



Treasury Legislation Amendment (Application of Criminal Code) Act (No. 2) 2001

No. 146, 2001



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

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Treasury Legislation Amendment (Application of Criminal Code) Act (No. 2) 2001

No. 146, 2001

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

[Assented to 1 October 2001]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Treasury Legislation Amendment (Application of Criminal Code) Act (No. 2) 2001*.

2 Commencement

- (1) Subject to this section, this Act commences on the day mentioned in subsection 2.2(2) of the *Criminal Code*.

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- (2) Item 3 of Schedule 2 commences immediately after the later of:
 - (a) the commencement of section 1 of this Act; and
 - (b) the commencement of item 274 of Schedule 1 to the *Treasury Legislation Amendment (Application of Criminal Code) Act (No. 1) 2001*.
 - (3) Items 2 and 3 of Schedule 5 commence immediately after the commencement of item 1 of Schedule 1 to the *Financial Services Reform 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Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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—Superannuation (Resolution of Complaints) Act 1993

1 After section 4

Insert:

4AA 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.

2 Subsection 24AA(5)

Omit “intentionally”.

3 Subsection 25(5)

Repeal the subsection, substitute:

- (5) A person must not refuse to comply with a requirement made by the Tribunal under subsection (1), (2) or (3).

Penalty: 30 penalty units.

- (6) A person must not fail to comply with a requirement made by the Tribunal under subsection (1), (2) or (3).

Penalty: 30 penalty units.

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

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

- (8) Subsections (5) and (6) do not apply to the extent that 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*.

4 Subsection 38(6)

Omit “intentionally or recklessly”.

5 Subsection 63(2)

Omit “, except for the purposes of this Act,”.

6 After subsection 63(2)

Insert:

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

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

(2B) Subsection (2) does not apply to the extent that the person makes the record of the information, discloses the information, or produces the document for the purposes of this Act.

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

7 Subsection 63(3B)

Omit “intentionally or recklessly”.

8 Subsection 66(8)

Omit “section 5, 6, 7 or 7A or subsection 86(1), of the *Crimes Act 1914*”, substitute “section 6 of the *Crimes Act 1914*, or section 11.1, 11.2, 11.4 or 11.5 of the *Criminal Code*”.

Schedule 2—Trade Practices Act 1974

1 At the end of Part I

Add:

6AA Application of the *Criminal Code*

- (1) 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.

- (2) Despite subsection (1), Part 2.5 of the *Criminal Code* does not apply to an offence against Part IIIA, VC or XIC or Division 7 of Part XIB.

2 Subsection 75AY(4)

Omit “intentionally or recklessly”.

3 At the end of section 75AY

Add:

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

Note 2: Part IA of the *Crimes Act 1914* contains provisions dealing with penalties.

4 Subsection 84(6)

Repeal the subsection.

5 After subsection 87A(5)

Insert:

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

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

6 Section 151BI

Repeal the section.

7 Section 151BS

Repeal the section.

8 Subsection 151BTA(12)

Repeal the subsection.

9 Subsection 151BUA(10)

Omit “intentionally or recklessly”.

10 Subsection 151BUA(11)

Omit “intentionally or recklessly”.

11 Subsection 151BUB(12)

Omit “intentionally or recklessly”.

12 Subsection 151BUB(13)

Omit “intentionally or recklessly”.

13 Subsection 151BUC(12)

Omit “intentionally or recklessly”.

14 Subsection 151BUC(13)

Omit “intentionally or recklessly”.

15 Subsection 151BV(2)

Omit “intentionally or recklessly”.

16 Subsection 151BZ(2)

Repeal the subsection, substitute:

- (2) To avoid doubt, this section does not affect the operation of Division 137 of the *Criminal Code* in respect of tariff information.

17 Section 152DE

Omit “, without reasonable excuse”.

18 At the end of section 152DE

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*).

19 Subsection 152DF(1)

Omit “, without reasonable excuse”.

20 After subsection 152DF(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*).

21 Subsection 152DF(2)

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

22 Section 152DG

Omit “knowingly”.

23 Paragraph 155(5)(a)

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

24 After subsection 155(5)

Insert:

(5A) Paragraph (5)(a) 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 matters in subsection (5A), see subsection 13.3(3) of the *Criminal Code*.

25 Subsection 155(6A)

Repeal the subsection, substitute:

(6A) A person who contravenes subsection (5) or (6) is guilty of an offence punishable on conviction by a fine not exceeding 20 penalty units.

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

Note 2: Part IA of the *Crimes Act 1914* contains provisions dealing with penalties.

26 At the end of subsection 155(7A)

Add:

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

27 Paragraph 155B(3)(a)

Omit “without reasonable excuse.”.

28 Subsection 155B(3) (penalty)

Repeal the penalty, substitute:

Penalty: 20 penalty units.

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

Note 2: Part IA of the *Crimes Act 1914* contains provisions dealing with penalties.

29 After subsection 155B(3)

Insert:

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

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

30 Subsection 160(1)

Omit “, without reasonable excuse”.

31 After subsection 160(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 matters in subsection (1A), see subsection 13.3(3) of the *Criminal Code*.

32 Subsection 160(2)

Repeal the subsection, substitute:

- (2) A person who contravenes subsection (1) is guilty of an offence punishable on conviction by a fine not exceeding 20 penalty units or imprisonment for 12 months.

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

Note 2: Part IA of the *Crimes Act 1914* contains provisions dealing with penalties.

33 Subsection 161(1)

Omit “, without reasonable excuse”.

34 After subsection 161(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 matters in subsection (1A), see subsection 13.3(3) of the *Criminal Code*.

35 At the end of subsection 161(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*.

36 Subsection 161(3)

Repeal the subsection, substitute:

- (3) A person who contravenes subsection (1) is guilty of an offence punishable on conviction by a fine not exceeding 20 penalty units or imprisonment for 12 months.

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

Note 2: Part IA of the *Crimes Act 1914* contains provisions dealing with penalties.

37 Subsection 162(2)

Repeal the subsection, substitute:

(2) A person who contravenes subsection (1) is guilty of an offence punishable on conviction by a fine not exceeding 20 penalty units or imprisonment for 12 months.

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

Note 2: Part IA of the *Crimes Act 1914* contains provisions dealing with penalties.

38 Section 162A

Omit all the words after “punishable”, substitute “on conviction by a fine not exceeding 20 penalty units or imprisonment for 12 months.”.

39 At the end of section 162A

Add:

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

Note 2: Part IA of the *Crimes Act 1914* contains provisions dealing with penalties.

Schedule 3—Taxation Administration Act 1953

1 Section 2

Insert:

engage in conduct means:

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

2 After section 2

Insert:

2A Application of the *Criminal Code*

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

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

3 Subsection 3C(2)

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

4 After subsection 3C(2)

Insert:

- (2A) Subsection (2) does not apply to the extent that the person makes the record of the information, discloses the information or produces the document, for the purposes of this Act or in the performance of the person’s duties as an officer.

