability.

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

**189 After subsection 327(5)**

Insert:

(5A) For the purposes of an offence against subsection (5), strict liability applies to the physical element, that the matter is dealt with in a report, accounts or statements of the kind referred to in subsection 279(1), or in a summary of the kind referred to in subsection 279(2).

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

**190 At the end of section 328**

Add:

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

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

**191 Paragraph 329(1)(a)**

Omit “, without reasonable excuse”.

**192 Paragraph 329(1)(c)**

Omit “;”, substitute “.”.

**193 Subsection 329(1)**

Omit all the words after paragraph (c) (but not the penalty).

**194 After subsection 329(1)**

Insert:

(1A) For the purposes of an offence against subsection (1), strict liability applies to the physical element, that the person fails as mentioned in paragraph (1)(a).

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

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

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

(1C) Subsection (1) does not apply if the person merely refuses or fails to answer a question.

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

**195 At the end of section 330**

Add:

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

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

**196 At the end of section 331**

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Add:

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

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

**197 Section 332**

Omit “unreasonably”.

**198 At the end of section 332**

Add:

(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*).

**199 At the end of section 333**

Add:

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

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

**200 Section 337**

Repeal the section, substitute:

**337 False representation as to membership of organisation**

A person commits an offence if:

- (a) in an application made under this Act, the person makes a representation that he or she is a member of an organisation; and
- (b) the person knows that the representation is false.

Penalty: \$500 or imprisonment for 6 months, or both.

**201 Section 339**

Repeal the section, substitute:

**339 Publication of trade secrets etc.**

(1) A person commits an offence if:

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- (a) the person gives information as evidence or publishes information; and
- (b) giving or publishing the information:
  - (i) contravenes section 355; or
  - (ii) contravenes a direction given under section 355.

Penalty:

- (a) in the case of a natural person—\$1,000 or imprisonment for 6 months, or both; and
  - (b) in the case of a body corporate—\$1,000.
- (2) Strict liability applies to subparagraph (1)(b)(i).

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

## **202 Subsection 340(1)**

Repeal the subsection, substitute:

- (1) A person commits an offence if:
  - (a) the person makes a representation that he or she is authorised to collect money on behalf of an organisation; and
  - (b) the person knows that the representation is false.

Penalty: \$500.

## ***Workplace Relations Legislation Amendment (More Jobs, Better Pay) Act 2001***

### **203 Item 155 of Schedule 2 (heading)**

Omit “Paragraph 316(b)”, substitute “Paragraph 316(1)(b)”.

### **204 Item 6 of Schedule 15 (heading)**

Omit “Paragraph 305(b)”, substitute “Paragraph 305(1)(b)”.

## ***Workplace Relations (Registered Organisations) Act 2001***

### **205 After section 13**

Insert:

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**13A Application of *Criminal Code***

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

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

Note 2: For the purposes of this Act, corporate criminal responsibility is dealt with by section 323, rather than by Part 2.5 of the *Criminal Code*.

**206 After subsection 61(2)**

Insert:

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

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

**207 Subsection 82(1)**

Omit “without lawful authority or excuse.”.

**208 Paragraph 82(1)(a)**

Repeal the paragraph, substitute:

(a) impersonate another person with the intention of:

- (i) securing a ballot paper to which the impersonator is not entitled; or
- (ii) casting a vote; or

**209 Paragraph 82(1)(b)**

Repeal the paragraph, substitute:

(b) do an act that results in a ballot paper or envelope being destroyed, defaced, altered, taken or otherwise interfered with; or

**210 Paragraph 82(1)(i)**

Repeal the paragraph, substitute:

(i) do an act that results in a ballot box or other ballot receptacle being destroyed, taken, opened or otherwise interfered with.

**211 Subsection 82(2)**

Omit “without lawful authority or excuse.”.

**212 Paragraph 82(2)(c)**

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Omit “cause, inflict or procure,” substitute “cause or inflict.”

**213 Subsection 82(3)**

Omit “without lawful authority or excuse.”

**214 After subsection 113(2)**

Insert:

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

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

**215 Subsection 115(1)**

Omit “without lawful authority or excuse.”

**216 Paragraph 115(1)(a)**

Repeal the paragraph, substitute:

- (a) impersonate another person with the intention of:
  - (i) securing a ballot paper to which the impersonator is not entitled; or
  - (ii) casting a vote; or

**217 Paragraph 115(1)(b)**

Repeal the paragraph, substitute:

- (b) do an act that results in a ballot paper or envelope being destroyed, defaced, altered, taken or otherwise interfered with; or

**218 Paragraph 115(1)(i)**

Repeal the paragraph, substitute:

- (i) do an act that results in a ballot box or other ballot receptacle being destroyed, taken, opened or otherwise interfered with.

**219 Subsection 115(2)**

Omit “without lawful authority or excuse.”

**220 Paragraph 115(2)(c)**

Omit “cause, inflict or procure,” substitute “cause or inflict.”

**221 Subsection 115(3)**

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Omit “without lawful authority or excuse.”.

**222 Subsection 183(1)**

Omit “, without lawful authority or excuse, use, cause, inflict or procure.”, substitute “use, cause or inflict”.

**223 Subsection 183(2)**

Omit “, without lawful authority or excuse”.

**224 After subsection 189(2)**

Insert:

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

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

**225 Subsection 191(2)**

Repeal the subsection, substitute:

(2) A person commits an offence if the person does not comply with a direction under subsection (1).

Maximum penalty: 30 penalty units.

(2A) Subsection (2) does not apply so far as the person is not capable of complying.

