

1998-1999-2000-2001

The Parliament of the
Commonwealth of Australia

THE SENATE

As read a third time

**Law and Justice Legislation Amendment
(Application of Criminal Code) Bill 2001**

No. , 2001

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

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Contents

1	Short title.....	1
2	Commencement.....	1
3	Schedule(s).....	2
4	Application of amendments.....	3
Schedule 1—Amendments commencing on the 28th day after Royal Assent		4
	<i>Crimes Act 1914</i>	4
	<i>Criminal Code Act 1995</i>	5
Schedule 2—Australian Federal Police Act 1979		6
Schedule 3—Australian Protective Service Act 1987		7
Schedule 4—Australian Security Intelligence Organisation Act 1979		8
Schedule 5—Bankruptcy Act 1966		9
Schedule 6—Classification (Publications, Films and Computer Games) Act 1995		15
Schedule 7—Commerce (Trade Descriptions) Act 1905		16
Schedule 8—Complaints (Australian Federal Police) Act 1981		17
Schedule 9—Copyright Act 1968		19
Schedule 10—Crimes Act 1914		21
Schedule 11—Crimes (Aviation) Act 1991		44
Schedule 12—Crimes (Biological Weapons) Act 1976		51
Schedule 13—Crimes (Currency) Act 1981		52
Schedule 14—Crimes (Foreign Incursions and Recruitment) Act 1978		56
Schedule 15—Crimes (Hostages) Act 1989		58
Schedule 16—Crimes (Internationally Protected Persons) Act 1976		59
Schedule 17—Crimes (Ships and Fixed Platforms) Act 1992		61

Schedule 18—Crimes (Superannuation Benefits) Act 1989	65
Schedule 19—Crimes (Torture) Act 1988	66
Schedule 20—Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Act 1990	67
Schedule 21—Customs Act 1901	72
Schedule 22—Customs Administration Act 1985	96
Schedule 23—Defence Force Discipline Appeals Act 1955	97
Schedule 24—Disability Discrimination Act 1992	99
Schedule 25—Evidence Act 1995	101
Schedule 26—Evidence and Procedure (New Zealand) Act 1994	102
Schedule 27—Family Law Act 1975	103
Schedule 28—Federal Court of Australia Act 1976	106
Schedule 29—Financial Transaction Reports Act 1988	108
Schedule 30—Geneva Conventions Act 1957	112
Schedule 31—High Court of Australia Act 1979	113
Schedule 32—Human Rights and Equal Opportunity Commission Act 1986	114
Schedule 33—International War Crimes Tribunals Act 1995	117
Schedule 34—Marriage Act 1961	118
Schedule 35—Mutual Assistance in Business Regulation Act 1992	120
Schedule 36—Mutual Assistance in Criminal Matters Act 1987	121
Schedule 37—Native Title Act 1993	122
Schedule 38—Parliamentary Privileges Act 1987	125
Schedule 39—Passenger Movement Charge Collection Act 1978	126
Schedule 40—Privacy Act 1988	128

Schedule 41—Proceeds of Crime Act 1987	130
Schedule 42—Public Order (Protection of Persons and Property) Act 1971	132
Schedule 43—Racial Discrimination Act 1975	140
Schedule 44—Service and Execution of Process Act 1992	142
Schedule 45—Sex Discrimination Act 1984	143
Schedule 46—Statutory Declarations Act 1959	145
Schedule 47—Telecommunications (Interception) Act 1979	146
Schedule 48—Transfer of Prisoners Act 1983	148
Schedule 49—War Crimes Act 1945	149
Schedule 50—Witness Protection Act 1994	150
Schedule 51—Amendments (except for Customs Act) commencing on the day mentioned in subsection 2.2(2) of the Criminal Code	151
<i>Commonwealth Places (Application of Laws) Act 1970</i>	151
<i>Crimes Act 1914</i>	151
<i>Transfer of Prisoners Act 1983</i>	151

1 THIS bill originated in the Senate; and,
2 having this day passed, is now ready for
3 presentation to the House of
4 Representatives for its concurrence.

5 HARRY EVANS
6 *Clerk of the Senate*

7 The Senate
8 1 March 2001

9 **A Bill for an Act relating to the application of the**
10 ***Criminal Code* to certain offences, and for related**
11 **purposes**

12 The Parliament of Australia enacts:

13 **1 Short title**

14 This Act may be cited as the *Law and Justice Legislation*
15 *Amendment (Application of Criminal Code) Act 2001*.

16 **2 Commencement**

17 (1) Subject to this section, this Act commences at the later of the
18 following times:

19 (a) immediately after the commencement of item 15 of
20 Schedule 1 to the *Criminal Code Amendment (Theft, Fraud,*
21 *Bribery and Related Offences) Act 2000;*

- 1 (b) the start of the 28th day after the day on which this Act
2 receives the Royal Assent.
- 3 (2) Schedule 1 commences on the 28th day after the day on which this
4 Act receives the Royal Assent.
- 5 (3) Schedules 21 and 51 commence on the day mentioned in
6 subsection 2.2(2) of the *Criminal Code*.
- 7 (4) If section 1 of this Act has not commenced before the
8 commencement of item 78 of Schedule 1 to the *Crimes Amendment*
9 *(Forensic Procedures) Act 2001*, items 20, 21 and 22 of
10 Schedule 10 to this Act do not commence.
- 11 (5) If section 1 of this Act has not commenced before the
12 commencement of Parts 2, 5 and 6 of Schedule 1 to the *Human*
13 *Rights Legislation Amendment Act 2001*, the following provisions
14 of this Act do not commence:
15 (a) items 5, 6 and 7 of Schedule 24;
16 (b) items 3, 4 and 5 of Schedule 43;
17 (c) items 7, 8 and 9 of Schedule 45.
- 18 (6) If item 2 of Schedule 1 to the *Human Rights Legislation*
19 *Amendment Act 2001* commences before the commencement of
20 Schedule 32 to this Act, this Act has effect as if the amendments of
21 the *Human Rights and Equal Opportunities Commission Act 1986*
22 contained in Schedule 32 to this Act were amendments of the
23 *Human Rights and Responsibilities Commission Act 1986*.
- 24 (7) If item 106 of Schedule 1 to the *Privacy Amendment (Private*
25 *Sector) Act 2000* has not commenced before the commencement of
26 section 1 of this Act, item 10 of Schedule 40 to this Act
27 commences immediately after the commencement of the
28 first-mentioned item.
- 29 (8) If paragraph 234(1)(c) of the *Customs Act 1901* is repealed by
30 another Act on or before the commencement of Schedule 21 to this
31 Act, items 122 and 124 of that Schedule do not commence.

3 Schedule(s)

32 Subject to section 2, each Act that is specified in a Schedule to this
33 Act is amended or repealed as set out in the applicable items in the
34

1 Schedule concerned, and any other item in a Schedule to this Act
2 has effect according to its terms.

3 **4 Application of amendments**

- 4 (1) Subject to subsection (3), each amendment made by this Act
5 applies to acts and omissions that take place after the amendment
6 commences.
- 7 (2) For the purposes of this section, if an act or omission is alleged to
8 have taken place between 2 dates, one before and one on or after
9 the day on which a particular amendment commences, the act or
10 omission is alleged to have taken place before the amendment
11 commences.
- 12 (3) Subsection (1) does not apply to amendments made by this Act to
13 the *War Crimes Act 1945*.

1
2 **Schedule 1—Amendments commencing on**
3 **the 28th day after Royal Assent**
4

5 ***Crimes Act 1914***

6 **1 At the end of Part I**

7 Add:

8 **3BB Application of sections 4, 5, 7, 7A, 14, 15D and 86**

9 Sections 4, 5, 7, 7A, 14, 15D and 86 do not apply in relation to an
10 offence against a provision of this Act, or of any other law of the
11 Commonwealth, being an offence to which Chapter 2 of the
12 *Criminal Code* applies.

13 **2 Subsection 4D(1)**

14 Repeal the subsection, substitute:

15 (1) Except so far as the contrary intention appears, a penalty, whether
16 pecuniary or otherwise, set out at the foot of any provision of an
17 Act as described in a paragraph of subsection (1A) indicates:

- 18 (a) if the provision expressly creates an offence—that the
19 offence is punishable on conviction by a penalty not
20 exceeding the penalty so set out; or
21 (b) in any other case—that contravention of the provision is an
22 offence against the provision, punishable on conviction by a
23 penalty not exceeding the penalty so set out.

24 (1A) Subsection (1) applies to a penalty set out:

- 25 (a) at the foot of a section of an Act; or
26 (b) at the foot of a subsection of an Act, but not at the foot of the
27 section containing the subsection; or
28 (c) at the foot of a clause of any Schedule to an Act; or
29 (d) at the foot of a subclause of any Schedule to an Act, but not
30 at the foot of the clause containing the subclause.

31 (1B) Subsection (1) does not affect the operation of subsection 4B(2),
32 (2A) or (3).

1 ***Criminal Code Act 1995***

2 **3 After section 3**

3 Insert:

4 **3AA Application of the *Criminal Code* to regulations**

- 5 (1) Despite section 2.2 of the *Criminal Code*, or anything in any other
6 Act, if the Governor-General has power to make regulations under
7 an Act, that power is taken to include a power to make regulations
8 applying Chapter 2 of the *Criminal Code* on and after a specified
9 day to offences against:
- 10 (a) all regulations under that Act; or
11 (b) a specified class of regulations under that Act; or
12 (c) one or more specified regulations under that Act;
13 whether those regulations are made before or after the
14 commencement of this section.
- 15 (2) The day specified in regulations made under subsection (1) must
16 not:
- 17 (a) occur before the day on which the regulations are made; or
18 (b) be the day specified in subsection 2.2(2) of the *Criminal*
19 *Code*, or occur after that day.
- 20 (3) This section ceases to have effect, and is taken to have been
21 repealed, on the day specified in subsection 2.2(2) of the *Criminal*
22 *Code*.

1
2 **Schedule 2—Australian Federal Police Act**
3 **1979**
4

5 **1 At the end of Part I**

6 Add:

7 **5B Application of the *Criminal Code***

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

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

12 **2 Subsection 49M(1)**

13 Omit “knowingly”, substitute “intentionally”.

14 **3 Paragraph 63(b)**

15 Omit “without lawful excuse,”.

16 **4 Paragraphs 63(c) and (d)**

17 Omit “, without lawful excuse,”.

18 **5 At the end of section 63**

19 Add:

20 (2) Paragraphs (1)(b), (c) and (d) do not apply if the person has a
21 reasonable excuse.

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

24 **6 After subsection 64A(1)**

25 Insert:

26 (1A) Subsection (1) is an offence of strict liability.

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

1
2 **Schedule 3—Australian Protective Service Act**
3 **1987**
4

5 **1 At the end of Part I**

6 Add:

7 **4A Application of the *Criminal Code***

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

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

12 **2 Paragraph 13(2)(b)**

13 Omit “, 7 or 7A of the *Crimes Act 1914*”, substitute “of the *Crimes Act*
14 *1914*, or section 11.1 or 11.4 of the *Criminal Code*,”.

15 **3 After subsection 19(3)**

16 Insert:

17 (3A) Subsection (3) is an offence of strict liability.

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

19 **4 At the end of section 19**

20 Add:

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

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

23 **5 After subsection 20(4)**

24 Insert:

25 (4A) Subsection (4) is an offence of strict liability.

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

1
2 **Schedule 4—Australian Security Intelligence**
3 **Organisation Act 1979**
4

5 **1 After section 4**

6 Insert:

7 **4A Application of the *Criminal Code***

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

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

12 **2 Subsection 92M(1)**

13 Omit “, without reasonable excuse”.

14 **3 Paragraph 92M(2)(b)**

15 Omit “, without reasonable excuse”.

16 **4 Subsection 92M(3)**

17 Omit “, without reasonable excuse,”.

18 **5 After subsection 92M(3)**

19 Insert:

20 (3A) Subsections (1), (2) and (3) do not apply if the person has a
21 reasonable excuse.

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

24 **6 Subsection 92M(5)**

25 Omit “references”, substitute “reference”.

Schedule 5—Bankruptcy Act 1966

1 After section 7

Insert:

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.

2 After subsection 54(2)

Insert:

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

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

3 Subsection 56F(1)

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

4 After subsection 56F(1)

Insert:

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

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

(1B) Subsection (1) does not apply if the member has a reasonable excuse.

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

5 After subsection 80(1)

Insert:

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

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

6 Subsection 155J(1)

1 Omit “, unless the person has a reasonable excuse”.

2 **7 After subsection 155J(1)**

3 Insert:

4 (1A) Subsection (1) is an offence of strict liability.

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

6 (1B) Subsection (1) does not apply if the person has a reasonable
7 excuse.

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

10 **8 At the end of section 168**

11 Add:

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

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

14 **9 At the end of section 173**

15 Add:

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

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

18 **10 After subsection 175(5)**

19 Insert:

20 (5A) Subsection (5) is an offence of strict liability.

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

22 **11 At the end of section 182**

23 Add:

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

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

26 **12 After subsection 246(1)**

27 Insert:

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

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

3 **13 Section 263A**

4 Omit “wilfully”, substitute “intentionally”.

5 **14 Subsection 264A(1A)**

6 Omit “, without reasonable excuse”.

7 **15 After subsection 264A(1A)**

8 Insert:

9 (1B) Subsection (1A) does not apply if the person has a reasonable
10 excuse.

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

13 **16 Subsection 264C(1)**

14 Omit “, without reasonable excuse”.

15 **17 After subsection 264C(1)**

16 Insert:

17 (1A) Subsection (1) does not apply if the person has a reasonable
18 excuse.

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

21 **18 At the end of section 264E**

22 Add:

23 (2) For the purposes of an offence against subsection (1), strict liability
24 applies to the following physical elements of circumstance of the
25 offence:

- 26 (a) that the Registrar or magistrate is a Registrar or magistrate
27 before whom an examination under this Act is being held;
28 (b) that the examination is an examination under this Act being
29 held before a Registrar or magistrate.

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

1 **19 Paragraphs 265(1)(a), (b) and (ca)**

2 Omit “, to the best of his or her knowledge and belief,”.

3 **20 After subsection 265(1)**

4 Insert:

5 (1A) A bankrupt is taken to have complied with paragraph (1)(a), (b) or
6 (ca) if he or she has fully and truly disclosed to the best of his or
7 her knowledge and belief as required by that paragraph.

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

10 **21 Subsection 265(3)**

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

12 **22 Subsection 265A(1)**

13 Omit “, without reasonable excuse,”.

14 **23 After subsection 265A(1)**

15 Insert:

16 (1A) Subsection (1) does not apply if the person has a reasonable
17 excuse.