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

5 Subsection 3D(15)

Repeal the subsection, substitute:

- (15) Where information is communicated under paragraph (11)(e) to the commanding officer of a Police Force:

- (a) that commanding officer must not divulge or communicate the information; and
- (b) a person who is no longer the commanding officer of that Police Force must not make a record of the information, or divulge or communicate the information, in any circumstances; and
- (c) a person to whom information has been communicated in accordance with subsection (15A) or (15B) must not:
 - (i) while he or she is a person or employee under the control of the commanding officer of that Police Force—divulge or communicate the information; or
 - (ii) when he or she is no longer a person or employee under the control of the commanding officer of that Police Force—make a record of the information, or divulge or communicate the information, in any circumstances.

(15A) Paragraph (15)(a) does not apply where the commanding officer, while still the commanding officer of that Police Force, divulges or communicates the information to a person or employee under his or her control for the purposes of, or in connection with, the performance by that person or employee of the duties of his or her office or employment.

Note: A defendant bears an evidential burden in relation to the matters in subsection (15A), see subsection 13.3(3) of the *Criminal Code*.

(15B) Subparagraph (15)(c)(i) does not apply where the person, while he or she is a person or employee under the control of the commanding officer of that Police Force, divulges or communicates the information to:

- (a) that commanding officer for the purposes of, or in connection with, the performance by that commanding officer of the duties of his or her office; or
- (b) to another person or employee under the control of that commanding officer for the purposes of, or in connection with, the performance by that person or employee of the duties of his or her office or employment.

Note: A defendant bears an evidential burden in relation to the matters in subsection (15B), see subsection 13.3(3) of the *Criminal Code*.

6 At the end of subsection 3D(16)

Add:

Note: A defendant bears an evidential burden in relation to the matters in subsection (16), see subsection 13.3(3) of the *Criminal Code*.

7 Subsection 3D(19)

Omit “(15)”, substitute “(15A), (15B)”.

8 Subsection 3E(2)

Repeal the subsection, substitute:

- (2) Where information is communicated to an officer under subsection (1) of this section or paragraph 3EA(3)(e), the officer must not divulge or communicate the information to another person, or make a record of the information.
- (2A) Subsection (2) does not apply to the extent that the information was divulged or communicated, or the record of the information was made, for, or in connection with:
 - (a) the investigation of a serious offence; or
 - (b) an investigation relating to the making, or proposed or possible making, of a proceeds of crime order.

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

- (2B) A person to whom information has been communicated in accordance with subsection (2A) or (2C) must not divulge or communicate the information to another person, or make a record of the information.
- (2C) Subsection (2B) does not apply to the extent that the information was divulged or communicated, or the record of the information was made, for, or in connection with, the investigation mentioned in subsection (2A).

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

9 Subsection 3E(3)

Omit “or (2)”, substitute “, (2A) or (2C)”.

10 Subsection 3E(4)

After “(2)”, insert “, (2B)”.

11 Subsection 3E(5)

Omit all the words after “record of the information”.

12 After subsection 3E(5)

Insert:

(5A) Subsection (5) does not apply to the extent that the information was divulged or communicated, or the record of the information was made, for, or in connection with:

- (a) the prosecution referred to in subparagraph (4)(a)(i); or
- (b) the proceedings referred to in subparagraph (4)(a)(ii).

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

13 Subsection 3E(6B)

After “(2)”, insert “or (2B)”.

14 Paragraph 3E(6C)(a)

Omit “, except for the purposes of, or in connection with, the disclosure of the information to an authorised law enforcement agency officer”.

15 After subsection 3E(6C)

Insert:

(6CA) Paragraph (6C)(a) does not apply to the extent that the information was divulged or communicated, or the record of the information was made, for the purposes of, or in connection with, the disclosure of the information to an authorised law enforcement agency officer.

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

16 Subsection 3E(11) (paragraph (b) of the definition of *tax-related offence*)

After “*Crimes Act 1914*”, insert “or the *Criminal Code*”.

17 Subsection 8A(1) (paragraph (a) of the definition of *prescribed offence*)

Omit “, 8P or 8Q”, substitute “or 8Q, or against Division 136 or 137 of the *Criminal Code* in relation to a taxation law”.

18 Subsection 8A(1) (paragraph (b) of the definition of *prescribed offence*)

Omit “7 of the *Crimes Act 1914*”, substitute “11.1 of the *Criminal Code*”.

19 Subsection 8A(1) (subparagraph (b)(i) of the definition of *taxation offence*)

Omit “, 7 or 7A”.

20 Subsection 8A(1) (subparagraph (b)(ii) of the definition of *taxation offence*)

Repeal the subparagraph, substitute:

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

21 Subparagraph 8B(1)(b)(i)

Omit “, 7 or 7A”.

22 Subparagraph 8B(1)(b)(ii)

Repeal the subparagraph, substitute:

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

23 Subsection 8B(3)

Omit “7 of the *Crimes Act 1914*”, substitute “11.1 of the *Criminal Code*”.

24 Paragraph 8C(1)(a)

Omit “a approved”, substitute “an approved”.

25 Subsection 8C(1)

Omit “to the extent that the person is capable of doing so”.

26 After subsection 8C(1)

Insert:

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

Note: For *absolute liability*, see section 6.2 of the *Criminal Code*.

(1B) Subsection (1) does not apply to the extent that the person is not capable of complying with the relevant paragraph.

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

27 Subsection 8D(1)

Omit “to the extent that the person is capable of doing so”.

28 After subsection 8D(1)

Insert:

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

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

(1B) Subsection (1) does not apply to the extent that the person is not capable of complying with the relevant paragraph.

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

29 Section 8H

Omit “to the extent that the person is capable of doing so”.

30 At the end of section 8H

Add:

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

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

(3) Subsection (1) does not apply to the extent that the person is not capable of complying with the relevant paragraph.

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

31 Subparagraph 8J(3)(a)(i)

Omit “8K(1) or 8L(1) or section 8N, 8P”, substitute “8K(1) or (1B) or 8L(1) or (1A) or section 8N”.

32 Subparagraph 8J(3)(b)(i)

Omit “, 7 or 7A”.

33 Subparagraph 8J(3)(b)(ii)

Repeal the subparagraph, substitute:

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

34 Subsection 8J(4)

Omit “8K(1) or 8L(1) or section 8N, 8P”, substitute “8K(1) or (1B) or 8L(1) or (1A) or section 8N”.

35 Subsection 8J(6)

Omit “8K(1) or 8L(1)”, substitute “8K(1) or (1B) or 8L(1) or (1A) includes a reference to an offence against section 11.1 of the *Criminal Code* that relates to an offence against subsection 8K(1) or (1B) or 8L(1) or (1A)”.

36 Subsection 8J(7)

Omit “, 8P” (wherever occurring).

37 Subsection 8J(7)

Omit “7 of the *Crimes Act 1914*”, substitute “11.1 of the *Criminal Code*”.

38 Subsection 8K(1)

Repeal the subsection, substitute:

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

- (a) the person makes a statement to a taxation officer; and
- (b) the statement is false or misleading in a material particular.

(1A) In subsection (1), absolute liability applies to the circumstance, that the statement is false or misleading in a material particular.

Note: For *absolute liability*, see section 6.2 of the *Criminal Code*.

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

- (a) the person makes a statement to a taxation officer; and
- (b) the person omits any matter or thing from the statement; and
- (c) the statement is misleading in a material particular because of the omission.