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

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

**226 Subsection 193(2)**

Omit “, without lawful authority or excuse”.

**227 Paragraph 193(2)(a)**

Repeal the paragraph, substitute:

(a) impersonate another person with the intention of:

(i) securing a ballot paper to which the impersonator is not entitled; or

(ii) casting a vote; or

**228 Paragraph 193(2)(b)**

Repeal the paragraph, substitute:

- (b) do an act that results in a nomination paper, ballot paper or envelope being destroyed, defaced, altered, taken or otherwise interfered with; or

**229 Paragraph 193(2)(i)**

Repeal the paragraph, substitute:

- (i) do an act that results in a ballot box or other ballot receptacle being destroyed, taken, opened or otherwise interfered with.

**230 Subsection 193(3)**

Omit “, without lawful authority or excuse, threaten, offer or suggest, or use, cause, inflict, or procure,”, substitute “threaten, offer or suggest, or use, cause or inflict.”.

**231 Subsection 193(4)**

Omit “, without lawful authority or excuse.”.

**232 Subsection 193(4)**

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

**233 Subsection 193(5)**

Omit “, without lawful authority or excuse.”.

**234 Subsection 193(6)**

Omit “, without lawful authority or excuse”.

**235 At the end of section 197**

Add:

- (5) Subsections (3) and (4) are offences of strict liability.

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

**236 After subsection 200(5)**

Insert:

- (5A) Strict liability applies to paragraph (5)(a).

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

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**237 Section 221**

Repeal the section, substitute:

**221 Offence to interfere with register or copy**

- (1) A person commits an offence if:
- (a) the person does an act; and
  - (b) the act results in the destruction or defacement of, or other interference with, a register of members or a copy of such a register; and
  - (c) either:
    - (i) the register of members is required to be kept by an organisation under paragraph 219(1)(a); or
    - (ii) the copy is required to be kept by an organisation under section 220.

Maximum penalty: 20 penalty units.

- (2) Strict liability applies to paragraph (1)(c).

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

**238 Subsection 247(1)**

Repeal the subsection, substitute:

- (1) An officer, employee or member of an organisation or branch commits an offence if he or she:
- (a) hinders or obstructs the auditor of a reporting unit from taking action under paragraph 246(2)(a); or
  - (b) does not comply with a request under paragraph 246(2)(a) by an auditor of a reporting unit to produce a record or other document in the custody or under the control of the officer, employee or member.

Maximum penalty: 30 penalty units.

- (1A) Strict liability applies to paragraph (1)(b).

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

**239 Subsection 247(2)**

Omit “the refusal or failure”, substitute “not complying”.

**240 Subsection 249(3)**

Omit “intentionally or recklessly”.

**241 Subsection 277(1)**

Repeal the subsection, substitute:

- (1) An officer of an organisation or a branch commits an offence if:
  - (a) the officer is intentionally dishonest; and
  - (b) the officer fails to exercise his or her powers and discharge his or her duties:
    - (i) in good faith in what he or she believes to be in the best interests of the organisation; or
    - (ii) for a proper purpose.

**242 Subsections 316(1) and (2)**

Repeal the subsections, substitute:

- (1) A person commits an offence if:
  - (a) the person does not comply with:
    - (i) a requirement under subsection 314(2) to attend before a Registrar; or
    - (ii) a requirement under subsection 314(2) to provide information or produce a document; or
  - (b) the person provides information, or produces a document, in purported compliance with a requirement under subsection 314(2), and the person knows, or is reckless as to whether, the information or document is false or misleading; or
  - (c) when attending before a Registrar in accordance with a requirement under subsection 314(2), the person makes a statement, whether orally or in writing, and the person knows, or is reckless as to whether, the statement is false or misleading.

- (2) Strict liability applies to paragraph (1)(a).

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

- (2A) Paragraph (1)(a) 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*).

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(2B) Paragraph (1)(a) does not apply if the person merely refuses or fails to answer a question.

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

## **243 Section 329**

Repeal the section, substitute:

### **329 Unauthorised collection of money**

- (1) A person commits an offence if:
- (a) the person makes a representation that the person is authorised to collect money on behalf of an organisation; and
  - (b) the person knows the representation is false.

Maximum penalty: 20 penalty units.

- (2) A person commits an offence if:
- (a) the person collects money on behalf of an organisation; and
  - (b) the person knows that he or she does not have authority to do so.

Maximum penalty: 20 penalty units.

### ***Workplace Relations (Registered Organisations) (Consequential Provisions) Act 2001***

#### **244 Item 49 of Schedule 1**

Repeal subsections 316(1) and (2) as set out in the item, substitute:

- (1) A person commits an offence if:
- (a) the person does not comply with:
    - (i) a requirement under subsection 314(2) to attend before a Registrar; or
    - (ii) a requirement under subsection 314(2) to provide information or produce a document; or
  - (b) the person provides information, or produces a document, in purported compliance with a requirement under subsection 314(2), and the person knows, or is reckless as to whether, the information or document is false or misleading; or

(c) when attending before a Registrar in accordance with a requirement under subsection 314(2), the person makes a statement, whether orally or in writing, and the person knows, or is reckless as to whether, the statement is false or misleading.

(2) Strict liability applies to paragraph (1)(a).

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

(2A) Paragraph (1)(a) 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) Paragraph (1)(a) does not apply if the person merely refuses or fails to answer a question.

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

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*[Minister's second reading speech made in—  
House of Representatives on 23 August 2001  
Senate on 24 September 2001]*

(155/01)

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