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

20 **24 Subsection 265A(3)**

21 Omit “, without reasonable excuse”.

22 **25 After subsection 265A(3)**

23 Insert:

24 (3A) Subsection (3) does not apply if the person has a reasonable
25 excuse.

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

28 **26 Section 267B**

29 Omit “, without reasonable excuse,”.

1 **27 At the end of section 267B**

2 Add:

3 (2) Subsection (1) does not apply if the person has a reasonable
4 excuse.

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

7 **28 Section 267D**

8 Omit “, without reasonable excuse”.

9 **29 At the end of section 267D**

10 Add:

11 (2) Subsection (1) does not apply if the person has a reasonable
12 excuse.

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

15 **30 Section 267F**

16 Omit “, without reasonable excuse”.

17 **31 At the end of section 267F**

18 Add:

19 (2) Subsection (1) does not apply if the person has a reasonable
20 excuse.

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

23 **32 Paragraphs 268(2)(a) and (ba)**

24 Omit “, to the best of his or her knowledge and belief,”.

25 **33 After subsection 268(2)**

26 Insert:

27 (2A) A debtor is taken to have complied with paragraph (2)(a) or (ba) if
28 he or she has fully and truly disclosed to the best of his or her
29 knowledge and belief as required by that paragraph.

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

3 **34 Subsection 268(3)**

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

5 **35 At the end of subsection 268(4)**

6 Add:

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

9 **36 Subsection 268(5)**

10 Omit “, to the best of his or her knowledge and belief,”.

11 **37 After subsection 268(5)**

12 Insert:

13 (5A) A debtor is taken to have complied with subsection (5) if he or she
14 has fully and truly disclosed to the best of his or her knowledge
15 and belief as required by that subsection.

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

1
2 **Schedule 6—Classification (Publications,**
3 **Films and Computer Games) Act 1995**
4

5 **1 At the end of Part 1**

6 Add:

7 **6A Application of the *Criminal Code***

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

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

12 **2 At the end of subsection 23(4)**

13 Add:

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

15 **3 At the end of subsection 24(4)**

16 Add:

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

18 **4 At the end of subsection 30(3)**

19 Add:

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

21 **5 Subsection 70(4)**

22 Omit “, without reasonable excuse,”.

23 **6 At the end of section 70**

24 Add:

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

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

27 (6) Subsection (4) does not apply if the person has a reasonable
28 excuse.

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

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Schedule 7—Commerce (Trade Descriptions) Act 1905

5
6

1 At the end of section 2

Add:

7
8

Note: Chapter 2 of the *Criminal Code* applies to this Act in the way described in section 5AA of the *Customs Act 1901*.

9
10

2 At the end of section 6

Add:

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12
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14

(2) For the purposes of an offence against subsection (1), strict liability applies to the physical element of circumstance of the offence, that the notice required to be given is notice in accordance with the regulations.

15

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

16

3 Subsection 9(2)

17

Omit “knowingly”, substitute “intentionally”.

18

4 Paragraphs 12(1)(a) and (b)

19

Omit “knowingly”, substitute “intentionally”.

1
2 **Schedule 8—Complaints (Australian Federal**
3 **Police) Act 1981**
4

5 **1 At the end of Part I**

6 Add:

7 **5B Application of the *Criminal Code***

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

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

12 **2 Paragraph 7(8)(a)**

13 Omit “without reasonable excuse,”.

14 **3 After subsection 7(8)**

15 Insert:

16 (8A) Paragraph (8)(a) does not apply if the appointee has a reasonable
17 excuse.

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

20 **4 Subsection 44(1)**

21 Omit “, without reasonable excuse”.

22 **5 After subsection 44(1)**

23 Insert:

24 (1A) Subsection (1) does not apply if the person has a reasonable
25 excuse.

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

28 **6 Paragraph 50(8)(a)**

29 Repeal the paragraph, substitute:

30 (a) fail to attend before a person when required to do so under
31 this section; or

- 1 (aa) refuse or fail to be sworn or make an affirmation, when
2 required to do so under this section; or
3 (ab) refuse or fail to furnish information, produce a document or
4 other record, or to answer a question, when required to do so
5 under this section; or

6 **7 Paragraph 50(8)(b)**

7 Omit “without reasonable excuse, wilfully”, substitute “intentionally”.

8 **8 After subsection 50(8)**

9 Insert:

10 (8A) Paragraphs (8)(a), (aa), (ab) and (b) do not apply if the person has a
11 reasonable excuse.

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

14 **9 Section 82**

15 Omit “, without reasonable excuse”.

16 **10 At the end of section 82**

17 Add:

18 (2) Subsection (1) does not apply if the person has a reasonable
19 excuse.

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

22 **11 Subsection 83(1)**

23 Omit “, without reasonable excuse,”.

24 **12 After subsection 83(1)**

25 Insert:

26 (1A) Subsection (1) does not apply if the person has a reasonable
27 excuse.

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

1
2 **Schedule 9—Copyright Act 1968**
3

4 **1 At the end of Part I**

5 Add:

6 **9A Application of the *Criminal Code***

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

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

11 **2 After subsection 47A(3)**

12 Insert:

13 (3A) Subsection (3) is an offence of strict liability.

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

15 **3 Subsection 47A(7)**

16 Omit “, without reasonable excuse,”.

17 **4 After subsection 47A(7)**

18 Insert:

19 (7A) Subsection (7) is an offence of strict liability.

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

21 (7B) Subsection (7) does not apply if the person has a reasonable
22 excuse.

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

25 **5 Subsection 172(1)**

26 Omit “without lawful excuse, and”.

27 **6 At the end of subsection 172(1)**

28 Add:

29 Penalty: 10 penalty units or imprisonment for 3 months.

1 **7 Subsection 172(2)**

2 Omit “without lawful excuse, and”.

3 **8 At the end of subsection 172(2)**

4 Add:

5 Penalty: 10 penalty units or imprisonment for 3 months.

6 **9 Subsection 172(3)**

7 Omit “, without lawful excuse,”.

8 **10 Subsection 172(3) (penalty)**

9 Omit “\$1,000”, substitute “10 penalty units”.

10 **11 At the end of section 172**

11 Add:

12 (4) Subsections (1), (2) and (3) do not apply if the person has a
13 reasonable excuse.

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

16 **12 After subsection 203E(6)**

17 Insert:

18 (6A) Subsection (6) is an offence of strict liability.

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

20 **13 Subsection 203E(10)**

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

22 **14 After subsection 203E(10)**

23 Insert:

24 (10A) Subsection (10) is an offence of strict liability.

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

26 **15 Subsection 203F(2)**

27 Omit “wilfully”, substitute “intentionally”.

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2
3

Schedule 10—Crimes Act 1914

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5

1 Subsection 3(1) (paragraph (a) of the definition of *associated offence*)

6 Repeal the paragraph, substitute:

- 7 (a) in relation to an offence against section 233B of the *Customs*
8 *Act 1901*—an ancillary offence (within the meaning of the
9 *Criminal Code*) that relates to the offence; or

10
11

2 Subsection 3(1) (paragraph (b) of the definition of *associated offence*)

12 Omit “an offence under section 5, 7 or 7A or subsection 86(1) of this
13 Act”, substitute “an ancillary offence (within the meaning of the
14 *Criminal Code*)”.

15
16

3 Subsection 3(1) (subparagraph (c)(i) of the definition of *associated offence*)

17 Omit “section 5, 7 or 7A or subsection 86(1) of this Act”, substitute “a
18 provision of Part 2.4 of the *Criminal Code*”.

19

4 After section 3B

20 Insert:

21

3BA Application of the *Criminal Code*

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

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

26

5 Subsection 3V(2)

27 Omit “, without reasonable excuse”.

28

6 After subsection 3V(2)

29 Insert:

- 30 (2A) Subsection (2) does not apply if the person has a reasonable
31 excuse.

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

3 **7 Subsection 3ZL(2)**

4 Repeal the subsection, substitute:

5 (2) A person must not refuse or fail to allow those impressions or a
6 photograph of the person to be taken.

7 Penalty: Imprisonment for 12 months.

8 (3) Subsection (2) does not apply if the person has a reasonable
9 excuse.

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

12 **8 Subsection 15V(2)**

13 Insert:

14 *engage in conduct* means:

15 (a) do an act; or

16 (b) omit to perform an act.

17 **9 Subparagraph 15W(1)(b)(ii)**

18 Repeal the subparagraph, substitute:

19 (ii) engaged in conduct contrary to Part 2.4 of the *Criminal*
20 *Code* in relation to paragraph 233B(1)(b) of the
21 *Customs Act 1901*; and

22 **10 Section 15X**

23 Omit “or in aiding, abetting, counselling, procuring, or being in any
24 way knowingly concerned in, their importation”, substitute “or engaged
25 in conduct contrary to Part 2.4 of the *Criminal Code* in relation to such
26 an offence,”.

27 **11 Subsection 19AZA(1)**

28 Omit “, without reasonable excuse,”.

29 **12 At the end of subsection 19AZA(1)**

30 Add:

1 Penalty: 10 penalty units.

2 **13 Subsection 19AZA(2)**

3 Omit “, without reasonable excuse,”.

4 **14 At the end of subsection 19AZA(2)**

5 Add:

6 Penalty: 10 penalty units.

7 **15 Subsection 19AZA(3)**

8 Omit “, without reasonable excuse,”.

9 **16 At the end of section 19AZA**

10 Add:

11 (4) Subsections (1), (2) and (3) do not apply if the person has a
12 reasonable excuse.

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

15 (5) Subsections (1) and (2) are offences of strict liability.

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

17 **17 Subsection 23XG(2)**

18 Omit “or recklessly”.

19 **18 Section 23XH**

20 Omit “or recklessly”.

21 **19 Section 23YL (note)**

22 Omit “or recklessly”.

23 **20 Subsection 23YP(2)**

24 Omit “or recklessly”.

25 **21 Subsection 23YQ(7)**

26 Omit “, without reasonable excuse,”.

27 **22 After subsection 23YQ(7)**

1 Insert:

2 (7A) Subsection (7) does not apply if the person has a reasonable
3 excuse.

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

6 **23 Subsection 24AB(1) (definition of *act of sabotage*)**

7 Omit “for a purpose intended to be prejudicial to”, substitute “with the
8 intention of prejudicing”.

9 **24 Subsection 24AB(3)**

10 Omit “a purpose intended to be prejudicial to” (first occurring),
11 substitute “an intention to prejudice”.

12 **25 Subsection 24AB(3)**

13 Omit “purpose was a purpose intended to be prejudicial to”, substitute
14 “intention was to prejudice”.

15 **26 Paragraph 24AB(4)(a)**

16 Omit “purpose of the defendant was a purpose intended to be
17 prejudicial to”, substitute “defendant intended to prejudice”.

18 **27 Subsection 24AB(5)**

19 Omit “purpose of the defendant was a purpose intended to be
20 prejudicial to”, substitute “defendant intended to prejudice”.

21 **28 Section 24C**

22 Repeal the section, substitute:

23 **24C Seditious enterprises**

24 A person who engages in a seditious enterprise with the intention
25 of causing violence, or creating public disorder or a public
26 disturbance, is guilty of an indictable offence punishable on
27 conviction by imprisonment for not longer than 3 years.

28 **29 Subsection 25(1)**

29 Omit “knowingly”, substitute “intentionally”.

1 **30 Section 26**

2 Omit “knowingly”, substitute “intentionally”.

3 **31 Section 29**

4 Omit “wilfully and unlawfully”, substitute “intentionally”.

5 **32 At the end of section 29**

6 Add:

7 (2) For the purposes of an offence against subsection (1), absolute
8 liability applies to the physical element of circumstance of the
9 offence, that the property is property belonging to the
10 Commonwealth or to any public authority under the
11 Commonwealth.

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

13 **33 Subsection 30AA(3)**

14 Repeal the subsection.

15 **34 Section 30F**

16 Omit “knowingly prints, publishes, sells or exposes for sale or who”,
17 substitute “intentionally prints, publishes, sells or exposes for sale or
18 who intentionally”.

19 **35 Section 30FC**

20 Omit “knowingly”, substitute “intentionally”.

21 Note: The heading to section 30FC is altered by omitting “**knowingly**”.

22 **36 Subsections 30R(1) to (4) (inclusive)**

23 Repeal the subsections.

24 Note: The heading to section 30R is replaced by the heading “**Books etc. taken to have been**
25 **issued by associations**”.

26 **37 Paragraph 34(a)**

27 Omit “without reasonable excuse, and”.

28 **38 Paragraph 34(b)**

29 Omit “wilfully”, substitute “intentionally”.

1 **39 At the end of section 34**

2 Add:

3 (2) Paragraph (1)(a) does not apply if the judge or magistrate has a
4 reasonable excuse.

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

7 **40 Subsection 35(1)**

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

9 **41 Subsection 35(1)**

10 Omit “knowingly”, substitute “intentionally”.

11 **42 After subsection 35(1)**

12 Insert:

13 (1A) For the purposes of an offence against subsection (1), strict liability
14 applies to the physical element of circumstance of the offence, that
15 the matter is material in the proceeding.

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

17 **43 Section 36**

18 After “proceeding”, insert “, intentionally”.

19 **44 Paragraph 36(b)**

20 Omit “knowingly”.

21 **45 Paragraph 37(b)**

22 Omit “attempts by any means to induce”, substitute “does an act with
23 the intention of inducing”.

24 **46 Paragraph 37(c)**

25 Omit “or attempts”.

26 **47 Section 38**

27 Omit “knowingly”, substitute “intentionally”.

28 **48 Section 39**

1 Omit “wilfully”, substitute “intentionally”.

2 **49 Section 40**

3 Omit “wilfully prevents or wilfully endeavours to prevent”, substitute
4 “intentionally prevents”.

5 **50 At the end of section 41**

6 Add:

- 7 (2) For a person to be guilty of an offence against subsection (1):
8 (a) the person must have entered into an agreement with one or
9 more other persons; and
10 (b) the person and at least one other party to the agreement must
11 have intended that a person be charged falsely with an
12 offence pursuant to the agreement; and
13 (c) the person or at least one other party to the agreement must
14 have committed an overt act pursuant to the agreement.
- 15 (3) A person may be found guilty of an offence against subsection (1)
16 even if:
17 (a) charging a person falsely pursuant to the agreement is
18 impossible; or
19 (b) the only other party to the agreement is a body corporate; or
20 (c) each other party to the agreement is a person who is not
21 criminally responsible; or
22 (d) subject to subsection (4), all other parties to the agreement
23 have been acquitted of the offence.
- 24 (4) A person cannot be found guilty of an offence against
25 subsection (1) if:
26 (a) all other parties to the agreement have been acquitted of such
27 an offence; and
28 (b) a finding of guilt would be inconsistent with their acquittal.
- 29 (5) A person cannot be found guilty of an offence against
30 subsection (1) if, before the commission of an overt act pursuant to
31 the agreement, the person:
32 (a) withdrew from the agreement; and
33 (b) took all reasonable steps to prevent the false charging.