(1C) In subsection (1B), absolute liability applies to:

- (a) the conduct, that the person omits a matter or thing; and
- (b) the circumstance, that the statement is misleading in a material particular.

Note: For *absolute liability*, see section 6.2 of the *Criminal Code*.

39 Subsection 8K(2)

Omit “subsection (1)”, substitute “subsection (1) or (1B)”.

40 At the end of subsection 8K(2)

Add:

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

41 Subsection 8K(3)

Omit “paragraph (1)(b)”, substitute “subsection (1B)”.

42 Subsection 8L(1)

Repeal the subsection, substitute:

- (1) A person is guilty of an offence if:
 - (a) the person is required under, or pursuant to, a taxation law to keep any accounts, accounting records or other records; and
 - (b) the person keeps the accounts or records; and
 - (c) the accounts or records do not correctly record and explain the matters, transactions, acts or operations to which they relate.

- (1A) A person is guilty of an offence if:
 - (a) the person is required under, or pursuant to, a taxation law to make a record of any matter, transaction, act or operation; and
 - (b) the person makes the record; and
 - (c) the record does not correctly record the matter, transaction, act or operation.

- (1B) An offence under subsection (1) or (1A) is an offence of absolute liability.

Note: For *absolute liability*, see section 6.2 of the *Criminal Code*.

43 Subsection 8L(2)

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

44 Paragraph 8L(2)(c)

Omit “by virtue of paragraph (a)”.

45 Paragraph 8L(2)(d)

Omit “(1) by virtue of paragraph (b)”, substitute “(1A)”.

46 At the end of subsection 8L(2)

Add:

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

47 Subsection 8M(1)

Omit “8K(1) or 8L(1)”, substitute “8K(1) or (1B) or 8L(1) or (1A)”.

Note: The heading to section 8M is altered by omitting “**8K(1) and 8L(1)**” and substituting “**8K(1) and (1B) and 8L(1) and (1A)**”.

48 Paragraph 8M(2)(a)

Omit “8K(1) or 8L(1)”, substitute “8K(1) or (1B) or 8L(1) or (1A)”.

49 Section 8N

Repeal the section, substitute:

8N Recklessly making false or misleading statements

A person is guilty of an offence if:

- (a) the person makes a statement (whether orally, in a document or in any other way) to a taxation officer; and
- (b) the statement:
 - (i) is false or misleading in a material particular; or
 - (ii) omits any matter or thing without which the statement is misleading in a material particular; and
- (c) the person is reckless as to whether the statement:
 - (i) is false or misleading in a material particular; or
 - (ii) omits any matter or thing without which the statement is misleading in a material particular.

50 Section 8P

Repeal the section.

51 Section 8Q

Repeal the section, substitute:

8Q Recklessly incorrectly keeping records etc.

- (1) A person is guilty of an offence if:
 - (a) the person is required under, or pursuant to, a taxation law to keep any accounts, accounting records or other records; and
 - (b) the person keeps the accounts or records; and
 - (ba) the accounts or records do not correctly record and explain the matters, transactions, acts or operations to which they relate; and
 - (c) the person is reckless as to whether the accounts or records correctly record and explain the matters, transactions, acts or operations to which they relate.
- (2) A person is guilty of an offence if:
 - (a) the person is required under, or pursuant to, a taxation law to make a record of any matter, transaction, act or operation; and
 - (b) the person makes the record; and
 - (ba) the record does not correctly record the matter, transaction, act or operation; and
 - (c) the person is reckless as to whether the record correctly records the matter, transaction, act or operation.
- (3) In subsections (1) and (2), strict liability applies to the circumstance, that the person is required under, or pursuant to, a taxation law to keep the accounts, accounting records or other records.

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

52 Subsection 8R(1)

Omit “, 8P”.

Note: The heading to section 8R is altered by omitting “, 8P”.

53 Paragraph 8R(2)(a)

Omit “, 8P”.

54 Subsection 8S(1)

Omit “, 8P or 8Q”, substitute “, or 8Q, or against Division 136 or 137 of the *Criminal Code* in relation to a taxation law”.

55 Paragraph 8T(c)

Repeal the paragraph, substitute:

- (c) engages in conduct that results in the alteration, defacing, mutilation, falsification, damage, removal, concealing or destruction of any accounts, accounting records or other records (whether in whole or in part); or

56 Paragraph 8U(a)

Omit “falsifies or conceals”, substitute “engages in conduct that results in the falsification or concealing of”.

57 Subparagraph 8W(1)(a)(i)

Omit “section 8N or 8P”, substitute “or (1B) or section 8N, or against Division 136 or 137 of the *Criminal Code* in relation to a taxation law,”.

58 Subparagraph 8W(1)(a)(ii)

After “8L(1)”, insert “or (1A)”.

59 Paragraph 8W(1)(c)

After “8R(2) applies”, insert “or that is against Division 136 or 137 of the *Criminal Code* in relation to a taxation law”.

60 Subparagraph 8W(2A)(a)(i)

Omit “section 8N or 8P”, substitute “or (1B) or section 8N, or against Division 136 or 137 of the *Criminal Code* in relation to a taxation law,”.

61 Subparagraph 8W(2A)(a)(ii)

After “8L(1)”, insert “or (1A)”.

62 Paragraph 8W(2A)(d)

After “8R(2) applies”, insert “, or that is against Division 136 or 137 of the *Criminal Code* in relation to a taxation law”.

63 Subsection 8WA(1)

Repeal the subsection, substitute:

- (1) A person must not require or request another person to quote the other person’s tax file number.

Penalty: \$10,000 or imprisonment for 2 years, or both.

(1AA) Subsection (1) does not apply if:

- (a) provision is made by or under a taxation law or legislation described in paragraph 202(e) of the *Income Tax Assessment Act 1936* for the person to quote the number; or
- (b) the first-mentioned person requires or requests the number to be quoted in connection with that person exercising powers or performing functions under, or in relation to, or complying with an obligation imposed by, a taxation law or a law of the Commonwealth of the kind referred to in paragraph 202(c), (d), (g), (h), (ha), (hb), (hc), (i), (ia), (j), (m) or (n) of the *Income Tax Assessment Act 1936*; or
- (c) the first-mentioned person requires or requests the number to be quoted in connection with the first-mentioned person acting on the other person's behalf in the conduct of the other person's affairs.

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

64 At the end of subsection 8WA(1A)

Add:

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

65 At the end of subsection 8WA(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*.

66 Subsection 8WB(1)

Repeal the subsection, substitute:

- (1) A person must not:
 - (a) record another person's tax file number or maintain such a record; or
 - (b) use another person's tax file number in a manner connecting it with the other person's identity; or
 - (c) divulge or communicate another person's tax file number to a third person.

Penalty: \$10,000 or imprisonment for 2 years, or both.

