



Transport and Regional Services Legislation Amendment (Application of Criminal Code) Act 2002

No. 8, 2002

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

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No. 8, 2002

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

[Assented to 4 April 2002]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Transport and Regional Services Legislation Amendment (Application of Criminal Code) Act 2002*.

2 Commencement

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

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

4 Application of amendments

- (1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.
- (2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.

Schedule 1—Amendments

Aircraft Noise Levy Collection Act 1995

1 Subsection 15(4)

Omit “knowingly”.

Air Navigation Act 1920

2 Subsection 19(3)

Omit “, unless the operator has a reasonable excuse,”.

3 After subsection 19(3)

Insert:

(3A) Subsection (3) does not apply if the operator 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*).

4 Subsection 19(5)

Omit “intentionally or recklessly”.

5 Subsection 20(2)

Omit “, without reasonable excuse,”.

6 After subsection 20(2)

Insert:

(2AA) Subsection (2) does not apply if the operator has a reasonable excuse.

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

7 Subsection 20(2A)

Omit “intentionally or recklessly”.

8 Subsection 20(5)

Omit “, without reasonable excuse,”.

9 After subsection 20(5)

Insert:

(5A) Subsection (5) does not apply if the operator 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*).

10 Subsection 20A(2)

Omit “, without reasonable excuse,”.

11 Subsection 20A(4)

Omit “, without reasonable excuse,”.

12 Subsection 20A(9)

Omit “, without reasonable excuse,”.

13 After subsection 20A(9)

Insert:

(9A) Subsection (2), (4) or (9) does not apply if the operator has a reasonable excuse.

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

14 Subsection 21B(2)

Omit “, without reasonable excuse,”.

15 After subsection 21B(2)

Insert:

(2A) Subsection (2) does not apply if the authority 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*).

16 Subsection 21C(3)

Omit “, without reasonable excuse,”.

17 After subsection 21C(3)

Insert:

(3A) Subsection (3) does not apply if the authority 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*).

18 Subsection 22(1)

Omit “intentionally or recklessly” (wherever occurring).

19 Subsection 22A(1)

Omit “intentionally or recklessly”.

20 Subsection 22A(2)

Omit “intentionally or recklessly”.

21 Subsection 22A(3)

Omit “intentionally or recklessly”.

22 Subsection 22A(6)

Omit “, without reasonable excuse,”.

23 Subsection 22A(8)

Omit “, without reasonable excuse,”.

24 Subsection 22A(12)

Omit “, without reasonable excuse,”.

25 After subsection 22A(12)

Insert:

(12A) Subsection (6), (8) or (12) does not apply if the authority has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (12A) (see subsection 13.3(3) of the *Criminal Code*).

26 Subsection 22B(4)

Omit “, without reasonable excuse,”.

27 After subsection 22B(4)

Insert:

(4A) Subsection (4) does not apply if the officer 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*).

28 Subsection 22C(2)

Omit “, without reasonable excuse,”.

29 Subsection 22C(4)

Omit “, without reasonable excuse,”.

30 Subsection 22C(5)

Omit “, without reasonable excuse,”.

31 Subsection 22C(7)

Omit “, without reasonable excuse,”.

32 Subsection 22C(9)

Omit “, without reasonable excuse,”.

33 After subsection 22C(11)

Insert:

(11A) Subsection (2), (4), (5), (7) or (9) does not apply if the operator has a reasonable excuse.

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

34 Subsection 22D(1)

Omit “intentionally or recklessly”.

35 Subsection 22D(4)

Omit “, without reasonable excuse,”.

36 After subsection 22D(4)

Insert:

(4A) Subsection (4) does not apply if the operator 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*).

37 Subsection 22F(2)

Omit “, without reasonable excuse,”.

38 After subsection 22F(2)

Insert:

(2A) Subsection (2) does not apply if the employee 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*).

39 Subsection 22G(3)

Omit “, without reasonable excuse,”.

40 After subsection 22G(3)

Insert:

(3A) Subsection (3) does not apply if the operator 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*).

41 Subsection 22H(3)

Omit “, without reasonable excuse,”.