1 (6) A court may dismiss a charge of an offence against subsection (1)
2 if the court thinks that the interests of justice require the court to do
3 so.

4 (7) Section 11.1 of the *Criminal Code* does not apply to an offence
5 against subsection (1).

6 **51 At the end of section 42**

7 Add:

8 (2) For the purposes of an offence against subsection (1), absolute
9 liability applies to the physical element of circumstance of the
10 offence, that the judicial power is of the Commonwealth.

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

12 (3) For a person to be guilty of an offence against subsection (1):

13 (a) the person must have entered into an agreement with one or
14 more other persons; and

15 (b) the person and at least one other party to the agreement must
16 have intended to obstruct, prevent, pervert or defeat the
17 course of justice pursuant to the agreement; and

18 (c) the person or at least one other party to the agreement must
19 have committed an overt act pursuant to the agreement.

20 (4) A person may be found guilty of an offence against subsection (1)
21 even if:

22 (a) obstructing, preventing, perverting or defeating the course of
23 justice pursuant to the agreement is impossible; or

24 (b) the only other party to the agreement is a body corporate; or

25 (c) each other party to the agreement is a person who is not
26 criminally responsible; or

27 (d) subject to subsection (5), all other parties to the agreement
28 have been acquitted of the offence.

29 (5) A person cannot be found guilty of an offence against
30 subsection (1) if:

31 (a) all other parties to the agreement have been acquitted of such
32 an offence; and

33 (b) a finding of guilt would be inconsistent with their acquittal.

-
- 1 (6) A person cannot be found guilty of an offence against
2 subsection (1) if, before the commission of an overt act pursuant to
3 the agreement, the person:
4 (a) withdrew from the agreement; and
5 (b) took all reasonable steps to prevent the obstruction,
6 prevention, perversion or defeat.
- 7 (7) A court may dismiss a charge of an offence against subsection (1)
8 if the court thinks that the interests of justice require the court to do
9 so.
- 10 (8) Section 11.1 of the *Criminal Code* does not apply to an offence
11 against subsection (1).

12 **52 At the end of section 43**

13 Add:

- 14 (2) For the purposes of an offence against subsection (1), absolute
15 liability applies to the physical element of circumstance of the
16 offence, that the judicial power is of the Commonwealth.
- 17 Note: For *absolute liability*, see section 6.2 of the *Criminal Code*.
- 18 (3) For the person to be guilty of an offence against subsection (1), the
19 person's conduct must be more than merely preparatory to the
20 commission of the offence. The question whether conduct is more
21 than merely preparatory to the commission of the offence is one of
22 fact.
- 23 (4) A person may be found guilty of an offence against subsection (1)
24 even if doing the thing attempted is impossible.

25 **53 Section 44**

26 Omit "or attempts".

27 **54 After subsection 46(1)**

28 Insert:

- 29 (1A) For a person to be guilty of an offence against paragraph (1)(a),
30 (aa) or (ab):

- 1 (a) the person's conduct must have in fact aided the escape or
2 attempted escape by the person in custody, under arrest or in
3 detention (the *escapee*); and
4 (b) the escapee must have actually escaped or attempted to
5 escape.
- 6 (1B) For a person to be guilty of an offence against paragraph (1)(a),
7 (aa) or (ab), the person must have intended that his or her conduct
8 would aid the escape or attempted escape by the escapee.
- 9 (1C) A person cannot be found guilty of an offence against
10 paragraph (1)(a), (aa) or (ab) if, before the escape or attempted
11 escape, the person:
12 (a) terminated his or her aid to the escapee; and
13 (b) took all reasonable steps to prevent the escape or attempted
14 escape.
- 15 (1D) A person may be found guilty of an offence against
16 paragraph (1)(a), (aa) or (ab) even if the escapee has not been
17 prosecuted, or has not been found guilty of an offence, in relation
18 to the escape or attempted escape.

19 **55 Paragraph 47B(1)(b)**

20 Omit “, without reasonable excuse,”.

21 **56 After subsection 47B(1)**

22 Insert:

- 23 (1A) Paragraph (1)(b) does not apply if the person has a reasonable
24 excuse.

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

27 **57 Paragraph 47C(1)(c)**

28 Omit “wilfully”, substitute “intentionally”.

29 **58 Subsection 47C(2)**

30 Omit “wilfully”, substitute “intentionally”.

31 **59 Section 49**

1 Omit “knowingly and with intent to hinder or defeat the attachment or
2 process, receives, removes, retains, conceals, or disposes of the
3 property”, substitute “intentionally receives, removes, retains, conceals
4 or disposes of the property, with intent to hinder or defeat the
5 attachment or process”.

6 **60 Subparagraphs 50AA(2)(a)(i) and (ii)**

7 Repeal the subparagraphs, substitute:

- 8 (i) an offence against section 6 or 50DB; or
9 (ii) an offence against section 11.1 or 11.5 of the *Criminal*
10 *Code*;

11 **61 Paragraph 50AA(2)(b)**

12 Omit “section 5”, substitute “section 11.2 or 11.3 of the *Criminal*
13 *Code*”.

14 **62 Subsection 50AA(3)**

15 Omit “section 5”, substitute “section 11.2 of the *Criminal Code*”.

16 **63 Subsection 50AA(4)**

17 Omit “Section 7A”, substitute “Section 11.4 of the *Criminal Code*”.

18 **64 Subsection 50AA(5)**

19 Omit “Paragraph 86(1)(a)”, substitute “Section 11.5 of the *Criminal*
20 *Code*”.

21 **65 At the end of section 50BA**

22 Add:

- 23 (2) For the purposes of an offence against subsection (1), absolute
24 liability applies to the following physical elements of circumstance
25 of the offence:
26 (a) that the sexual intercourse is engaged in outside Australia;
27 (b) that the person referred to in that subsection as being under
28 16 is in fact under 16.

29 Note 1: For *absolute liability*, see section 6.2 of the *Criminal Code*.

30 Note 2: For a defence based on belief about age, see section 50CA.

31 **66 At the end of section 50BB**

1 Add:

2 (2) For the purposes of an offence against subsection (1), absolute
3 liability applies to the following physical elements of circumstance
4 of the offence:

5 (a) that the sexual intercourse is engaged in outside Australia;

6 (b) that the person referred to in that subsection as being under
7 16 is in fact under 16.

8 Note 1: For *absolute liability*, see section 6.2 of the *Criminal Code*.

9 Note 2: For a defence based on belief about age, see section 50CA.

10 **67 At the end of section 50BC**

11 Add:

12 (2) For the purposes of an offence against subsection (1), absolute
13 liability applies to such of the following physical elements of
14 circumstance as are relevant to the offence:

15 (a) that the first person is outside Australia;

16 (b) that the person referred to in that subsection as being under
17 16 is in fact under 16;

18 (c) in the case of an offence against paragraph (1)(a), (b), (c) or
19 (d)—that the act of indecency referred to in that paragraph is
20 in fact an act of indecency.

21 Note 1: For *absolute liability*, see section 6.2 of the *Criminal Code*.

22 Note 2: For a defence based on belief about age, see section 50CA.

23

24 **68 At the end of subsection 50BD(1)**

25 Add:

26 Penalty: Imprisonment for 12 years.

27 **69 After subsection 50BD(1)**

28 Insert:

29 (1A) For the purposes of an offence against subsection (1), absolute
30 liability applies to the following physical elements of circumstance
31 of the offence:

32 (a) that the act of indecency is committed outside Australia;

1 (b) that the person referred to in that subsection as being under
2 16 is in fact under 16;

3 (c) that the act of indecency referred to in that subsection is in
4 fact an act of indecency.

5 Note 1: For *absolute liability*, see section 6.2 of the *Criminal Code*.

6 Note 2: For a defence based on belief about age, see section 50CA.
7

8 **70 At the end of section 50BD**

9 Add:

10 (3) For the purposes of an offence against subsection (2), absolute
11 liability applies to the following physical elements of circumstance
12 of the offence:

13 (a) that the sexual intercourse is engaged in outside Australia;

14 (b) that the person referred to in that subsection as being under
15 16 is in fact under 16.

16 Note 1: For *absolute liability*, see section 6.2 of the *Criminal Code*.

17 Note 2: For a defence based on belief about age, see section 50CA.

18 **71 At the end of section 50CA**

19 Add:

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

22 **72 At the end of section 50CB**

23 Add:

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

26 **73 After subsection 50DA(1)**

27 Insert:

28 (1A) Absolute liability applies to paragraph (1)(b).

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

30 (1B) In a prosecution for an offence against subsection (1), it is not
31 necessary to prove that the defendant knew that the conduct

1 mentioned in paragraph (1)(a) would be of a kind that would
2 constitute an offence against this Part.

3 **74 After subsection 50DB(1)**

4 Insert:

5 (1A) Absolute liability applies to paragraph (1)(b).

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

7 (1B) In a prosecution for an offence against subsection (1), it is not
8 necessary to prove that the defendant knew that the conduct
9 mentioned in paragraph (1)(a) would be of a kind that would
10 constitute an offence against this Part (other than this section).

11 **75 Subsection 76B(3) (penalty)**

12 Omit “for a contravention of this subsection”.

13 **76 At the end of section 76B**

14 Add:

15 (4) For the purposes of an offence against subsection (1), (2) or (3),
16 absolute liability applies to whichever one of the following
17 physical elements of circumstance is relevant to the offence:

18 (a) that the computer is a Commonwealth computer;

19 (b) that the computer is not a Commonwealth computer.

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

21 **77 Section 76C**

22 Omit “or lawful excuse”.

23 **78 At the end of section 76C**

24 Add:

25 (2) For the purposes of an offence against subsection (1), absolute
26 liability applies to whichever one of the following physical
27 elements of circumstance is relevant to the offence:

28 (a) that the computer is a Commonwealth computer;

29 (b) that the computer is not a Commonwealth computer.

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

79 Subsection 76D(3) (penalty)

Omit “for a contravention of this subsection”.

80 At the end of section 76D

Add:

- (4) For the purposes of an offence against subsection (1), (2) or (3), absolute liability applies to the physical element of circumstance of the offence, that the facility is operated or provided by the Commonwealth or by a carrier.

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

81 Section 76E

Omit “or lawful excuse”.

82 At the end of section 76E

Add:

- (2) For the purposes of an offence against subsection (1), absolute liability applies to the physical element of circumstance of the offence, that the facility is operated or provided by the Commonwealth or by a carrier.

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

83 Subsection 78(1)

Omit “for a purpose intended to be prejudicial to”, substitute “with the intention of prejudicing”.

84 Paragraph 78(2)(a)

Omit “show a purpose intended to be prejudicial to”, substitute “show an intention to prejudice”.

85 Paragraph 78(2)(a)

Omit “purpose was a purpose intended to be prejudicial to”, substitute “intention was to prejudice”.

86 Paragraph 78(2)(b)

Omit “for a purpose intended to be prejudicial to”, substitute “with the intention of prejudicing”.

1 **87 Paragraph 78(3)(a)**

2 Omit “purpose of the defendant was a purpose intended to be
3 prejudicial to”, substitute “defendant intended to prejudice”.

4 **88 Subsection 78(4)**

5 Omit “purpose of the defendant was a purpose intended to be
6 prejudicial to”, substitute “defendant intended to prejudice”.

7 **89 Subsection 79(2)**

8 Omit “for a purpose intended to be prejudicial to”, substitute “with the
9 intention of prejudicing”.

10 **90 Subsection 79(7)**

11 Omit “show a purpose intended to be prejudicial to”, substitute “show
12 an intention to prejudice”.

13 **91 Subsection 79(7)**

14 Omit “purpose was a purpose intended to be prejudicial to”, substitute
15 “intention was to prejudice”.

16 **92 Paragraph 79(8)(a)**

17 Omit “purpose of the defendant was a purpose intended to be
18 prejudicial to”, substitute “defendant intended to prejudice”.

19 **93 Subsection 79(9)**

20 Omit “purpose of the defendant was a purpose intended to be
21 prejudicial to”, substitute “defendant intended to prejudice”.

22 **94 Paragraphs 81(1)(a) and (b)**

23 Omit “knowingly”, substitute “intentionally”.

24 **95 Paragraph 83(1)(c)**

25 Omit “knowingly”, substitute “intentionally”.

26 **96 Subsection 83A(1)**

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

28 **97 Paragraph 83A(1)(a)**

1 Omit “, without lawful authority,”.

2 **98 Paragraphs 83A(1)(b) and (c)**

3 Omit “knowingly”.

4 **99 Paragraph 83A(1)(e)**

5 Omit “without lawful authority or excuse,”.

6 **100 Subsection 83A(2)**

7 Omit “, without lawful authority or excuse”.

8 **101 Subsections 85G(3), (4) and (5)**

9 Omit “, without lawful authority or excuse,”.

10 **102 After subsection 85G(5)**

11 Insert:

12 (5A) Subsections (3), (4) and (5) do not apply if the person has a
13 reasonable excuse.

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

16 **103 Paragraph 85G(6)(a)**

17 Omit “off;”, substitute “off; or”.

18 **104 Paragraph 85G(6)(b)**

19 Repeal the paragraph.

20 **105 Paragraph 85G(6)(c)**

21 Omit “it;”, substitute “it; or”.

22 **106 Paragraph 85G(6)(d)**

23 Repeal the paragraph.

24 **107 Section 85H**

25 Omit “, without lawful authority or excuse”.

26 **108 Paragraphs 85H(a), (b) and (c)**

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

1 **109 At the end of section 85H**

2 Add:

3 (2) Subsection (1) does not apply if the person has a reasonable
4 excuse.

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

7 **110 Section 85N**

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

9 **111 Paragraph 85Q(3)(a)**

10 Omit “off;”, substitute “off; or”.

11 **112 Paragraph 85Q(3)(b)**

12 Repeal the paragraph.

13 **113 Paragraph 85Q(3)(c)**

14 Omit “it;”, substitute “it; or”.

15 **114 Paragraph 85Q(3)(d)**

16 Repeal the paragraph.

17 **115 Section 85R**

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

19 **116 Subsection 85S(1)**

20 Repeal the subsection, substitute:

21 (1) A person must not intentionally use a postal or carriage service
22 supplied by Australia Post:

23 (a) with the result that another person is menaced or harassed; or

24 (b) in such a way as would be regarded by reasonable persons as
25 being, in all the circumstances, offensive.