(1A) Subsection (1) does not apply:

- (a) to the extent required or permitted by, or reasonably necessary in order to comply with an obligation imposed by, a taxation law or a law of the Commonwealth of a kind referred to in paragraph 202(c), (d), (e), (g), (h), (ha), (hb), (hc), (i), (ia), (j), (ka), (m), (n) or (o) of the *Income Tax Assessment Act 1936*; or
- (b) in connection with the first-mentioned person exercising powers or performing functions under, or in relation to, a taxation law or a law of the Commonwealth of a kind referred to in paragraph 202(c), (d), (e), (g), (h), (ha), (hb), (hc), (i), (ia), (j), (ka), (m), (n) or (o) of the *Income Tax Assessment Act 1936*; or
- (c) in connection with the first-mentioned person acting on the other person's behalf in the conduct of the other person's affairs.

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

67 Subsection 8WB(2)

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

68 Section 8XA

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

69 Subsection 8XB(1)

Omit “, except to the extent required or permitted by a taxation law or reasonably necessary in order to comply with an obligation imposed by a taxation law,”.

70 After subsection 8XB(1)

Insert:

(1A) Subsection (1) does not apply to the extent that the person's actions are required or permitted by a taxation law or reasonably necessary in order to comply with an obligation imposed by a taxation law.

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

71 At the end of subsection 8XB(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*.

72 At the end of subsection 8Y(2)

Add:

Note 1: A defendant bears a legal burden in relation to the matters in subsection (2), see section 13.4 of the *Criminal Code*.

Note 2: Subsection (2) does not apply in relation to a prosecution under Part 2.4 of the *Criminal Code*.

73 Paragraph 8Z(1)(a)

After “Subdivision A or B”, insert “or against Division 136 or 137 of the *Criminal Code* in relation to a taxation law”.

74 At the end of paragraph 8Z(1)(a)

Add “or”.

75 At the end of paragraph 8Z(1)(b)

Add “or”.

76 Subparagraph 8Z(1)(c)(i)

Omit “, 7 or 7A”.

77 Subparagraph 8Z(1)(c)(ii)

Repeal the subparagraph, substitute:

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

78 At the end of paragraph 8Z(1)(c)

Add “or”.

79 At the end of subsection 8Z(1)

Add:

; or (f) the conviction of a person of an offence against Division 136 or 137 of the *Criminal Code*, being an offence that relates to a taxation law.

80 Subsection 8ZA(7)

Omit “section 7 of the *Crimes Act 1914*”, substitute “section 11.1 of the *Criminal Code*”.

81 At the end of subsection 8ZC(3)

Add:

Note: This section does not apply as an averment. For averments, see section 8ZL of this Act and section 13.6 of the *Criminal Code*.

82 At the end of section 8ZD

Add:

(3) Part 2.5 of the *Criminal Code* does not apply to taxation offences.

83 Paragraph 8ZL(4)(a)

Repeal the paragraph, substitute:

- (a) does not apply to any fault element of an offence; and
- (aa) does not apply in relation to any offence for which imprisonment is a penalty; and

84 Subsection 13H(1)

Omit “except for the purposes of the administration of a State tax law, a Territory tax law or a taxation law,”.

85 After subsection 13H(1)

Insert:

(1A) Subsection (1) does not apply to the extent that the person makes the record of the information, or divulges or communicates the information, for the purposes of the administration of a State tax law, a Territory tax law or a taxation law.

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

86 Subsection 13J(2)

Omit “except for the purposes of the administration of a State tax law or a taxation law,”.

87 After subsection 13J(2)

Insert:

(2A) Subsection (2) does not apply to the extent that the person makes the record of the information, or divulges or communicates the information, for the purposes of the administration of a State tax law or a taxation law.

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

88 Section 14R

Omit “unless the departure is authorized by a departure authorization certificate”.

89 At the end of section 14R

Add:

(2) Subsection (1) does not apply if the departure is authorised by a departure authorization certificate.

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

90 Subsection 14Z(2)

Omit “, without reasonable excuse,”.

91 After subsection 14Z(2)

Insert:

(2A) Subsection (2) does not apply to the extent that the person has a reasonable excuse.

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

92 Subsection 14Z(3)

Repeal the subsection.

93 Subsection 14Z(5)

Omit “Subsection 8K(1) and sections 8N and 8P”, substitute “Subsection 8K(1) and (1B) and section 8N”.

94 After subsection 14ZA(1)

Insert:

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

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

95 Section 21

Repeal the section.

96 At the end of subsection 50(4)

Add:

Note 1: The defence in subsection (4) does not apply in relation to offences under Part 2.4 of the *Criminal Code*.

Note 2: A defendant bears a legal burden in relation to the matters in subsection (4), see section 13.4 of the *Criminal Code*.

97 At the end of subsection 51(3)

Add:

Note 1: The defence in subsection (3) does not apply in relation to offences under Part 2.4 of the *Criminal Code*.

Note 2: A defendant bears a legal burden in relation to the matters in subsection (3), see section 13.4 of the *Criminal Code*.

98 At the end of subsection 52(3)

Add:

Note 1: The defence in subsection (3) does not apply in relation to offences under Part 2.4 of the *Criminal Code*.

Note 2: A defendant bears a legal burden in relation to the matters in subsection (3), see section 13.4 of the *Criminal Code*.

99 At the end of subsection 52A(3)

Add:

Note 1: The defence in subsection (3) does not apply in relation to offences under Part 2.4 of the *Criminal Code*.

Note 2: A defendant bears a legal burden in relation to the matters in subsection (3), see section 13.4 of the *Criminal Code*.

100 At the end of subsection 53(3)

Add:

Note 1: The defence in subsection (3) does not apply in relation to offences under Part 2.4 of the *Criminal Code*.

Note 2: A defendant bears a legal burden in relation to the matters in subsection (3), see section 13.4 of the *Criminal Code*.

101 At the end of subsection 54(3)

Add:

Note 1: The defence in subsection (3) does not apply in relation to offences under Part 2.4 of the *Criminal Code*.

Note 2: A defendant bears a legal burden in relation to the matters in subsection (3), see section 13.4 of the *Criminal Code*.

102 After subsection 12-55(2) in Schedule 1

Insert:

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

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

103 Subsection 12-330(1) in Schedule 1

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

104 At the end of subsection 16-25(3) in Schedule 1

Add:

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

105 At the end of section 16-175 in Schedule 1

Add:

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

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

106 After subsection 18-100(1) in Schedule 1

Insert:

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

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

107 At the end of subsection 18-100(2) in Schedule 1

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*.

108 Section 265-70 in Schedule 1

Repeal the section.

Schedule 4—Amendment of other taxation legislation

Part 1—Development Allowance Authority Act 1992

1 At the end of Chapter 1

Add:

2A Application of the *Criminal Code*

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

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

2 Subsection 114(1)

Repeal the subsection, substitute:

- (1) A person who:
- (a) has commercial-in-confidence information; and
 - (b) has it only because of performing duties or functions under this Act; and
 - (c) knows that the information is commercial-in-confidence information;
- must not disclose any of the information.

Penalty: Imprisonment for 2 years.

- (1A) Subsection (1) does not apply if the disclosure is:
- (a) in the course of carrying out functions and duties under this Act; or
 - (b) to the Commissioner of Taxation, for the purposes of the administration of an Act of which the Commissioner of Taxation has the general administration; or
 - (c) by order of a court; or
 - (d) with the consent of the person who applied to have the information treated as commercial-in-confidence information.