42 After subsection 22H(3)

Insert:

(3A) Subsection (3) does not apply if the operator 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*).

43 Subsection 22J(3)

Omit “, without reasonable excuse,”.

44 After subsection 22J(3)

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*).

45 Subsection 22L(1)

Omit “, without reasonable excuse,”.

46 After subsection 22L(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*).

47 Subsection 22W(3)

Omit “, without reasonable excuse,”.

48 After subsection 22W(3)

Insert:

(3A) Subsection (3) does not apply if the operator 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*).

49 Subsection 22X(4)

Omit “, without reasonable excuse,”.

50 After subsection 22X(4)

Insert:

(4A) Subsection (4) does not apply if the operator 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*).

51 Subsection 22Y(2)

Omit “, without reasonable excuse,”.

52 After subsection 22Y(2)

Insert:

(2A) Subsection (2) does not apply if the operator 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*).

53 Subsection 22ZB(2)

Omit “, without reasonable excuse,”.

54 After subsection 22ZB(2)

Insert:

(2A) Subsection (2) does not apply if the operator 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*).

55 Subsection 22ZJ(2)

Omit “, without reasonable excuse,”.

56 After subsection 22ZJ(2)

Insert:

(2A) Subsection (2) does not apply if the operator 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*).

57 Subsection 22ZL(2)

Omit “, without reasonable excuse,”.

58 After subsection 22ZL(2)

Insert:

(2A) Subsection (2) does not apply if the operator 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*).

59 Subsection 22ZM(2)

Omit “, without reasonable excuse,”.

60 After subsection 22ZM(2)

Insert:

(2A) Subsection (2) does not apply if the operator 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*).

61 Subsection 22ZN(2)

Omit “, without reasonable excuse,”.

62 After subsection 22ZN(2)

Insert:

(2A) Subsection (2) does not apply if the operator 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*).

63 Subsection 22ZO(2)

Omit “, without reasonable excuse,”.

64 After subsection 22ZO(2)

Insert:

(2A) Subsection (2) does not apply if the operator 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*).

65 Subsection 22ZP(2)

Omit “, without reasonable excuse,”.

66 After subsection 22ZP(2)

Insert:

(2A) Subsection (2) does not apply if the operator 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*).

67 Subsection 22ZQ(3)

Omit “, without reasonable excuse,”.

68 After subsection 22ZQ(3)

Insert:

(3A) Subsection (3) does not apply if the operator 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*).

69 Subsection 22ZR(1)

Omit “intentionally or recklessly”.

70 Subsection 22ZS(9)

Omit “, without reasonable excuse,”.

71 After subsection 22ZS(9)

Insert:

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

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

72 Subsection 22ZV(3)

Omit “, without reasonable excuse,”.

73 After subsection 22ZV(3)

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*).

Airports Act 1996

74 Subsection 132(2)

Omit “knowingly or recklessly”.

75 After subsection 132(2)

Insert:

- (2A) Strict liability applies to the element of an offence against subsection (2) that regulations were made for the purposes of subsection (1).

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

Civil Aviation Act 1988

76 Subsections 20AA(3), (4) and (5)

Repeal the subsections (but not the penalty), substitute:

- (3) An owner, operator, hirer (not being the Crown) or pilot of an Australian aircraft must not commence a flight or permit a flight to commence if either or both of the following paragraphs apply:
- (a) a certificate of airworthiness (however called) under the regulations is not in force in respect of the aircraft and the regulations do not authorise the flight without the certificate;
 - (b) a maintenance release under the regulations that covers the duration of the flight is not in force in respect of the aircraft and the regulations do not authorise the flight without the release.

77 After subsection 23(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*.

78 Paragraph 24(1)(a)

Omit “interfere”, substitute “do any act that interferes”.

79 Subsection 24(2)

Omit “tamper”, substitute “do any act that tampers”.

80 Subsection 32AJ(2)

Omit “, without reasonable excuse,”.

81 After subsection 32AJ(2)

Insert:

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

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

*[Minister’s second reading speech made in—
House of Representatives on 20 February 2002
Senate on 14 March 2002]*

(45/02)