26 Penalty: Imprisonment for 1 year.

27 (1A) For the purposes of an offence against paragraph (1)(a) or (b),
28 absolute liability applies to the physical element of circumstance of

1 the offence, that the postal or carriage service is supplied by
2 Australia Post.

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

4 **117 Paragraphs 85T(b) and (d)**

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

6 **118 Section 85U**

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

8 **119 Subsection 85V(1)**

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

10 **120 After subsection 85V(1)**

11 Insert:

12 (1A) For the purposes of an offence against subsection (1), absolute
13 liability applies to whichever one of the following physical
14 elements of circumstance is relevant to the offence:

15 (a) that the post-box, or stamp vending machine, is erected by
16 Australia Post;

17 (b) that the property belongs to Australia Post.

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

19 **121 Subsection 85V(2)**

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

21 **122 At the end of section 85V**

22 Add:

23 (3) For the purposes of an offence against subsection (2), absolute
24 liability applies to the physical element of circumstance of the
25 offence, that the notice, writing or other marking is on or attached
26 to property belonging to Australia Post.

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

28 **123 Subsection 85W(1)**

29 Omit “, without lawful authority or excuse, knowingly or recklessly”,
30 substitute “intentionally”.

1 **124 Subsections 85X(2) and (3)**

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

3 **125 After subsection 85X(3)**

4 Insert:

5 (3A) For the purposes of an offence against subsection (3), strict liability
6 applies to the physical element of circumstance of the offence, that
7 the carriage of the article by post is otherwise than in accordance
8 with the terms and conditions mentioned in paragraph (1)(b).

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

10 **126 Subsection 85X(4)**

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

12 **127 At the end of section 85X**

13 Add:

14 (6) For the purposes of an offence against subsection (4), strict liability
15 applies to the physical element of circumstance of the offence, that
16 the carriage of the article by post is otherwise than in accordance
17 with the requirements mentioned in subsection (5).

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

19 **128 Section 85ZD**

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

21 **129 Subsection 85ZE(1)**

22 Repeal the subsection, substitute:

23 (1) A person must not intentionally use a carriage service supplied by
24 a carrier:

25 (a) with the result that another person is menaced or harassed; or

26 (b) in such a way as would be regarded by reasonable persons as
27 being, in all the circumstances, offensive.

28 Penalty: Imprisonment for 1 year.

1 (1A) For the purposes of an offence against subsection (1), absolute
2 liability applies to the physical element of circumstance of the
3 offence, that the carriage service is supplied by a carrier.

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

5 **130 Subsection 85ZG(1)**

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

7 **131 Subsection 85ZG(1)**

8 Omit “in such a way as to hinder”, substitute “, with the result of
9 hindering”.

10 **132 At the end of subsection 85ZG(1)**

11 Add:

12 Penalty: Imprisonment for 2 years.

13 **133 After subsection 85ZG(1)**

14 Insert:

15 (1A) For the purposes of an offence against subsection (1), absolute
16 liability applies to the following physical elements of circumstance
17 of the offence:

18 (a) that the facility is operated by a carrier;

19 (b) that the carriage service is supplied by the carrier.

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

21 **134 Subsection 85ZG(2)**

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

23 **135 Subsection 85ZG(2)**

24 Omit “in such a way as to hinder”, substitute “, with the result of
25 hindering”.

26 **136 At the end of section 85ZG**

27 Add:

1 (3) For the purposes of an offence against subsection (2), absolute
2 liability applies to the physical element of circumstance of the
3 offence, that the carriage service is supplied by a carrier.

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

5 **137 Section 85ZH**

6 Omit “, without lawful authority or excuse, knowingly or recklessly”,
7 substitute “intentionally”.

8 **138 At the end of section 85ZH**

9 Add:

10 (2) For the purposes of an offence against subsection (1), absolute
11 liability applies to the physical element of circumstance of the
12 offence, that the satellite is operated by a carrier.

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

14 **139 Section 85ZJ**

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

16 **140 At the end of section 85ZJ**

17 Add:

18 (2) For the purposes of an offence against subsection (1), absolute
19 liability applies to the physical element of circumstance of the
20 offence, that the facility belongs to a carrier.

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

22 **141 After subsection 85ZK(1)**

23 Insert:

24 (1A) In a prosecution for an offence against subsection (1), it is not
25 necessary to prove that the defendant knew that the offence
26 mentioned in paragraph (1)(a) or (b) would be against a law of the
27 Commonwealth or of a State or Territory.

28 **142 At the end of subsection 85ZK(2)**

29 Add:

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

1 **143 At the end of subsection 85ZKA(2)**

2 Add:

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

5 **144 Section 90B**

6 Omit “knowingly makes a false statement”, substitute “intentionally
7 makes a statement that the person knows is false”.

1
2 **Schedule 11—Crimes (Aviation) Act 1991**
3

4 **1 Section 9**

5 Repeal the section, substitute:

6 **9 What is hijacking?**

7 For the purposes of Division 1 of Part 2, a person *hijacks* an
8 aircraft if, while on board the aircraft, the person seizes, or
9 exercises control of, the aircraft by force or threat of force, or by
10 any other form of intimidation.

11 **2 Section 10**

12 Repeal the section, substitute:

13 **10 What is an unlawful act?**

- 14 (1) For the purposes of Division 4 of Part 2, a person commits an
15 unlawful act if he or she:
16 (a) commits an act of violence against anyone on board an
17 aircraft in flight, being an act likely to endanger the safety of
18 the aircraft; or
19 (b) destroys an aircraft in service, or causes damage to such an
20 aircraft which renders it incapable of flight or which is likely
21 to endanger its safety in flight.
- 22 (2) For the purposes of Division 4 of Part 2, a person commits an
23 unlawful act if he or she does any of the following:
24 (a) places, or causes to be placed, on an aircraft in service a
25 substance or thing that is likely to destroy the aircraft;
26 (b) places, or causes to be placed, on an aircraft in service a
27 substance or thing that is likely to cause damage to the
28 aircraft which renders it incapable of flight or which is likely
29 to endanger its safety in flight;
30 (c) destroys or damages any navigation facilities or interferes
31 with their operation, being destruction, damage or
32 interference that is likely to endanger the safety of an aircraft
33 in flight;

1 (d) communicates information which he or she knows to be
2 false, thereby endangering the safety of an aircraft in flight.

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

4 Add:

5 **Division 4—Application of Criminal Code**

6 **12A Application of the *Criminal Code***

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

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

11 **4 After subsection 13(2)**

12 Insert:

13 (2A) Absolute liability applies to paragraphs (1)(a), (b), (c) and (d) and
14 paragraphs (2)(a), (b) and (c).

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

16 **5 After subsection 14(1)**

17 Insert:

18 (1A) Absolute liability applies to paragraphs (1)(b), (c), (d), (e), (f) and
19 (g).

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

21 **6 After subsection 15(1)**

22 Insert:

23 (1A) For the purposes of an offence against subsection (1), absolute
24 liability applies to the physical element of circumstance of the
25 offence, that the aircraft is a Division 2 aircraft.

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

27 (1B) Absolute liability applies to paragraph (1)(b).

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

1 **7 Subsections 16(1), (2) and (3)**

2 Omit “, without lawful excuse, takes or exercises control (whether
3 directly or through an accomplice)”, substitute “takes or exercises
4 control”.

5 **8 At the end of section 16**

6 Add:

7 (4) For the purposes of an offence against subsection (1), (2) or (3),
8 absolute liability applies to the physical element of circumstance of
9 the offence, that the aircraft is a Division 3 aircraft.

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

11 **9 Section 17**

12 Omit “, without lawful excuse, wilfully”, substitute “intentionally”.

13 **10 At the end of section 17**

14 Add:

15 (2) For the purposes of an offence against subsection (1), absolute
16 liability applies to the physical element of circumstance of the
17 offence, that the aircraft is a Division 3 aircraft.

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

19 **11 Section 18**

20 Omit “with reckless indifference to”, substitute “reckless as to”.

21 **12 At the end of section 18**

22 Add:

23 (2) For the purposes of an offence against subsection (1), absolute
24 liability applies to the physical element of circumstance of the
25 offence, that the aircraft is a Division 3 aircraft.

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

27 **13 At the end of section 19**

28 Add:

1 (2) For the purposes of an offence against subsection (1), absolute
2 liability applies to the physical element of circumstance of the
3 offence, that the aircraft is a Division 3 aircraft.

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

5 **14 Paragraph 20(b)**

6 Omit “with reckless indifference to”, substitute “reckless as to”.

7 **15 At the end of section 20**

8 Add:

9 (2) For the purposes of an offence against subsection (1), absolute
10 liability applies to the physical element of circumstance of the
11 offence, that the aircraft is a Division 3 aircraft.

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

13 **16 Section 21**

14 Omit “so as to”, substitute “in a manner that results in”.

15 **17 Paragraph 21(a)**

16 Omit “interfere”, substitute “an interference”.

17 **18 Paragraph 21(b)**

18 Omit “lessen”, substitute “a lessening of”.

19 **19 At the end of section 21**

20 Add:

21 (2) For the purposes of an offence against subsection (1), absolute
22 liability applies to the physical element of circumstance of the
23 offence, that the aircraft is a Division 3 aircraft.

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

25 **20 Section 22**

26 Repeal the section, substitute:

1 **22 Endangering safety of aircraft**

2 (1) A person who, while on board a Division 3 aircraft, does an act,
3 reckless as to whether the act will endanger the safety of the
4 aircraft, is guilty of an offence.

5 Penalty: Imprisonment for 7 years.

6 (2) For the purposes of an offence against subsection (1), absolute
7 liability applies to the physical element of circumstance of the
8 offence, that the aircraft is a Division 3 aircraft.

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

10 **21 Paragraph 23(1)(b)**

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

12 **22 At the end of section 23**

13 Add:

14 (3) For the purposes of an offence against paragraph (1)(a), (b) or (c),
15 absolute liability applies to the physical element of circumstance of
16 the offence, that the aircraft is a Division 3 aircraft.

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

18 **23 At the end of section 24**

19 Add:

20 (3) For the purposes of an offence against subsection (1) or (2),
21 absolute liability applies to the physical element of circumstance of
22 the offence, that the aircraft is a Division 3 aircraft.

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

24 **24 After subsection 25(2)**

25 Insert:

26 (2A) Absolute liability applies to paragraphs (1)(a), (b) and (c), and
27 (2)(a), (b), (c) and (d).

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

29 **25 Subsections 26(1) and (2)**

1 Repeal the subsections, substitute:

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

- 3 (a) the person uses a substance or thing to commit an act of
4 violence against anyone at a prescribed airport; and
5 (b) that act:
6 (i) causes or is likely to cause serious injury or death; and
7 (ii) endangers, or is likely to endanger, the safe operation of
8 the airport or the safety of anyone at the airport; and
9 (c) the Montreal Convention, when read together with the
10 Protocol, requires Australia to make the act punishable; and
11 (d) Article 5 of that Convention, when so read, requires Australia
12 to establish its jurisdiction over the offence.

13 Penalty: Imprisonment for 15 years.

14 (2) A person is guilty of an offence if:

- 15 (a) the person does any of the following things:
16 (i) destroys or seriously damages the facilities of a
17 prescribed airport;
18 (ii) destroys or seriously damages any aircraft not in service
19 that is at a prescribed airport;
20 (iii) disrupts the services of a prescribed airport; and
21 (b) doing so endangers, or is likely to endanger, the safe
22 operation of the airport or the safety of anyone at the airport;
23 and
24 (c) either of the following applies:
25 (i) the Montreal Convention, when read together with the
26 Protocol, requires Australia to make the act concerned
27 punishable;
28 (ii) if the act concerned relates to an aircraft—the aircraft is
29 in Australia, or is a Commonwealth aircraft or a defence
30 aircraft, or the act is committed by an Australian citizen,
31 whether in Australia or not.

32 Penalty: Imprisonment for 10 years.

33 (2A) For the purposes of an offence against subsection (1) or (2),
34 absolute liability applies to the physical element of circumstance of
35 the offence, that the airport is a prescribed airport.

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

2 (2B) Absolute liability applies to paragraphs (1)(c) and (d) and
3 paragraph (2)(c).

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

5 **26 Subsection 26(3)**

6 Omit “paragraph (2)(d)”, substitute “subparagraph (2)(c)(i)”.

7 **27 Section 27**

8 Omit “anything that he or she knows is likely to”, substitute “an act,
9 reckless as to whether the act will”.

10 **28 At the end of section 27**

11 Add:

12 (2) For the purposes of an offence against subsection (1), absolute
13 liability applies to whichever one of the following physical
14 elements of circumstance is relevant to the offence:

15 (a) that the aerodrome is a Commonwealth aerodrome;

16 (b) that the air navigation facilities are Commonwealth air
17 navigation facilities.

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

19 **29 At the end of subsection 28(1)**

20 Add:

21 Penalty: Imprisonment for 2 years.

22 **30 At the end of section 28**

23 Add:

24 (3) For the purposes of an offence against subsection (1) or (2),
25 absolute liability applies to whichever one of the following
26 physical elements of circumstance is relevant to the offence:

27 (a) that the aerodrome is a Commonwealth aerodrome;

28 (b) that the air navigation facilities are Commonwealth air
29 navigation facilities.

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

1
2 **Schedule 12—Crimes (Biological Weapons)**
3 **Act 1976**
4

5 **1 After section 6**

6 Insert:

7 **6A Application of the *Criminal Code***

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

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

12 **2 Subsection 10(1)**

13 Repeal the subsection, substitute:

- 14 (1) Subject to subsection (2), all offences against this Act (including
15 offences that are taken to have been committed because of
16 section 11.2 of the *Criminal Code*), or against section 11.1 or 11.4
17 of the *Criminal Code* in relation to this Act, are indictable offences
18 and are not triable summarily.

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Schedule 13—Crimes (Currency) Act 1981

1 At the end of Part I

Add:

5A 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 8(1)

Omit “, without reasonable excuse,”.

3 After subsection 8(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*).

4 Subsection 9(1)

Omit “, without lawful authority or reasonable excuse”.

5 After subsection 9(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*).

6 Subsection 11(1)

Omit “, without reasonable excuse”.

7 At the end of subsection 11(1)

Add:

1 Penalty:

- 2 (a) in the case of a person other than a body corporate—
3 imprisonment for 10 years; or
4 (b) in the case of a body corporate—500 penalty units.