Schedule 4 Amendment of other taxation legislation
Part 1 Development Allowance Authority Act 1992

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

Part 2—Diesel and Alternative Fuels Grants Scheme Act 1999

3 Section 21 (note)

Repeal the note, substitute:

Note: Recklessly making a false statement can be an offence against section 8N of the *Taxation Administration Act 1953*.

4 Section 22 (note)

Repeal the note, substitute:

Note: Recklessly making a false statement can be an offence against section 8N of the *Taxation Administration Act 1953*.

5 Subsection 42(2)

Omit “, 8N or 8P of the *Taxation Administration Act 1953*”, substitute “or 8N of the *Taxation Administration Act 1953*, or Division 136 or 137 of the *Criminal Code*”.

6 Paragraph 52(2)(d)

Omit “, 8N or 8P of the *Taxation Administration Act 1953*”, substitute “or 8N of the *Taxation Administration Act 1953*, or Division 136 or 137 of the *Criminal Code*”.

Part 3—Distillation Act 1901

7 At the end of Part I

Add:

9A Application of the *Criminal Code*

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

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

8 At the end of subsection 11(3)

Add:

Note: As a result of this subsection, use of a still in contravention of this section is an offence under section 74.

9 At the end of section 11

Add:

- (4) An offence under section 74 as a result of the operation of subsection (3) of this section is an offence of strict liability.

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

10 Section 54

Repeal the section, substitute:

54 Distilling from and fortifying

- (1) A vigneron's still must not be used for distilling spirits from any material other than wine, or lees of wine.

Penalty: 10 penalty units.

- (2) Spirits made by vignerons must be used only to achieve the result of fortifying Australian wine or as may be prescribed.

Penalty: 10 penalty units.

11 Section 74

Omit “without lawful excuse”.

Part 4—Excise Act 1901

12 At the end of Part I

Add:

6B Application of the *Criminal Code*

- (1) Subject to subsection (2), Chapter 2 of the *Criminal Code* applies to an offence against this Act.
- (2) For the purposes of an Excise Prosecution:
 - (a) Parts 2.1, 2.2, 2.3 and 2.4 of the *Criminal Code* apply; and
 - (b) Parts 2.5 and 2.6 of the *Criminal Code* do not apply; and
 - (c) a reference to criminal responsibility in Chapter 2 of the *Criminal Code* is taken to be a reference to responsibility.
- (3) This section is not to be interpreted as affecting in any way the nature of any offence under this Act, the nature of any prosecution or proceeding in relation to any such offence, or the way in which any such offence is prosecuted, heard or otherwise dealt with.
- (4) Without limiting the scope of subsection (3), this section is not to be interpreted as affecting in any way the standard or burden of proof for any offence under this Act that is the subject of an Excise Prosecution.
- (5) In this section:

Excise Prosecution has the meaning given in section 133.

13 At the end of section 51

Add:

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

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

14 After subsection 61D(11)

Insert:

- (11A) An offence under subsection (11) is an offence of strict liability.

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

15 After subsection 61E(10)

Insert:

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

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

16 At the end of section 70

Add:

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

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

17 At the end of section 76

Add:

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

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

18 After subsection 78AD(14)

Insert:

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

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

19 Paragraph 87AA(b)

Omit “or section 5, 6, 7 or 86 of the *Crimes Act 1914*”, substitute “, section 6 of the *Crimes Act 1914* or section 11.1, 11.2 or 11.5 of the *Criminal Code*”.

20 Section 118

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

21 Paragraph 120(1)(vc)

Repeal the paragraph, substitute:

(vc) intentionally obtain or retain diesel fuel rebate, reckless as to the fact that the person is not entitled to the rebate under section 78A;

22 Paragraph 120(1)(vd)

Repeal the paragraph, substitute:

- (vd) intentionally obtain or retain diesel fuel rebate, reckless as to the fact that the person is not entitled to the rebate under section 164 of the *Customs Act 1901*;

23 Paragraph 120(1)(vi)

Repeal the paragraph, substitute:

- (vi) either:
 - (i) intentionally make a statement to an officer, reckless as to the fact that the statement is false or misleading in a material particular; or
 - (ii) intentionally omit from a statement made to an officer any matter or thing, reckless as to the fact that without the matter or thing the statement is misleading in a material particular;

24 After subsection 120(1)

Insert:

- (1A) For the purposes of an offence against paragraph (1)(vc), absolute liability applies to the physical element of circumstance of the offence, the lack of entitlement under section 78A.

Note: For *absolute liability*, see section 6.2 of the *Criminal Code*.

25 Before subsection 120(2)

Insert:

- (1B) For the purposes of an offence against paragraph (1)(vd), absolute liability applies to the physical element of circumstance of the offence, the lack of entitlement under section 164 of the *Customs Act 1901*.

Note: For *absolute liability*, see section 6.2 of the *Criminal Code*.

26 Subsection 120(4A)

Omit “intentionally or recklessly enters designated fuel for home consumption as clean fuel”, substitute “intentionally enters designated fuel for home consumption as clean fuel, reckless as to the fact that it is designated fuel”.

27 Subsection 120(5)

Omit “intentionally or recklessly enters clean fuel for home consumption as designated fuel”, substitute “intentionally enters clean fuel for home consumption as designated fuel, reckless as to the fact that it is clean fuel”.

28 Subsection 120(6) (note)

Repeal the note.

29 Subsection 120(7) (note)

Repeal the note.

30 After subsection 120(7)

Insert:

(7A) An offence under subsection (6) or (7) is an offence of strict liability.

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

31 Paragraph 124(1)(c)

Omit “to prevent”, substitute “with the intention of preventing”.

32 Subsection 144(4)

Repeal the subsection, substitute:

- (4) Subsection (1) does not apply:
- (a) to any fault element of an offence; or
 - (b) in relation to any offence for which imprisonment is a penalty; or
 - (c) to proceedings for an indictable offence.

Part 5—Fringe Benefits Tax Assessment Act 1986

33 At the end of Part I

Add:

2A Application of the *Criminal Code*

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

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

34 Subsection 5(3)

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

35 After subsection 5(3)

Insert:

(3A) Subsection (3) does not apply to the extent that the person makes the record of the information, or divulges or communicates the information, for the purposes of this Act or in the performance of the person’s duties as an officer.

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

36 At the end of section 70D

Add:

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

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

37 Subsection 121(2)

Omit “except under the supervision and control of a person who is a registered nominee of the partnership or company for the purposes of Part VIIA of the *Income Tax Assessment Act 1936*”.

38 Subsection 121(2A)

Repeal the subsection, substitute:

(2A) Subsection (2) does not apply to the extent that the person does the thing under the supervision and control of a person who is a registered nominee of the partnership or company for the purposes of Part VIIA of the *Income Tax Assessment Act 1936*.

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

(2B) A natural person who is registered as a tax agent must not allow any person to do anything specified in paragraph (1)(a) or (b).

Penalty: \$1,000.

(2C) Subsection (2B) does not apply to the extent that the person does the thing under the supervision and control of:

(a) the tax agent; or

(b) a person who is a registered nominee of the tax agent for the purposes of Part VIIA of the *Income Tax Assessment Act 1936*.

