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Prime Minister and Cabinet Legislation Amendment (Application of Criminal Code) Regulations 2001 (No. 1)¹

Statutory Rules 2001 No. 1²

328

I, PETER JOHN HOLLINGWORTH, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Public Employment (Consequential and Transitional) Amendment Act 1999* and the *Public Service Act 1999*.

Dated - 6 DEC 2001 2001

PETER HOLLINGWORTH
Governor-General

By His Excellency's Command

BILL HEFFERNAN
Parliamentary Secretary to Cabinet

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1 Name of Regulations

These Regulations are the *Prime Minister and Cabinet Legislation Amendment (Application of Criminal Code) Regulations 2001 (No. 1)*.

2 Commencement

These Regulations commence on 15 December 2001.

3 Amendment of Merit Protection (Australian Government Employees) Regulations

Schedule 1 amends the Merit Protection (Australian Government Employees) Regulations, as continued in force by subregulation 4.2 (4) of the *Public Employment (Consequential and Transitional) Regulations 1999*.

4 Amendment of *Public Service Regulations 1999*

Schedule 2 amends the *Public Service Regulations 1999*.

2	<i>Prime Minister and Cabinet Legislation Amendment (Application of Criminal Code) Regulations 2001 (No. 1)</i>	2001, 1	328 1
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Schedule 1 **Amendments of Merit
Protection (Australian
Government Employees)
Regulations**
(regulation 3)

[1] Subregulation 18 (1)

omit

, without reasonable excuse

[2] After subregulation 18 (1), including the note

insert

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

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

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

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

[3] Subregulation 30A (1)

omit

, without reasonable excuse

[4] After subregulation 30A (1), including the note

insert

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

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

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

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

Schedule 2 **Amendments of *Public Service Regulations 1999***
(regulation 4)

[1] Regulation 4.12

omit

A person

insert

(1) A person

[2] Regulation 4.12

insert

(2) Strict liability applies to the physical element of an offence against subregulation (1) that the functions being carried out by the ISAC were functions under this Part.

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

[3] Regulation 5.21

omit

A person

insert

(1) A person

[4] Regulation 5.21*insert*

- (2) Strict liability applies to the physical element of an offence against subregulation (1) that the functions being carried out by the PRC were functions under this Division.

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

[5] Regulation 5.37*omit*

A person

insert

- (1) A person

[6] Regulation 5.37*insert*

- (2) Strict liability applies to the physical element of an offence against subregulation (1) that the functions being carried out by the person or committee were functions under this Division.

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

[7] After subregulation 6.3 (2), including the penalty*insert*

- (2A) Strict liability applies to the following physical elements of an offence against subregulation (2):
- (a) that the duties performed by the person were duties as a person described in subregulation (1);
 - (b) that the information was disclosed or obtained under paragraph 41 (1) (c) of the Act.

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

[8] After subregulation 7.6 (2), including the penalty*insert*

(2A) Strict liability applies to the following physical elements of an offence against subregulation (2):

- (a) that the duties performed by the person were duties as a person described in subregulation (1);
- (b) that the information was disclosed or obtained under section 33 or paragraph 50 (1) (a) of the Act;
- (c) that the investigation was under regulation 7.2;
- (d) that the review was under regulation 7.3.

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

Notes

1. These Regulations amend (in Schedule 1) Statutory Rules 1985 No. 176, as amended by 1985 No. 380; 1986 No. 3; 1987 Nos. 91 and 330; 1989 Nos. 351 and 411; 1995 No. 247.

These Regulations also amend (in Schedule 2) Statutory Rules 1999 No. 300, as amended by 2000 No. 359.

2. Notified in the *Commonwealth of Australia Gazette* on 2001.

13 December