5 **8 Subsection 11(2)**

6 Omit “, without reasonable excuse”.

7 **9 At the end of section 11**

8 Add:

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

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

13 **10 Section 13**

14 Omit “, without lawful authority or reasonable excuse, knowingly”,
15 substitute “intentionally”.

16 **11 At the end of section 13**

17 Add:

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

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

22 **12 Section 14**

23 Omit “, without reasonable excuse,”.

24 **13 At the end of section 14**

25 Add:

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

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

30 **14 Section 15**

1 Omit “, without reasonable excuse,”.

2 **15 At the end of section 15**

3 Add:

4 (2) Subsection (1) does not apply if the person has a reasonable
5 excuse.

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

8 **16 Section 16**

9 Omit “wilfully”, substitute “intentionally”.

10 **17 Subsection 21(1)**

11 Omit “, without reasonable excuse,”.

12 **18 Subsection 21(1)**

13 Omit “the purpose of”.

14 **19 After subsection 21(1)**

15 Insert:

16 (1A) Subsection (1) does not apply if the person has a reasonable
17 excuse.

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

20 **20 Subsection 21(2)**

21 Omit “the purpose of”.

22 **21 Subsection 21(3)**

23 Omit “, without reasonable excuse,”.

24 **22 Subsection 21(3)**

25 Omit “the purpose of”.

26 **23 After subsection 21(3)**

27 Insert:

1 (3A) Subsection (3) does not apply if the person has a reasonable
2 excuse.

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

5 **24 Subsection 21(4)**

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

7 **25 Section 22**

8 Omit “section 6, 7 or 7A of the *Crimes Act 1914*”, substitute “section 6
9 of the *Crimes Act 1914* or section 11.1 or 11.4 of the *Criminal Code*”.

10 **26 Subparagraphs 29(1)(b)(ii) and (c)(ii)**

11 Omit “knowingly”, substitute “intentionally”.

1
2 **Schedule 14—Crimes (Foreign Incursions and**
3 **Recruitment) Act 1978**
4

5 **1 After section 3**

6 Insert:

7 **3A Application of the *Criminal Code***

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

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

12 **2 Subsection 6(3)**

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

14 Note: The heading to section 6 is amended by omitting “**for purpose**” and substituting “**with**
15 **intention**”.

16 **3 Paragraph 7(1)(b)**

17 Omit “for the purpose of the commission of”, substitute “with the
18 intention of committing”.

19 **4 Paragraph 7(1)(c)**

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

21 **5 Paragraph 7(1)(d)**

22 Omit “for the purpose of the commission of”, substitute “with the
23 intention of committing”.

24 **6 Paragraphs 7(1)(e) and (f)**

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

26 **7 Paragraph 7(1)(g)**

27 Omit “knowingly permit a meeting or assembly of persons to be held in
28 the building, room, premises or place for the purpose”, substitute
29 “intentionally permit a meeting or assembly of persons to be held in the
30 building, room, premises or place with the intention”.

1 **8 Paragraph 7(1)(h)**

2 Omit “knowingly permit the vessel or aircraft to be used for the
3 purpose”, substitute “intentionally permit the vessel or aircraft to be
4 used with the intention”.

5 **9 Paragraph 9(1)(b)**

6 After “advertisement”, insert “, reckless as to whether the advertisement
7 is”.

8 **10 Paragraph 9(1)(d)**

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

10 **11 Paragraph 9A(3)(a)**

11 Omit “or 7”.

12 **12 Paragraph 9A(3)(b)**

13 Repeal the paragraph, substitute:

14 (b) an ancillary offence (within the meaning of the *Criminal*
15 *Code*);

16 **13 Subsection 10(4)**

17 Repeal the subsection, substitute:

18 (4) A reference in this section to an offence against this Act includes a
19 reference to an offence against section 6 of the *Crimes Act 1914*, or
20 section 11.1, 11.4 or 11.5 of the *Criminal Code*, being an offence
21 that relates to an offence against this Act.

22 **14 Subsection 11(4)**

23 Repeal the subsection, substitute:

24 (4) A reference in this section to an offence against this Act includes a
25 reference to an offence against section 6 of the *Crimes Act 1914*, or
26 section 11.1, 11.4 or 11.5 of the *Criminal Code*, being an offence
27 that relates to an offence against this Act.

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Schedule 15—Crimes (Hostages) Act 1989

1 Subsection 3(1) (paragraph (b) of the definition of offence against this Act)

Repeal the paragraph, substitute:

- (b) an offence against section 11.1 or 11.5 of the *Criminal Code*, being an offence that relates to an offence referred to in paragraph (a).

2 Subsection 3(3)

Omit “sections 6 and 7A of the *Crimes Act 1914*”, substitute “section 6 of the *Crimes Act 1914* and section 11.4 of the *Criminal Code*”.

3 After section 6

Insert:

6A 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.

4 Section 7

Omit “in order to compel”, substitute “with the intention of compelling”.

1
2 **Schedule 16—Crimes (Internationally**
3 **Protected Persons) Act 1976**
4

5 **1 After section 6**

6 Insert:

7 **6A Application of the *Criminal Code***

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

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

12 **2 After subsection 8(4)**

13 Insert:

14 (4A) For the purposes of an offence against subsection (1), (2), (3),
15 (3A), (3B), (3C) or (4), absolute liability applies to such of the
16 following physical elements of circumstance as are relevant to the
17 offence:

- 18 (a) that the person who is murdered or kidnapped, or whose
19 person or liberty is otherwise attacked, is an internationally
20 protected person;
- 21 (b) that the premises or property are official premises, private
22 accommodation or means of transport of an internationally
23 protected person;
- 24 (c) that the premises or property are premises or property in or
25 upon which an internationally protected person is present, or
26 is likely to be present;
- 27 (d) that the person whose life is intended to be endangered by
28 destruction or damage is an internationally protected person.

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

30 **3 Subsection 8(5)**

31 Omit “5 or 7 of the *Crimes Act 1914-1975*”, substitute “11.1 or 11.2 of
32 the *Criminal Code*”.

33 **4 Subsection 8(6)**

Schedule 16 Crimes (Internationally Protected Persons) Act 1976

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

1
2 **Schedule 17—Crimes (Ships and Fixed**
3 **Platforms) Act 1992**
4

5 **1 Subsection 3(1)**

6 Insert:

7 *engage in conduct* means:

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

10 **2 After section 5**

11 Insert:

12 **5A Application of the *Criminal Code***

- 13 (1) Chapter 2 of the *Criminal Code* applies to all offences against this
14 Act.

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

- 17 (2) Section 10.5 of the *Criminal Code* applies to an offence against
18 subsection 10(1) or 11(1), or against section 21, 23 or 24, as if it
19 covered conduct that is justified or excused by a law of the
20 Commonwealth or of a State or Territory.

- 21 (3) Sections 11.1 and 11.2 of the *Criminal Code* do not apply in
22 relation to offences against sections 17 and 28.

23 **3 Subsection 6(1)**

24 Omit “subsection (2)”, substitute “subsection 5A(3)”.

25 **4 Subsection 6(2)**

26 Repeal the subsection.

27 **5 Section 8**

28 Omit “, without lawful excuse,”.

29 **6 Subsection 10(1)**

30 Repeal the subsection, substitute:

1 (1) A person must not engage in conduct that causes the destruction of
2 a private ship.

3 Penalty: Life imprisonment.

4 **7 Subsection 10(2)**

5 Omit “cause damage to a private ship or its cargo knowing that it”,
6 substitute “engage in conduct that causes damage to a private ship or its
7 cargo, knowing that such damage”.

8 **8 Subsection 11(1)**

9 Omit “, without lawful excuse,”.

10 **9 Section 12**

11 Repeal the section, substitute:

12 **12 Destroying or damaging navigational facilities**

13 A person must not engage in conduct that causes:

14 (a) the destruction of maritime navigational facilities; or

15 (b) serious damage to such facilities; or

16 (c) serious interference with the operation of such facilities;

17 if the destruction, damage or interference is likely to endanger the
18 safe navigation of a private ship.

19 Penalty: 15 years imprisonment.

20 **10 Section 13**

21 Repeal the section, substitute:

22 **13 Giving false information**

23 A person must not communicate false information knowing that
24 the communication will endanger the safe navigation of a private
25 ship.

26 Penalty: 15 years imprisonment.

27 **11 Section 14**

1 Omit “who kills a”, substitute “who engages in conduct that causes the
2 death of another”.

3 **12 Section 15**

4 Omit “who causes grievous bodily harm to a”, substitute “who engages
5 in conduct that causes grievous bodily harm to another”.

6 **13 Section 16**

7 Omit “who injures a”, substitute “who engages in conduct that causes
8 injury to another”.

9 **14 Subsection 18(5) (definition of offence against this**
10 **Division)**

11 Omit “arising under section 5 of the *Crimes Act 1914* (aiders and
12 abettors) or section 7 of that Act (attempts) in relation to”, substitute
13 “created by section 11.1 or 11.2 of the *Criminal Code* that relates to”.

14 **15 Subsection 20(5)**

15 Omit “, without reasonable excuse,”.

16 **16 After subsection 20(5)**

17 Insert:

18 (5A) Subsection (5) does not apply if the ship’s master has a reasonable
19 excuse.

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

22 **17 Subsection 20(6) (definition of offence against Division 1)**

23 Omit “arising under section 5 of the *Crimes Act 1914* (aiders and
24 abettors) or section 7 of that Act (attempts) in relation to”, substitute
25 “created by section 11.1 or 11.2 of the *Criminal Code* that relates to”.

26 **18 Section 21**

27 Omit “, without lawful excuse,”.

28 **19 Section 23**

1 Omit “, without lawful excuse, destroy a fixed platform or cause
2 damage to a fixed platform knowing that it is”, substitute “engage in
3 conduct that causes the destruction of, or damage to, a fixed platform
4 knowing that the destruction or damage is”.

5 **20 Section 24**

6 Omit “, without lawful excuse,”.

7 **21 Section 25**

8 Omit “who kills a”, substitute “who engages in conduct that causes the
9 death of another”.

10 **22 Section 26**

11 Omit “who causes grievous bodily harm”, substitute “who engages in
12 conduct that causes grievous bodily harm to another person”.

13 **23 Section 27**

14 Omit “who injures a”, substitute “who engages in conduct that causes
15 injury to another”.

16 **24 Subsection 29(5) (definition of offence against this Part)**

17 Omit “arising under section 5 of the *Crimes Act 1914* (aiders and
18 abettors) or section 7 of that Act (attempts) in relation to”, substitute
19 “created by section 11.1 or 11.2 of the *Criminal Code* that relates to”.

20 **25 Paragraph 30(1)(b)**

21 Omit “arising under section 5 or 7 of the *Crimes Act 1914*”, substitute
22 “created by section 11.1 or 11.2 of the *Criminal Code*”.

23 **26 Paragraph 31(b)**

24 Omit “arising under section 5 or 7 of the *Crimes Act 1914*”, substitute
25 “created by section 11.1 or 11.2 of the *Criminal Code*”.

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Schedule 18—Crimes (Superannuation Benefits) Act 1989

5
6

1 After section 12

Insert:

7

12A Application of the *Criminal Code*

8
9

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

10
11

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

12

2 Subsection 35(1)

13

Omit “knowingly”, substitute “intentionally”.

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Schedule 19—Crimes (Torture) Act 1988

4
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1 After section 5

Insert:

6

5A Application of the *Criminal Code*

7
8

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

9
10

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

11

2 After subsection 6(1)

12

Insert:

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15

(1A) For the purposes of an offence against subsection (1), absolute liability applies to the following physical elements of circumstance of the offence:

16

(a) that the act of torture is done outside Australia;

17

(b) that the act of torture, if done by the person at the relevant time in a part of Australia, would constitute an offence against the law then in force in that part of Australia.

18

19

20

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

1
2 **Schedule 20—Crimes (Traffic in Narcotic**
3 **Drugs and Psychotropic Substances)**
4 **Act 1990**
5

6 **1 Section 3**

7 Insert:

8 *engage in conduct* means:

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

11 **2 After section 4**

12 Insert:

13 **4A Application of the *Criminal Code***

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

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

18 **3 Paragraphs 6(1)(a), (d), (e) and (f)**

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

20 **4 At the end of section 9**

21 Add:

22 (2) For the purposes of an offence against this section, absolute
23 liability applies to the following physical elements of circumstance
24 of the offence:

- 25 (a) that the possession is in Australia;
26 (b) that the substance possessed is listed in Table I or II in the
27 Annex to the Convention;
28 (c) that the dealing in drugs in which, or for which, the
29 substance, equipment or materials are being used or are to be
30 used is a dealing in drugs described in paragraphs (1)(a) and
31 (b).

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

1 **5 At the end of section 10**

2 Add:

- 3 (3) For the purposes of an offence against this section, absolute
4 liability applies to such of the following physical elements of
5 circumstance as are relevant to the offence:
- 6 (a) that the conduct is engaged in on board an Australian aircraft
7 in flight, whether in or outside Australia;
 - 8 (b) that the conduct would constitute an offence against a law in
9 force in a State or Territory if it were engaged in by the
10 person in that State or Territory;
 - 11 (c) if paragraph 6(1)(f) applies—that the importation is into
12 Australia, or the exportation is from Australia;
 - 13 (d) if paragraph 6(1)(fa) or (g) applies—that the substance is
14 listed in Table I or II in the Annex to the Convention.

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

16 **6 At the end of section 11**

17 Add:

- 18 (2) For the purposes of an offence against this section, absolute
19 liability applies to such of the following physical elements of
20 circumstance as are relevant to the offence:
- 21 (a) that the conduct is engaged in on board an Australian ship at
22 sea;
 - 23 (b) that the conduct if engaged in by the person in a State or
24 Territory would constitute an offence against a law of the
25 Commonwealth;
 - 26 (c) if paragraph 6(1)(f) applies—that the importation is into
27 Australia, or the exportation is from Australia;
 - 28 (d) if paragraph 6(1)(fa) or (g) applies—that the substance is
29 listed in Table I or II in the Annex to the Convention.

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

31 **7 At the end of section 12**

32 Add:

- 1 (3) For the purposes of an offence against this section, absolute
2 liability applies to such of the following physical elements of
3 circumstance as are relevant to the offence:
4 (a) that the conduct is engaged in outside Australia;
5 (b) that the conduct constitutes an offence against the law of a
6 foreign country;
7 (c) that the conduct would constitute an offence against a law in
8 force in a State or Territory if it were engaged in by the
9 person in that State or Territory;
10 (d) if paragraph 6(1)(f) applies—that the importation is into
11 Australia, or the exportation is from Australia;
12 (e) if paragraph 6(1)(fa) or (g) applies—that the substance is
13 listed in Table I or II in the Annex to the Convention.