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

39 After subsection 122(1)

Insert:

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

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

40 At the end of subsection 122(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*.

Part 6—Income Tax Assessment Act 1936

41 At the end of Part I

Add:

7B Application of the *Criminal Code*

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

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

42 Subsection 16(2)

Omit “except in the performance of any duty as an officer, and”.

43 After subsection 16(2)

Insert:

(2A) Subsection (2) does not apply to the extent that the person makes the record of the information, or divulges or communicates the information, in the performance of the person’s duties as an officer.

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

44 Paragraph 16(4A)(c)

Omit “except to a person or employee under the control of the Royal Commission for the purposes of, or in connection with, the inquiry being conducted by the Royal Commission”.

45 Paragraph 16(4A)(e)

Omit “or this paragraph”, substitute “or subsection (4AAA)”.

46 Subparagraph 16(4A)(e)(i)

Omit “except to the Royal Commission or a person or employee under the control of the Royal Commission for the purposes of, or in connection with, the inquiry being conducted by the Royal Commission”.

47 After subsection 16(4A)

Insert:

- (4AAA) Paragraph (4A)(c) and subparagraph (4A)(e)(i) do not apply to the extent that the person divulges or communicates the information to the Royal Commission or a person or employee under the control of the Royal Commission for the purposes of, or in connection with, the inquiry being conducted by the Royal Commission.

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

48 Subsection 16(4E)

Repeal the subsection, substitute:

- (4E) Where information is communicated to the Attorney-General under paragraph (4A)(b), the Attorney-General may communicate the information to the Commissioner of the Australian Federal Police.
- (4EA) Subject to subsection (4E), the Attorney-General must not divulge or communicate information communicated to the Attorney-General under paragraph (4A)(b).
- (4EB) Subsection (4EA) does not apply to the extent that the Attorney-General divulges or communicates the information to a person or employee under his or her control for the purposes of, or in connection with, the performance by the Attorney-General of his or her function under subsection (4E).
- Note: A defendant bears an evidential burden in relation to the matters in subsection (4EB), see subsection 13.3(3) of the *Criminal Code*.
- (4EC) A person who has ceased to be the Attorney-General must not make a record of information communicated to the person under paragraph (4A)(b), or divulge or communicate the information, in any circumstances.
- (4ED) A person to whom information has been communicated in accordance with subsection (4EB) or (4EE) must not:
- (a) while he or she is a person or employee under the control of the Attorney-General—divulge or communicate the information; or
 - (b) after he or she ceases to be a person or employee under the control of the Attorney-General—make a record of the information, or divulge or communicate the information, in any circumstances.

- (4EE) Paragraph (4ED)(a) does not apply to the extent that the person divulges or communicates the information to the Attorney-General or another person or employee under the control of the Attorney-General for the purposes of, or in connection with, the performance by the Attorney-General of his or her function under subsection (4E).

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

49 Subsection 16(4F)

Repeal the subsection, substitute:

- (4F) Where information is communicated to the Commissioner of the Australian Federal Police under subsection (4E):
- (a) the Commissioner of the Australian Federal Police must not divulge or communicate the information; and
 - (b) a person who has ceased to be the Commissioner of the Australian Federal Police must not make a record of the information, or divulge or communicate the information, in any circumstances; and
 - (c) a person to whom information has been communicated in accordance with subsection (4FAA) or (4FAB) must not:
 - (i) while he or she is a person or employee under the control of the Commissioner of the Australian Federal Police—divulge or communicate the information; or
 - (ii) after he or she ceases to be a person or employee under the control of the Commissioner of the Australian Federal Police—make a record of the information, or divulge or communicate the information, in any circumstances.

- (4FAA) Paragraph (4F)(a) does not apply to the extent that the Commissioner of the Australian Federal Police divulges or communicates the information to a person or employee under his or her control for the purposes of, or in connection with, the performance by that person or employee of the duties of his or her office or employment.

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

- (4FAB) Subparagraph (4F)(c)(i) does not apply to the extent that the person divulges or communicates the information:
-

- (a) to the Commissioner of the Australian Federal Police for the purposes of, or in connection with, the performance by the Commissioner of the Australian Federal Police of the duties of his or her office; or
- (b) another person or employee under the control of the Commissioner of the Australian Federal Police for the purposes of, or in connection with, the performance by that person or employee of the duties of his or her office or employment, as the case may be.

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

50 Subsection 16(4FA)

Repeal the subsection, substitute:

(4FA) Where information is communicated to the Director of Public Prosecutions under paragraph (4A)(ba):

- (a) the Director of Public Prosecutions must not divulge or communicate the information; and
- (b) a person who is no longer the Director of Public Prosecutions must not make a record of the information, or divulge or communicate the information, in any circumstances; and
- (c) a person to whom information has been communicated in accordance with subsection (4FAAA) or (4FAAB) must not:
 - (i) while he or she is a person or employee under the control of the Director of Public Prosecutions—divulge or communicate the information; or
 - (ii) when he or she is no longer a person or employee under the control of the Director of Public Prosecutions—make a record of the information, or divulge or communicate the information, in any circumstances.

(4FAAA) Paragraph (4FA)(a) does not apply to the extent that the Director of Public Prosecutions divulges or communicates the information to a person or employee under his or her control for the purposes of, or in connection with, the performance by that person or employee of the duties of his or her office or employment.

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

- (4FAAB) Subparagraph (4FA)(c)(i) does not apply to the extent that the person divulges or communicates the information to:
- (a) the Director of Public Prosecutions for the purposes of, or in connection with, the performance by the Director of Public Prosecutions of the duties of his or her office; or
 - (b) to another person or employee under the control of the Director of Public Prosecutions, for the purposes of, or in connection with, the performance by that other person or employee of the duties of his or her office or employment, as the case may be.

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

51 Subsection 16(4FB)

Repeal the subsection, substitute:

- (4FB) Where information is communicated to a Special Prosecutor under paragraph (4A)(ba):
- (a) the Special Prosecutor must not divulge or communicate the information; and
 - (b) a person who is no longer a Special Prosecutor must not make a record of the information, or divulge or communicate the information, in any circumstances; and
 - (c) a person to whom information has been communicated in accordance with subsection (4FBA) or (4FBB) must not:
 - (i) while he or she is a person or employee under the control of the Special Prosecutor—divulge or communicate the information; or
 - (ii) when he or she is no longer a person or employee under the control of the Special Prosecutor—make a record of the information, or divulge or communicate the information, in any circumstances.
- (4FBA) Paragraph (4FB)(a) does not apply to the extent that the Special Prosecutor divulges or communicates the information to a person or employee under his or her control for the purposes of, or in connection with, the performance by that person or employee of the duties of his or her office or employment.

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

- (4FBB) Subparagraph (4FB)(c)(i) does not apply to the extent that the person divulges or communicates the information to:
- (a) the Special Prosecutor for the purposes of, or in connection with, the performance by the Special Prosecutor of the duties of his or her office; or
 - (b) to another person or employee under the control of the Special Prosecutor, for the purposes of, or in connection with, the performance by that other person or employee of the duties of his or her office or employment, as the case may be.

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

52 Subsection 16(4G)

Omit “(4A)”, substitute “(4AAA)”.

53 Subsection 16(4H)

Omit “(4E)”, substitute “(4EB), (4ED) or (4EE)”.

54 Subsection 16(4J)

Omit “, (4E), (4F), (4FA) or (4FB)”, substitute “, (4AAA), (4E), (4EB), (4EE), (4FAA), (4FAB), (4FAAA), (4FAAB), (4FBA) or (4FBB)”.

55 Subsection 16(4JA)

Omit “or subsection (4FA) or (4FB)”, substitute “or subsection (4FAAA), (4FAAB), (4FBA) or (4FBB)”.

56 Subsection 16(4JB)

Omit “, except for the purposes of, or in connection with, the prosecution of a person for a tax-related offence”.

57 After subsection 16(4JB)

Insert:

- (4JC) Subsection (4JB) does not apply to the extent that the person makes the record of the information, or divulges or communicates the information, for the purposes of, or in connection with, the prosecution of a person for a tax-related offence.

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

58 Paragraph 16(5C)(a)

Omit “except in the performance of a duty as an officer or employee of the Commonwealth,”.

59 After subsection 16(5C)

Insert:

(5CA) Paragraph (5C)(a) does not apply to the extent that the person makes the record of the information, or divulges or communicates the information, in the performance of a duty as an officer or employee of the Commonwealth.

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

60 After subsection 102AAZG(2)

Insert:

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

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

61 At the end of subsection 102AAZG(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*.

62 At the end of subsection 102AAZG(7)

Add:

Note 1: The defence under subsection (7) does not apply in relation to offences under Part 2.4 of the *Criminal Code*.

Note 2: A defendant bears a legal burden in relation to the matters in subsection (7), see section 13.4 of the *Criminal Code*.

63 After subsection 124ZADA(3)

Insert:

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

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

64 At the end of section 124ZADB

Add:

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

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

65 Paragraph 128AE(2A)(a)

Omit “8L, 8N, 8P, 8Q, 8T or 8U of the *Taxation Administration Act 1953*”, substitute “8L, 8N, 8Q, 8T or 8U of the *Taxation Administration Act 1953*, or against Division 136 or 137 of the *Criminal Code* in relation to a taxation law (within the meaning of the *Taxation Administration Act 1953*)”.

66 Paragraph 214A(2)(e)

Omit “8P,”.

67 Section 251A (subparagraph (b)(i) of the definition of *serious taxation offence*)

Omit “, 7 or 7A”.

68 Section 251A (subparagraph (b)(ii) of the definition of *serious taxation offence*)

Repeal the subparagraph, substitute:

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

69 Paragraph 251K(1)(a)

Omit “8P, 8T or 8U of the *Taxation Administration Act 1953*”, substitute “8N, 8T or 8U of the *Taxation Administration Act 1953*, or against Division 136 or 137 of the *Criminal Code* in relation to a taxation law (within the meaning of the *Taxation Administration Act 1953*)”.

70 Subparagraph 251K(1)(b)(i)

Omit “, 7 or 7A”.

71 Subparagraph 251K(1)(b)(ii)

Repeal the subparagraph, substitute:

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

72 At the end of section 251KG

Add:

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

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

73 At the end of section 251KH

Add:

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

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

74 After subsection 251KJ(1)

Insert:

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

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

75 At the end of subsection 251KJ(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*.

76 After subsection 251KK(2)

Insert:

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

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

77 Subsection 251N(2)

Omit “except under the supervision and control of a registered nominee of the partnership or company”.

78 Subsection 251N(2A)

Repeal the subsection, substitute:

(2A) Subsection (2) does not apply to the extent that the person does the thing under the supervision and control of a registered nominee of the partnership or company.

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

(2B) A natural person who is registered as a tax agent must not allow any person to do anything specified in paragraph (1)(a) or (b).

Penalty: \$1,000.

(2C) Subsection (2B) does not apply to the extent that the person does the thing under the supervision and control of:

- (a) the tax agent; or
- (b) a registered nominee of the tax agent.

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

79 After subsection 252(4)

Insert:

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

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

80 After subsection 252A(1)

Insert:

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

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

81 At the end of subsection 262A(1AA)

Add:

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

82 At the end of subsection 262A(4AAA)

Add:

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

83 At the end of subsection 262A(4ACA)

Add:

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

84 At the end of subsection 262A(5)

Add:

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

85 After subsection 262A(5)

Insert:

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

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

86 After subsection 264AA(1)

Insert:

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

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

87 At the end of section 465

Add:

(2) An offence under section 462, 462A, 463, 464 or 464A is an offence of strict liability.

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

88 At the end of section 621

Add:

(2) An offence under section 615, 616, 617, 618, 619 or 620 is an offence of strict liability.

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

89 Subsection 245-265(8) in Schedule 2C

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

90 After subsection 245-265(8) in Schedule 2C

Insert:

(8A) Subsection (8) does not apply to the extent that the person has a reasonable excuse.

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

91 Subsection 393-30(3) in Schedule 2G (note)

Omit “, 8N or 8P”, substitute “or 8N”.

Part 7—Income Tax Assessment Act 1997

92 After subsection 41-50(4)

Insert:

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

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

93 At the end of section 41-55

Add:

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

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

94 After subsection 121-20(5)

Insert:

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

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

95 After subsection 121-25(2)

Insert:

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

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

96 After subsection 165-115ZC(5)

Insert:

Offences are strict liability

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

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

97 Subsection 387-205(2)

Omit “, without reasonable excuse,”.

98 After subsection 387-205(2)

Insert:

(2A) Subsection (2) does not apply to the extent that the person has a reasonable excuse.

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

99 Paragraph 387-205(3)(c)

Omit “, without reasonable excuse,”.

100 After subsection 387-205(3)

Insert:

(3A) Paragraph (3)(c) does not apply to the extent that the person has a reasonable excuse.

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

101 After the heading to Part 5-35

Insert:

Division 905—Offences

905-5 Application of the *Criminal Code*

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

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

Part 8—Petroleum Resource Rent Tax Assessment Act 1987

102 At the end of Part I

Add:

1A Application of the *Criminal Code*

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

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

103 Subsection 17(3)

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

104 After subsection 17(3)

Insert:

(3A) Subsection (3) does not apply to the extent that the person makes the record of the information, or divulges or communicates the information, for the purposes of this Act or in the performance of the person’s duties as an officer.

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

105 At the end of subsection 17(5)

Add:

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

106 Subsection 45A(5)

Omit “, without reasonable excuse,”.

107 After subsection 45A(5)

Insert:

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

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

108 Before subsection 45A(6)

Insert:

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

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

109 Subsection 45B(5)

Omit “, without reasonable excuse,”.

110 After subsection 45B(5)

Insert:

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

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

111 Before subsection 45B(6)

Insert:

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

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

112 After subsection 61(1)

Insert:

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

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

113 After subsection 112(2)

Insert:

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

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

114 At the end of subsection 112(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*.

115 At the end of subsection 112(4) (before the penalty)

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*.

Part 9—Product Grants and Benefits Administration Act 2000

116 Section 29 (note)

Repeal the note, substitute:

Note: Recklessly making a false statement can be an offence against section 8N of the *Taxation Administration Act 1953*.