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

15 **8 At the end of section 13**

16 Add:

- 17 (2) For the purposes of an offence against this section, absolute
18 liability applies to such of the following physical elements of
19 circumstance as are relevant to the offence:
20 (a) that the conduct is engaged in outside Australia;
21 (b) that the view to the carrying out of a dealing in drugs with
22 which the conduct is engaged in, is a view to the carrying out
23 of such a dealing:
24 (i) in Australia; or
25 (ii) on board an Australian aircraft in flight outside
26 Australia; or
27 (iii) on board an Australian ship at sea;
28 (c) that the carrying out of the dealing in drugs referred to in
29 paragraph (b) constitutes an offence against a law of the
30 Commonwealth, of a State or of a Territory;
31 (d) if paragraph 6(1)(f) applies—that the importation is into
32 Australia, or the exportation is from Australia;
33 (e) if paragraph 6(1)(fa) or (g) applies—that the substance is
34 listed in Table I or II in the Annex to the Convention.

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

1 **9 At the end of section 14**

2 Add:

- 3 (2) For the purposes of an offence against this section, absolute
4 liability applies to such of the following physical elements of
5 circumstance as are relevant to the offence:
- 6 (a) that the conduct is engaged in outside Australia;
 - 7 (b) that the dealing in drugs is carried out, or is to be carried out,
8 in a State or Territory;
 - 9 (c) that the carrying out of the dealing in drugs constitutes an
10 offence against a law of that State or Territory;
 - 11 (d) if paragraph 6(1)(f) applies—that the importation is into
12 Australia, or the exportation is from Australia;
 - 13 (e) if paragraph 6(1)(fa) or (g) applies—that the substance is
14 listed in Table I or II in the Annex to the Convention.

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

16 **10 Paragraph 15(6)(a)**

17 Omit “for the purpose” (wherever occurring), substitute “with the
18 intention”.

19 **11 Section 15A**

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

21 **12 At the end of section 15A**

22 Add:

- 23 (2) For the purposes of an offence against this section, absolute
24 liability applies to the physical element of circumstance of the
25 offence, that the conversion or transfer of property takes place in:
- 26 (a) a State other than a prescribed State; or
 - 27 (b) a Territory other than a prescribed Territory.

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

29 Note: The heading to section 15A is altered by omitting “**Knowingly converting**” and
30 substituting “**Intentionally converting**”.

31 **13 At the end of section 15B**

32 Add:

1 (2) For the purposes of an offence against this section, absolute
2 liability applies to the physical element of circumstance of the
3 offence, that the concealing or disguising takes place in:

- 4 (a) a State other than a prescribed State; or
5 (b) a Territory other than a prescribed Territory.

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

7 Note: The heading to section 15B is altered by omitting “**Knowingly concealing**” and
8 substituting “**Intentionally concealing**”.

9 **14 At the end of section 15C**

10 Add:

11 (2) For the purposes of an offence against this section, absolute
12 liability applies to the physical element of circumstance of the
13 offence, that the acquisition, possession or use is in:

- 14 (a) a State other than a prescribed State; or
15 (b) a Territory other than a prescribed Territory.

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

17 Note: The heading to section 15C is altered by omitting “**Knowingly acquiring**” and
18 substituting “**Intentionally acquiring**”.

19 **15 Section 17**

20 Omit “for the purpose” (wherever occurring), substitute “with the
21 intention”.

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Schedule 21—Customs Act 1901

1 Subsection 4(1) (subparagraphs (b)(i) and (ii) of the definition of *Records offence*)

Repeal the subparagraphs, substitute:

- (i) section 6 of the *Crimes Act 1914*; or

2 Subsection 4(1) (after paragraph (b) of the definition of *Records offence*)

Insert:

- (ba) an ancillary offence (within the meaning of the *Criminal Code*) that relates to an offence of the kind referred to in paragraph (a) of this definition; or

3 At the end of Part I

Add:

5AA 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 a Customs prosecution:
 - (a) Parts 2.1, 2.2 and 2.3 of the *Criminal Code* apply; and
 - (b) Parts 2.4, 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 a Customs prosecution.
- (5) In this section:

1 *Customs prosecution* has the meaning given in section 244.

2 **4 Subsection 5A(1)**

3 Omit “, without the permission of the CEO given under
4 subsection (2),”.

5 **5 After subsection 5A(1)**

6 Insert:

7 (1A) Subsection (1) does not apply if the person has the permission of
8 the CEO given under subsection (2).

9 **6 Subsection 5B(1)**

10 Omit “, without the permission of the CEO given under
11 subsection (2),”.

12 **7 After subsection 5B(1)**

13 Insert:

14 (1A) Subsection (1) does not apply if the person has the permission of
15 the CEO given under subsection (2).

16 **8 Subsection 20(7)**

17 Omit “, without reasonable excuse,”.

18 **9 After subsection 20(7)**

19 Insert:

20 (7A) Subsection (7) does not apply if the person has a reasonable
21 excuse.

22 **10 Subsection 33A(1)**

23 Omit “Except with permission in force under subsection (2), a”,
24 substitute “A”.

25 **11 After subsection 33A(1)**

26 Insert:

27 (1A) Subsection (1) is an offence of strict liability.

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

1 (1B) Subsection (1) does not apply if the person has permission in force
2 under subsection (2).

3 **12 Subsection 33B(1)**

4 Omit “Except with permission in force under subsection (2), a”,
5 substitute “A”.

6 **13 After subsection 33B(1)**

7 Insert:

8 (1A) Subsection (1) is an offence of strict liability.

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

10 (1B) Subsection (1) does not apply if the person has permission in force
11 under subsection (2).

12 **14 Subsection 50(4)**

13 Repeal the subsection, substitute:

14 (4) A person is guilty of an offence if:

- 15 (a) a licence or permission has been granted, on or after
16 16 October 1963, under the regulations; and
17 (b) the licence or permission relates to goods that are not
18 narcotic goods; and
19 (c) the licence or permission is subject to a condition or
20 requirement to be complied with by the person; and
21 (d) the person engages in conduct; and
22 (e) the person’s conduct contravenes the condition or
23 requirement.

24 Penalty: 100 penalty units.

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

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

27 (6) Absolute liability applies to paragraph (4)(a), despite
28 subsection (5).

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

30 (7) A person is guilty of an offence if:

-
- 1 (a) a licence or permission has been granted, on or after
 2 16 October 1963, under the regulations; and
 3 (b) the licence or permission relates to goods that are narcotic
 4 goods; and
 5 (c) the licence or permission is subject to a condition or
 6 requirement to be complied with by the person; and
 7 (d) the person engages in conduct; and
 8 (e) the person’s conduct contravenes the condition or
 9 requirement.
- 10 (8) A person who is convicted of an offence against subsection (7) is
 11 punishable as provided by section 235.
- 12 (9) Absolute liability applies to paragraph (7)(a).
 13 Note: For *absolute liability*, see section 6.2 of the *Criminal Code*.
- 14 (10) In this section:
 15 *engage in conduct* means:
 16 (a) do an act; or
 17 (b) omit to perform an act.

18 **15 Subsection 58(1)**

19 Omit “, without the permission of a Collector given under
 20 subsection (2),”.

21 **16 After subsection 58(1)**

22 Insert:

23 (1A) Subsection (1) does not apply if the master or pilot has the
 24 permission of a Collector given under subsection (2).

25 **17 After subsection 58A(5)**

26 Insert:

27 (5A) Subsections (2), (3), (4) and (5) are offences of strict liability.

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

29 **18 After subsection 58B(5)**

30 Insert:

1 (5A) Subsections (2), (3), (4) and (5) are offences of strict liability.

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

3 **19 After subsection 60(1)**

4 Insert:

5 (1A) Subsection (1) is an offence of strict liability.

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

7 **20 After subsection 60(2)**

8 Insert:

9 (2A) For the purposes of an offence against subsection (2), strict liability
10 applies to the physical element of circumstance of the offence, that
11 an airport for which a boarding station is appointed and at which
12 the aircraft did not first land:

13 (a) is nearest to the place at which the aircraft entered Australia;
14 or

15 (b) is one that has been approved by the CEO, in writing, as an
16 airport at which that aircraft, or a class of aircraft in which
17 that aircraft is included, may land on arriving in Australia
18 from a place outside Australia.

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

20 **21 Subsection 60(4)**

21 Omit “either of the last two preceding subsections”, substitute
22 “subsection (2) or (3)”.

23 **22 At the end of section 61**

24 Add:

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

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

27 **23 At the end of section 62**

28 Add:

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

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

1 **24 Section 63**

2 Omit “except by authority or by direction of the harbour or aerial
3 authority”.

4 **25 At the end of section 63**

5 Add:

6 (2) Subsection (1) does not apply if the removal is by authority or by
7 direction of the harbour or aerial authority.

8 (3) Subsection (1) is an offence of strict liability.

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

10 **26 After subsection 64AE(1)**

11 Insert:

12 (1A) Subsection (1) is an offence of strict liability.

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

14 **27 After subsection 64AE(2)**

15 Insert:

16 (2A) Subsection (2) is an offence of strict liability.

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

18 **28 After subsection 64A(3)**

19 Insert:

20 (3A) Subsections (1), (2) and (3) are offences of strict liability.

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

22 **29 At the end of section 65**

23 Add:

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

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

26 **30 Section 67**

27 Omit “except by authority”.

1 **31 At the end of section 67**

2 Add:

3 (2) Subsection (1) does not apply to a person who moves, alters or
4 interferes with the goods by authority.

5 Note: For *by authority*, see subsection 4(1).

6 **32 After subsection 70(7)**

7 Insert:

8 (7A) Subsection (7) is an offence of strict liability.

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

10 **33 Subsection 71E(3A)**

11 Omit “, without reasonable excuse,”.

12 **34 After subsection 71E(3A)**

13 Insert:

14 (3AA) Subsection (3A) is an offence of strict liability.

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

16 (3AB) Subsection (3A) does not apply if the person has a reasonable
17 excuse.

18 **35 Subsections 73(1) and (2)**

19 Omit “subsection (3), except with the permission of a Collector,”,
20 substitute “subsections (2B) and (3),”.

21 **36 After subsection 73(2)**

22 Insert:

23 (2A) Subsections (1) and (2) are offences of strict liability.

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

25 (2B) Subsections (1) and (2) do not apply if the person has the
26 permission of a Collector.

27 **37 Subsection 86(6)**

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

1 **38 At the end of section 87**

2 Add:

3 (8) Subsection (7) is an offence of strict liability.

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

5 **39 After subsection 90(1)**

6 Insert:

7 (1A) Subsection (1) is an offence of strict liability.

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

9 **40 After subsection 96A(11)**

10 Insert:

11 (11A) Subsection (11) is an offence of strict liability.

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

13 **41 After subsection 96B(11)**

14 Insert:

15 (11A) Subsection (11) is an offence of strict liability.

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

17 **42 At the end of section 100**

18 Add:

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

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

21 **43 At the end of section 101**

22 Add:

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

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

25 **44 At the end of subsection 102(1)**

26 Add:

27 Penalty: 10 penalty units.

1 **45 Section 102 (penalty)**

2 Omit “\$1,000”, substitute “10 penalty units”.

3 **46 At the end of section 102**

4 Add:

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

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

7 **47 Subsection 112(2B)**

8 Repeal the subsection, substitute:

9 (2B) A person is guilty of an offence if:

- 10 (a) a licence or permission has been granted, on or after
11 10 November 1977, under the regulations; and
12 (b) the licence or permission relates to goods that are not
13 narcotic goods; and
14 (c) the licence or permission is subject to a condition or
15 requirement to be complied with by the person; and
16 (d) the person engages in conduct; and
17 (e) the person’s conduct contravenes the condition or
18 requirement.

19 Penalty: 100 penalty units.

20 (2BA) Subsection (2B) is an offence of strict liability.

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

22 (2BB) Absolute liability applies to paragraph (2B)(a), despite
23 subsection (2BA).

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

25 (2BC) A person is guilty of an offence if:

- 26 (a) a licence or permission has been granted, on or after
27 10 November 1977, under the regulations; and
28 (b) the licence or permission relates to goods that are narcotic
29 goods; and
30 (c) the licence or permission is subject to a condition or
31 requirement to be complied with by the person; and
32 (d) the person engages in conduct; and
-

1 (e) the person's conduct contravenes the condition or
2 requirement.

3 (2BD) A person who is convicted of an offence against subsection (2BC)
4 is punishable as provided by section 235.

5 (2BE) Absolute liability applies to paragraph (2BC)(a).

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

7 **48 At the end of section 112**

8 Add:

9 (4) In this section:

10 *engage in conduct* means:

11 (a) do an act; or

12 (b) omit to perform an act.

13 **49 Subsection 114B(7)**

14 Omit “, without reasonable excuse,”.

15 **50 After subsection 114B(7)**

16 Insert:

17 (7A) Subsection (7) does not apply if the person has a reasonable
18 excuse.

19 (7B) Subsection (7) is an offence of strict liability.

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

21 **51 At the end of section 123**

22 Add:

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

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

25 **52 At the end of section 124**

26 Add:

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

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

1 **53 Section 125**

2 Omit “without the permission of the Collector”.

3 **54 At the end of section 125**

4 Add:

5 (2) Subsection (1) does not apply if the goods are unshipped or landed
6 with the permission of the Collector.

7 (3) Subsection (1) is an offence of strict liability.

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

9 **55 Section 126C**

10 Omit “without the written permission of the CEO”.

11 **56 At the end of section 126C**

12 Add:

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

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

15 (3) Subsection (1) does not apply if the CEO has given written
16 permission for the export of the goods in that way.

17 **57 Paragraph 127(a)**

18 Omit “without the consent of the Collector”.

19 **58 Paragraph 127(b)**

20 Omit “, except with the consent of the Collector,”.

21 **59 At the end of section 127**

22 Add:

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

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

25 (3) Subsection (1) does not apply if the Collector has consented to the
26 unshipping, unloading or use.

27 **60 After subsection 129(3)**

1 Insert:

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

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

4 **61 After subsection 130B(3)**

5 Insert:

6 (3A) Subsection (3) is an offence of strict liability.

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

8 **62 After subsection 164AC(14)**

9 Insert:

10 (14A) Subsection (14) is an offence of strict liability.

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

12 **63 Subsections 175(2) and (3)**

13 Omit “Except with the permission of a Collector or for the purpose of
14 securing the safety of a ship or an aircraft or saving life, the”, substitute
15 “The”.

16 **64 Subsections 175(3A) and (3B)**

17 Omit “Except with the permission of a Collector or for the purpose of
18 securing the safety of a ship or an aircraft or saving life, a”, substitute
19 “A”.