117 Section 30 (note)

Repeal the note, substitute:

Note: Recklessly making a false statement can be an offence against section 8N of the *Taxation Administration Act 1953*.

118 Subsection 43(2)

Omit “, 8N or 8P of the *Taxation Administration Act 1953*”, substitute “or 8N of the *Taxation Administration Act 1953*, or Division 136 or 137 of the *Criminal Code*”.

Part 10—Spirits Act 1906

119 After section 4

Insert:

5 Application of the *Criminal Code*

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

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

120 Section 15

Omit “except as allowed by the regulations, ”.

121 At the end of section 15

Add:

(2) Paragraph (1)(b) does not apply to the extent that the refining or distillation is allowed by the regulations.

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

122 At the end of subsection 16(2)

Add:

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

Part 11—Superannuation Guarantee (Administration) Act 1992

123 At the end of Part 1

Add:

5C Application of the *Criminal Code*

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

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

124 Subsection 45(2)

Repeal the subsection, substitute:

- (2) Subject to subsection (3), a person to whom this section applies must not:
- (a) make a record of any protected information; or
 - (b) whether directly or indirectly, divulge or communicate to a person any protected information concerning another person.

Penalty: Imprisonment for 2 years.

- (2A) Subsection (2) does not apply to the extent that the record is made, or the information divulged or communicated:
- (a) under or for the purposes of this Act; or
 - (b) in the performance of duties, as a person to whom this section applies, under or in relation to this Act.

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

125 At the end of subsection 79(5)

Add:

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

126 Subsection 79(6)

Omit “, without reasonable excuse,”.

127 After subsection 79(6)

Insert:

(6A) Subsection (6) does not apply to the extent that the person has a reasonable excuse.

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

128 At the end of section 79

Add:

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

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

Part 12—Taxation (Interest on Overpayments and Early Payments) Act 1983

129 At the end of Part I

Add:

3B Application of the *Criminal Code*

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

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

130 Subsection 8(2)

Omit “except for the purposes of this Act or otherwise than in the performance of his or her duties as an officer, and”.

131 After subsection 8(2)

Insert:

(2A) Subsection (2) does not apply to the extent that the person makes the record of the information, or divulges or communicates the information, for the purposes of this Act or in the performance of the person’s duties as an officer.

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

Part 13—Tobacco Charges Assessment Act 1955

132 At the end of Part I

Add:

7A Application of the *Criminal Code*

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

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

133 Subsection 10(2)

Omit “except in the performance of a duty as an officer, and”.

134 After subsection 10(2)

Insert:

(2A) Subsection (2) does not apply to the extent that the person makes the record of the information, or divulges or communicates the information, in the performance of the person’s duties as an officer.

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

135 At the end of subsection 10(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*.

136 After subsection 40(2A)

Insert:

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

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

Part 14—Wool Tax (Administration) Act 1964

137 At the end of Part I

Add:

4A Application of the *Criminal Code*

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

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

138 Subsection 8(2)

Omit “except in the performance of a duty as an officer, and”.

139 After subsection 8(2)

Insert:

(2A) Subsection (2) does not apply to the extent that the person makes the record of the information, or divulges or communicates the information, in the performance of the person’s duties as an officer.

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

140 At the end of subsection 8(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*.

141 After subsection 13(1)

Insert:

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

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

142 After subsection 14(1)

Insert:

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

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

143 After subsection 15(1)

Insert:

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

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

144 After subsection 16(1)

Insert:

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

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

145 After subsection 21(3)

Insert:

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

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

146 After subsection 22(3)

Insert:

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

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

147 After subsection 22A(3)

Insert:

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

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

148 After subsection 22B(2)

Insert:

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

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

149 After subsection 23(5)

Insert:

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

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

150 Section 24

Omit “Except in pursuance of an arrangement with the Commissioner, a”, substitute “A”.

151 Paragraph 24(a)

Omit “unless he is in possession of a prescribed certificate, or a certificate of appraisal, in respect of the wool”.

152 Paragraph 24(b)

Omit “unless he is in possession of a prescribed certificate in respect of the wool”.

153 At the end of section 24

Add:

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

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

- (3) Subsection (1) does not apply to the extent that the person’s actions were in pursuance of an arrangement with the Commissioner.

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

- (4) Paragraph (1)(a) does not apply if the person is in possession of a prescribed certificate, or a certificate of appraisal, in respect of the wool.

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

- (5) Paragraph (1)(b) does not apply if the person is in possession of a prescribed certificate in respect of the wool.

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

154 Section 25

Omit “, unless he is in possession of a prescribed certificate in respect of the wool”.

155 At the end of section 25

Add:

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

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

- (3) Subsection (1) does not apply to the extent that the person is in possession of a prescribed certificate in respect of the wool.

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

156 At the end of section 26

Add:

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

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

157 Subsection 27(1)

Omit “unless he is in possession of a certificate in respect of the wool”.

158 After subsection 27(1)

Insert:

- (1A) Subsection (1) does not apply to the extent that the person is in possession of a certificate in respect of the wool.

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

159 After subsection 27(2)

Insert:

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

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

160 Paragraph 27A(1)(d)

Omit “knowingly”.

161 After subsection 86(6)

Insert:

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

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

162 After subsection 89(1)

Insert:

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

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

163 At the end of subsection 89(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*.

Schedule 5—Amendment of other legislation

Australian Securities and Investments Commission Act 2001

1 At the end of Division 3 of Part 1

Add:

4AA *Criminal Code* does not apply

Chapter 2 of the *Criminal Code* does not apply to any offences against this Act.

2 Section 4AA

Repeal the section.

Corporations Act 2001

3 Section 769A

Repeal the section, substitute:

769A Part 2.5 of *Criminal Code* does not apply

Despite section 1308A, Part 2.5 of the *Criminal Code* does not apply to any offences based on the provisions of this Chapter.

Note: For the purposes of offences based on provisions of this Chapter, corporate criminal responsibility is dealt with by section 769B, rather than by Part 2.5 of the *Criminal Code*.

4 At the end of Part 7.14

Add:

1119A *Criminal Code* does not apply

Despite section 1308A, Chapter 2 of the *Criminal Code* does not apply to any offences based on provisions of this Chapter.

5 At the end of Part 8.8

Add:

1273A *Criminal Code* does not apply

Despite section 1308A, Chapter 2 of the *Criminal Code* does not apply to any offences based on provisions of this Chapter.

Financial Services Reform Act 2001

6 Subsection 2(2)

Omit “(3) to (7)”, substitute “(3) to (6)”.

7 Subsection 2(7)

Repeal the subsection.

8 Item 250 of Schedule 1

Repeal the item.

Insurance (Agents and Brokers) Act 1984

9 After section 5

Insert:

5A *Criminal Code* does not apply

Chapter 2 of the *Criminal Code* does not apply to any offences against this Act.

Treasury Legislation Amendment (Application of Criminal Code) Act (No. 3) 2001

10 Subsection 2(2)

Repeal the subsection.

Schedule 5 Amendment of other legislation

*[Minister's second reading speech made in—
House of Representatives on 5 April 2001
Senate on 27 August 2001]*

(60/01)