20 **65 After subsection 175(3B)**

21 Insert:

22 (3BA) For the purposes of subsections (2), (3), (3A) and (3B), strict
23 liability applies to such of the following physical elements of
24 circumstance as are relevant to the offence:

25 (a) that an aircraft is engaged in making an international flight or
26 a prescribed flight; or

27 (b) that a ship is engaged in making an international voyage or a
28 prescribed voyage.

29 **66 Subsection 175(3C)**

1 Omit “For the purposes of this section, a reference to the permission of
2 a Collector in subsection (2), (3), (3A) or (3B) is a reference to a
3 permission of the Collector given”, substitute “Subsection (2), (3), (3A)
4 or (3B) does not apply if a Collector has given permission (for the
5 transfer of the goods)”.

6 **67 Subsection 175(4)**

7 Omit “(2), (3), (3A) or (3B)”, substitute “(3C)”.

8 **68 At the end of section 175**

9 Add:

10 (8) Subsection (7) is an offence of strict liability.

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

12 (9) Subsection (2), (3), (3A) or (3B) does not apply to allowing a
13 transfer of goods for the purpose of securing the safety of a ship or
14 an aircraft or saving life.

15 **69 At the end of section 181**

16 Add:

17 (6) Subsection (5) is an offence of strict liability.

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

19 **70 Paragraph 183P(a)**

20 Omit “without reasonable cause”.

21 **71 Paragraph 183P(c)**

22 Omit “without reasonable cause,”.

23 **72 At the end of section 183P**

24 Add:

25 (2) Paragraphs (1)(a) and (c) do not apply if the person has reasonable
26 cause for the failure or refusal.

27 **73 Subsection 184A(12)**

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

1 **74 At the end of section 184A**

2 Add:

3 (13) Subsection (12) does not apply if the master has a reasonable
4 excuse.

5 Note: A defendant bears an evidential burden in relation to the matter in
6 subsection (13) (see subsection 13.3(3) of the *Criminal Code*).

7 **75 Subsection 184D(6)**

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

9 **76 After subsection 184D(6)**

10 Insert:

11 (6A) Subsection (6) does not apply if the pilot of the other aircraft has a
12 reasonable excuse.

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

15 **77 Subsection 185(4)**

16 Omit “, without reasonable excuse,”.

17 **78 After subsection 185(4)**

18 Insert:

19 *Reasonable excuse for non-compliance*

20 (4AA) Subsection (4) does not apply if the person has a reasonable
21 excuse.

22 **79 At the end of section 188**

23 Add:

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

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

26 **80 Section 191**

27 Omit “, except by authority,”.

28 **81 At the end of section 191**

1 Add:

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

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

4 (3) Subsection (1) does not apply to an opening, alteration, breaking or
5 erasure by authority.

6 Note: For *by authority*, see subsection 4(1).

7 **82 Section 192**

8 Omit “except by authority”.

9 **83 At the end of section 192**

10 Add:

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

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

13 (3) Subsection (1) does not apply to an opening, alteration, breaking or
14 erasure by authority.

15 Note: For *by authority*, see subsection 4(1).

16 **84 At the end of section 195**

17 Add:

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

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

20 **85 Subsection 196C(2)**

21 Omit “, without reasonable excuse,”.

22 **86 After subsection 196C(2)**

23 Insert:

24 (2A) Subsection (2) does not apply if the person has a reasonable
25 excuse.

26 **87 Paragraph 203Q(a)**

27 Omit “unless that judicial officer issued the warrant”.

1 **88 At the end of section 203Q**

2 Add:

3 (2) Paragraph (1)(a) does not apply if the judicial officer named in the
4 warrant issued it.

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

7 **89 Subsection 214B(9)**

8 Omit “, without reasonable excuse.”.

9 **90 At the end of section 214B**

10 Add:

11 (10) Subsection (9) does not apply if the person has a reasonable
12 excuse.

13 **91 Subsection 227E(5)**

14 Omit “, without written permission of an officer”.

15 **92 At the end of section 227E**

16 Add:

17 (7) Subsection (5) does not apply if the person has the written
18 permission of an officer for the interference or removal.

19 **93 Subsection 231(1)**

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

21 **94 After subsection 233(1AA)**

22 Insert:

23 (1AB) Subsection (1AA) is an offence of strict liability, to the extent that
24 it relates to paragraphs (1)(b), (c) and (d).

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

26 **95 Paragraph 232A(a)**

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

28 **96 Subsection 233A(1)**

1 Omit “use”, substitute “intentionally use”.

2 **97 Subsection 233A(1)**

3 Omit “knowingly”, substitute “intentionally”.

4 **98 After subsection 233A(1)**

5 Insert:

6 (1A) Subsection (1) does not apply if the goods smuggled, imported,
7 exported or conveyed are narcotic goods.

8 Note: The heading to section 233A is replaced by the heading “**Master not to use or allow**
9 **use of ship for smuggling etc.—goods that are not narcotic goods**”.

10 **99 Paragraph 233A(2)(a)**

11 Repeal the paragraph.

12 **100 Paragraph 233A(2)(b)**

13 Omit “that are not narcotic goods”.

14 **101 After section 233AB**

15 Insert:

16 **233AC Master not to use or allow use of ship for smuggling etc.—**
17 **narcotic goods**

18 (1) The master of a ship or the pilot of an aircraft must not
19 intentionally use his or her ship or aircraft, or intentionally suffer it
20 to be used:

21 (a) in smuggling; or

22 (b) in the importation of any goods in contravention of this Act;
23 or

24 (c) in the exportation or conveyance of any goods in
25 contravention of this Act;

26 if the relevant goods are narcotic goods.

27 (2) A person who contravenes subsection (1) is guilty of an offence
28 punishable upon conviction as provided by section 235.

29 **102 Paragraph 233B(1)(aa)**

30 Omit “, attempts to bring, or causes to be brought,”.

1 **103 Paragraph 233B(1)(b)**

2 Omit “, or attempts to import,”.

3 **104 Paragraph 233B(1)(b)**

4 Omit “, or attempts to export,”.

5 **105 Paragraph 233B(1)(c)**

6 Omit “, or attempts to obtain possession of,”.

7 **106 Paragraph 233B(1)(caa)**

8 Omit “, or attempts to convey,”.

9 **107 Paragraph 233B(1)(ca)**

10 Omit “, or attempts to obtain possession of,”.

11 **108 Paragraphs 233B(1)(cb) and (d)**

12 Repeal the paragraphs.

13 **109 Subsection 233B(1A)**

14 Repeal the subsection, substitute:

15 (1AA) For the purposes of an offence against paragraph (1)(a), absolute
 16 liability applies to the physical element of circumstance of the
 17 offence, that the relevant possession is on board any ship or
 18 aircraft.

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

20 (1AB) For the purposes of an offence against paragraph (1)(c) or (caa),
 21 absolute liability applies to the physical element of circumstance of
 22 the offence, that the prohibited imports have been imported into
 23 Australia in contravention of this Act.

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

25 (1AC) For the purposes of an offence against paragraph (1)(ca), absolute
 26 liability applies to the physical element of circumstance of the
 27 offence, that the prohibited imports are reasonably suspected of
 28 having been imported into Australia in contravention of this Act.

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

1 (1A) On the prosecution of a person for an offence against
2 subsection (1), being an offence to which paragraph (c) of that
3 subsection applies, it is a defence if the person proves that he or
4 she did not know that the goods in his or her possession had been
5 imported into Australia in contravention of this Act.

6 **110 Paragraph 233BAA(4)(a)**

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

8 **111 Paragraph 233BAA(4)(b)**

9 Repeal the paragraph, substitute:

10 (b) the goods were tier 1 goods and the person was reckless as to
11 that fact; and

12 **112 After subsection 233BAA(4)**

13 Insert:

14 (4A) Subject to subsection (4B), absolute liability applies to
15 paragraph (4)(c).

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

17 (4B) For the purposes of an offence against subsection (4), strict liability
18 applies to the physical element of circumstance of the offence, that
19 an approval referred to in subparagraph (4)(c)(ii) had not been
20 obtained at the time of the importation.

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

22 **113 Paragraph 233BAA(5)(a)**

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

24 **114 Paragraph 233BAA(5)(b)**

25 Repeal the paragraph, substitute:

26 (b) the goods were tier 1 goods and the person was reckless as to
27 that fact; and

28 **115 After subsection 233BAA(5)**

29 Insert:

30 (5A) Subject to subsection (5B), absolute liability applies to
31 paragraph (5)(c).

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

2 (5B) For the purposes of an offence against subsection (5), strict liability
3 applies to the physical element of circumstance of the offence, that
4 an approval referred to in subparagraph (5)(c)(ii) had not been
5 obtained at the time of the exportation.

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

7 **116 Paragraph 233BAB(5)(a)**

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

9 **117 Paragraph 233BAB(5)(b)**

10 Repeal the paragraph, substitute:

11 (b) the goods were tier 2 goods and the person was reckless as to
12 that fact; and

13 **118 After subsection 233BAB(5)**

14 Insert:

15 (5A) Subject to subsection (5B), absolute liability applies to
16 paragraph (5)(c).

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

18 (5B) For the purposes of an offence against subsection (5), strict liability
19 applies to the physical element of circumstance of the offence, that
20 an approval referred to in subparagraph (5)(c)(ii) had not been
21 obtained at the time of the importation.

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

23 **119 Paragraph 233BAB(6)(a)**

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

25 **120 Paragraph 233BAB(6)(b)**

26 Repeal the paragraph, substitute:

27 (b) the goods were tier 2 goods and the person was reckless as to
28 that fact; and

29 **121 After subsection 233BAB(6)**

30 Insert:

1 (6A) Subject to subsection (6B), absolute liability applies to
2 paragraph (6)(c).

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

4 (6B) For the purposes of an offence against subsection (6), strict liability
5 applies to the physical element of circumstance of the offence, that
6 an approval referred to in subparagraph (6)(c)(ii) had not been
7 obtained at the time of the exportation.

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

9 **122 Paragraph 234(1)(c)**

10 Repeal the paragraph, substitute:

11 (c) intentionally obtain or retain diesel fuel rebate, reckless as to
12 the fact that the person is not entitled to the rebate under
13 section 164;

14 **123 Paragraph 234(1)(d)**

15 Repeal the paragraph, substitute:

16 (d) either:

17 (i) intentionally make a statement to an officer, reckless as
18 to the fact that the statement is false or misleading in a
19 material particular; or

20 (ii) intentionally omit from a statement made to an officer
21 any matter or thing, reckless as to the fact that without
22 the matter or thing the statement is misleading in a
23 material particular;

24 **124 After subsection 234(2)**

25 Insert:

26 (2AA) For the purposes of an offence against paragraph (1)(c), absolute
27 liability applies to the physical element of circumstance of the
28 offence, that the lack of entitlement is under section 164.

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

30 **125 Subsection 234(4) (the subsection 234(4) added by item 2**
31 **of Schedule 1 to the *Customs and Excise Legislation***
32 ***Amendment Act (No. 2) 1997***

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

5 **126 Subsection 234(5)**

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

10 **127 Subsection 234(6) (note)**

11 Repeal the note.

12 **128 After subsection 234(6)**

13 Insert:

14 (6A) Subsection (6) is an offence of strict liability.

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

16 **129 Subsection 234(7) (note)**

17 Repeal the note.

18 **130 After subsection 234(7)**

19 Insert:

20 (7A) Subsection (7) is an offence of strict liability.

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

22 **131 Subsection 234A(1)**

23 Omit “, except by authority”.

24 **132 After subsection 234A(1)**

25 Insert:

26 (1A) Subsection (1) does not apply if the person:

27 (a) enters into or is in the place, by authority; or

28 (b) enters on or is in or on, the ship, aircraft, wharf or the part of
 29 a wharf, by authority.

1 **133 Subsection 234A(2)**

2 Omit “The last preceding subsection”, substitute “Subsection (1)”.

3 **134 Subsection 234AB(3)**

4 Omit “, without reasonable excuse,”.

5 **135 After subsection 234AB(3)**

6 Insert:

7 (3A) Subsection (3) does not apply if the person has a reasonable
8 excuse.

9 (3B) Subsection (3) is an offence of strict liability.

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

11 **136 Subsection 235(1)**

12 Repeal the subsection, substitute:

13 (1) The penalty for an offence against subsection 50(7) or subsection
14 112(2BC) is a fine not exceeding \$2,000 or imprisonment for a
15 period not exceeding 2 years, or both.

16 **137 Paragraph 235(2)(a)**

17 Omit “section 233A”, substitute “section 233AC”.

18 **138 Section 236**

19 Omit “Whoever”, substitute “For the purposes of a Customs
20 prosecution (within the meaning of section 244), whoever”.

21 **139 Section 237**

22 Omit “Any”, substitute “For the purposes of a Customs prosecution
23 (within the meaning of section 244), any”.

24 **140 Subsection 243K(1)**

25 Omit “knowingly”, substitute “intentionally”.

26 **141 After subsection 275A(2)**

27 Add:

28 (2A) Subsection (2) is an offence of strict liability.

1

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

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Schedule 22—Customs Administration Act 1985

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1 After section 3

Insert:

7

3A Application of the *Criminal Code*

8
9

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

10
11

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

12

2 Paragraph 16AA(1)(b)

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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*,”.

1
2 **Schedule 23—Defence Force Discipline**
3 **Appeals Act 1955**
4

5 **1 At the end of Part I**

6 Add:

7 **5A Application of the *Criminal Code***

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

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

12 **2 Section 43**

13 Omit “, without reasonable excuse”.

14 **3 At the end of section 43**

15 Add:

16 (2) Subsection (1) does not apply if the person has a reasonable
17 excuse.

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

20 (3) Subsection (1) is an offence of strict liability.

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

22 **4 At the end of section 44**

23 Add:

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

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

26 **5 Section 45**

27 Omit “, without reasonable excuse”.

28 **6 At the end of section 45**

29 Add:

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

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

5 **7 Paragraph 46(a)**

6 Omit “wilfully”, substitute “intentionally”.

1
2 **Schedule 24—Disability Discrimination Act**
3 **1992**
4

5 **1 After section 12**

6 Insert:

7 **12A Application of the *Criminal Code***

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

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

12 **2 Paragraph 43(b)**

13 Repeal the paragraph.

14 **3 Subsection 107(1)**

15 Omit “, without reasonable excuse,”.

16 **4 After subsection 107(1)**

17 Insert:

18 (1A) Subsection (1) does not apply if the person has a reasonable
19 excuse.

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

22 (1B) Subsection (1) is an offence of strict liability.

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

24 **5 Subsection 127(1)**

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

27 **6 At the end of subsection 127(3)**

28 Add:

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

1 **7 After subsection 127(3)**

2 Insert:

3 (3A) Subsection (1) does not prevent a person from making a record of,
4 divulging, communicating or making use of information, or
5 producing a document, if the person does so:

6 (a) in the performance of a duty under or in connection with this
7 Act; or

8 (b) in the performance or exercise of a function or power
9 conferred on the Commission or on the Commissioner under
10 this Act.

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

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Schedule 25—Evidence Act 1995

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1 After section 8

Insert:

6

8A Application of the *Criminal Code*

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

9
10

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

11
12

Note 2: Section 8A does not appear in the NSW Act, because Chapter 2 of the *Criminal Code* applies only to this Act.

13

2 At the end of section 195

14

Add:

15

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

16

Note 1: For *strict liability*, see section 6.1 of the *Criminal Code*.

17

Note 2: Subsection 195(2) does not appear in the NSW Act, because section 6.1 of the *Criminal Code* (which deals with strict liability) applies only to this Act.

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19

1
2 **Schedule 26—Evidence and Procedure (New**
3 **Zealand) Act 1994**
4

5 **1 At the end of Part 1**

6 Add:

7 **6A Application of the *Criminal Code***

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

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

12 **2 Paragraphs 37(b) and (c)**

13 Omit “wilfully”, substitute “intentionally”.

14 **3 Paragraph 37(d)**

15 Omit “wilfully and without lawful excuse”, substitute “intentionally”.

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Schedule 27—Family Law Act 1975

1 After section 7

Insert:

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.

2 Subsection 65Y(1)

Omit “, intentionally or recklessly, take or send, or attempt to take or send,”, substitute “take or send”.

3 At the end of subsection 65Y(1)

Add:

Note: The ancillary offence provisions of the *Criminal Code*, including section 11.1 (attempts), apply in relation to the offence created by subsection (1).

4 Subsection 65Y(2)

Omit “, or attempting to take or send,”.

5 At the end of subsection 65Y(2)

Add:

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

6 Subsection 65Z(1)

Omit “, intentionally or recklessly, take or send, or attempt to take or send,”, substitute “take or send”.

7 At the end of subsection 65Z(1)

Add:

Note: The ancillary offence provisions of the *Criminal Code*, including section 11.1 (attempts), apply in relation to the offence created by subsection (1).

1 **8 Subsection 65Z(2)**

2 Omit “, or attempting to take or send,”.

3 **9 At the end of subsection 65Z(2)**

4 Add:

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

7 **10 Subsection 65ZA(2)**

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

9 **11 After subsection 65ZA(2)**

10 Insert:

11 (2A) Subsection (2) does not apply if the person has a reasonable
12 excuse.

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

15 **12 At the end of subsection 65ZA(3)**

16 Add:

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

19 **13 Subsection 65ZB(2)**

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

21 **14 After subsection 65ZB(2)**

22 Insert:

23 (2A) Subsection (2) does not apply if the person has a reasonable
24 excuse.

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

27 **15 At the end of subsection 65ZB(3)**

28 Add:

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

- 1 **16 Subsection 67P(1)**
2 Omit “, intentionally or recklessly,”.

1
2 **Schedule 28—Federal Court of Australia Act**
3 **1976**
4

5 **1 At the end of Part I**

6 Add:

7 **4A Application of the *Criminal Code***

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

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

12 **2 Paragraphs 32ZE(a) and (b)**

13 Omit “wilfully”, substitute “intentionally”.

14 **3 Paragraph 32ZE(c)**

15 Omit “wilfully and without lawful excuse”, substitute “intentionally”.

16 **4 Subsection 42(1)**

17 Omit “, without reasonable excuse”.

18 **5 After subsection 42(1)**

19 Insert:

20 (1A) Subsection (1) is an offence of strict liability.

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

22 (1B) Subsection (1) does not apply if the person has a reasonable
23 excuse.

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

26 **6 Subsection 42(2)**

27 Omit “, or attempt to personate, a juror for the purpose”, substitute “a
28 juror with the intention”.

29 **7 Paragraph 42(3)(a)**

1 Omit “, or attempt to corrupt,”.

2 **8 Subsection 58(1)**

3 Omit “, without reasonable excuse”.

4 **9 After subsection 58(1)**

5 Insert:

6 (1A) Subsection (1) is an offence of strict liability.

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

8 **10 Subsection 58(2)**

9 Omit “, without reasonable excuse”.

10 **11 After subsection 58(2)**

11 Insert:

12 (2A) Subsections (1) and (2) do not apply if the person has a reasonable
13 excuse.

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

1
2 **Schedule 29—Financial Transaction Reports**
3 **Act 1988**
4

5 **1 At the end of Part I**

6 Add:

7 **6A Application of the *Criminal Code***

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

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

12 **2 Subsections 16(5A) and (5AA)**

13 Omit “, unless required to do so under this Act or any other Act,”.

14 **3 After subsection 18(9)**

15 Insert:

16 (9A) Subsection (9) is an offence of strict liability.

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

18 **4 Subsection 21(3A)**

19 Omit “, knowingly or recklessly”.

20 **5 Paragraphs 21(3A)(a) and (b)**

21 Repeal the paragraphs, substitute:

22 (a) intentionally make a statement in an identification reference,
23 reckless as to the fact that the statement is false or misleading
24 in a material particular; or

25 (b) intentionally omit from an identification reference any matter
26 or thing, reckless as to the fact that without the matter or
27 thing the reference is misleading in a material particular.

28 **6 Subsection 21A(3)**

29 Omit “, knowingly or recklessly”.

30 **7 Paragraphs 21A(3)(a) and (b)**

1 Repeal the paragraphs, substitute:

- 2 (a) intentionally make a statement in a change of name
3 statement, reckless as to the fact that it is false or misleading
4 in a material particular; or
5 (b) intentionally omit from a change of name statement any
6 matter or thing, reckless as to the fact that without the matter
7 or thing the change of name statement is misleading in a
8 material particular.

9 **8 Subsection 23A(3)**

10 Omit “or recklessly”.

11 **9 Subsection 27B(3)**

12 Omit “, without reasonable excuse,”.

13 **10 After subsection 27B(4)**

14 Insert:

15 (4A) Subsections (3) and (4) do not apply if the person has a reasonable
16 excuse.

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

19 (4B) Subsection (4) is an offence of strict liability.

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

21 **11 Subsection 29(1)**

22 Omit “, knowingly”.

23 **12 Paragraphs 29(1)(a) and (b)**

24 Repeal the paragraphs, substitute:

- 25 (a) intentionally make a statement that the cash dealer knows is
26 false or misleading in a material particular; or
27 (b) intentionally omit from a statement any matter or thing
28 without which the cash dealer knows the statement is
29 misleading in a material particular.

30 **13 Subsection 29(2)**

31 Omit “, knowingly”.

1 **14 Paragraphs 29(2)(a) and (b)**

2 Repeal the paragraphs, substitute:

- 3 (a) intentionally make a statement that the financial institution
4 knows is false or misleading in a material particular; or
5 (b) intentionally omit from a statement any matter or thing
6 without which the financial institution knows the statement is
7 misleading in a material particular.

8 **15 Subsection 29(2A)**

9 Omit “, knowingly”.

10 **16 Paragraphs 29(2A)(a) and (b)**

11 Repeal the paragraphs, substitute:

- 12 (a) intentionally make a statement that the person knows is false
13 or misleading in a material particular; or
14 (b) intentionally omit from a statement anything without which
15 the person knows the statement is misleading in a material
16 particular.

17 **17 Subsection 29(3)**

18 Repeal the subsection, substitute:

- 19 (3) A person must not:
20 (a) intentionally make a report for the purposes of section 15, a
21 statement for the purposes of section 18 or a declaration for
22 the purposes of section 33, that the person knows is false or
23 misleading in a material particular; or
24 (b) intentionally omit from such a report, statement or
25 declaration any matter or thing without which the person
26 knows the report, statement or declaration is misleading in a
27 material particular.

28 **18 Subsections 30(1), (2) and (3)**

29 Omit “knowingly does so in such a way”, substitute “knows”.

30 **19 Subsection 33(10) (definition of *offence against***
31 ***section 15*)**

32 Repeal the definition, substitute:

1 *offence against section 15* includes an offence against section 6 of
2 the *Crimes Act 1914* or section 11.1, 11.4 or 11.5 of the *Criminal*
3 *Code* that relates to an offence against section 15 of this Act.

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Schedule 30—Geneva Conventions Act 1957

1 At the end of Part I

5 Add:

6A Application of the *Criminal Code*

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

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

11 2 Subsection 7(1)

12 Omit “, or aids, abets or procures the commission by another person
13 of,”.

14 3 Paragraph 7(4)(a)

15 Omit “wilful”, substitute “intentional”.

16 4 After subsection 15(1)

17 Insert:

18 (1A) Subsection (1) is an offence of strict liability.

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

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2 **Schedule 31—High Court of Australia Act 1979**
3

4 **1 At the end of Part I**

5 Add:

6 **4A Application of the *Criminal Code***

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

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

11 **2 After subsection 19(6)**

12 Insert:

13 (6A) Subsection (6) is an offence of strict liability.

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

15 **3 At the end of section 43**

16 Add:

17 (8) Subsection (7) is an offence of strict liability.

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

1
2 **Schedule 32—Human Rights and Equal**
3 **Opportunity Commission Act 1986**
4

5 **1 At the end of Part I**

6 Add:

7 **6A Application of the *Criminal Code***

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

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

12 **2 After subsection 14(7)**

13 Insert:

14 (7A) Subsection (7) is an offence of strict liability.

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

16 **3 Subsections 23(1) and (2)**

17 Omit “, without reasonable excuse”.

18 **4 After subsection 23(2)**

19 Insert:

20 (2A) Subsections (1) and (2) do not apply if the person has a reasonable
21 excuse.

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

24 **5 Section 46PL**

25 Omit “, without reasonable excuse”.

26 **6 At the end of section 46PL**

27 Add:

28 (2) Subsection (1) does not apply if the person has a reasonable
29 excuse.

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

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

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

5 **7 Subsection 46PM(1)**

6 Omit “, without reasonable excuse,”.

7 **8 After subsection 46PM(1)**

8 Insert:

9 (1A) Subsection (1) does not apply if the person has a reasonable
10 excuse.

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

13 **9 Subsection 46PM(3)**

14 Omit “subsection (1)” (wherever occurring), substitute “this section”.

15 **10 Subsection 49(1)**

16 Omit all the words from and including “indirectly, except in the
17 performance” to and including “the Commission:”, substitute
18 “indirectly:”.

19 **11 At the end of subsection 49(3)**

20 Add:

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

23 **12 At the end of subsection 49(4A)**

24 Add:

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

27 **13 After subsection 49(4A)**

28 Insert:

- 1 (4B) Subsection (1) does not prevent a person from making a record of,
2 divulging, communicating or making use of information, or
3 producing a document, if the person does so:
4 (a) in the performance of a duty under or in connection with this
5 Act; or
6 (b) in the course of acting for or on behalf of the Commission.
7 Note: A defendant bears an evidential burden in relation to the matter in
8 subsection (4B) (see subsection 13.3(3) of the *Criminal Code*).

1
2 **Schedule 33—International War Crimes**
3 **Tribunals Act 1995**
4

5 **1 At the end of Part 1**

6 Add:

7 **6A Application of the *Criminal Code***

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

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

12 **2 Paragraphs 43(a) and (b)**

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

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Schedule 34—Marriage Act 1961

1 After section 5

Insert:

5A 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 After subsection 94(1)

Insert:

(1A) For the purposes of an offence against subsection (1), strict liability applies to the physical element of circumstance, that the person was married when the form or ceremony took place.

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

3 After subsection 94(3)

Insert:

(3A) To avoid doubt, section 9.2 of the *Criminal Code* (mistake of fact) does not apply in relation to the matters mentioned in subsections (2) and (3).

4 After subsection 95(1)

Insert:

(1A) For the purposes of an offence against subsection (1), strict liability applies to the physical element of circumstance, that the person is not of marriageable age.

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

5 After subsection 95(2)

Insert:

1 (2A) For the purposes of an offence against subsection (2), strict liability
2 applies to the physical element of circumstance, that the other party
3 to the marriage is a minor.

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

5 **6 After subsection 95(3)**

6 Insert:

7 (3A) To avoid doubt, section 9.2 of the *Criminal Code* (mistake of fact)
8 does not apply in relation to the matters mentioned in
9 subsection (3).

10 **7 At the end of section 95**

11 Add:

12 (5) To avoid doubt, section 9.2 of the *Criminal Code* (mistake of fact)
13 does not apply in relation to the matters mentioned in
14 subsection (4).

15 **8 Section 105**

16 Omit “, without reasonable excuse,”.

17 **9 At the end of section 105**

18 Add:

19 (2) Subsection (1) does not apply if the person has a reasonable
20 excuse.

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

23 (3) Subsection (1) is an offence of strict liability.

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

25 **10 Paragraph 106(b)**

26 Omit “wilfully”, substitute “intentionally”.

1
2 **Schedule 35—Mutual Assistance in Business**
3 **Regulation Act 1992**
4

5 **1 After section 4**

6 Insert:

7 **4A Application of the *Criminal Code***

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

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

12 **2 Subsection 13(1)**

13 Omit “, without reasonable excuse.”.

14 **3 After subsection 13(1)**

15 Insert:

16 (1A) Subsection (1) does not apply if the person has a reasonable
17 excuse.

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

20 **4 Subsection 14(1)**

21 Omit “subsection 13(1)”, substitute “subsection 13(1A)”.

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Schedule 36—Mutual Assistance in Criminal Matters Act 1987

1 After section 4

Insert:

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.

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Schedule 37—Native Title Act 1993

1 After section 8

Insert:

8A Application of the *Criminal Code*

(1) Subject to subsection (2), 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) Part 2.5 of the *Criminal Code* does not apply to an offence against Part 11 of this Act.

2 Section 171

Omit “, without reasonable excuse”.

3 At the end of section 171

Add:

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

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

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

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

4 Section 172

Omit “, without reasonable excuse”.

5 At the end of section 172

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*).

1 **6 Section 173**

2 Omit “knowingly give evidence that is false or misleading”, substitute
3 “intentionally give evidence that the person knows is false or
4 misleading”.

5 **7 Section 174**

6 Omit “, without reasonable excuse,”.

7 **8 At the end of section 174**

8 Add:

9 (2) Subsection (1) does not apply if the person has a reasonable
10 excuse.

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

13 **9 Section 175**

14 Repeal the section.

15 **10 At the end of section 176**

16 Add:

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

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

19 **11 Subsection 203DG(4)**

20 Omit “, without reasonable excuse,”.

21 **12 After subsection 203DG(4)**

22 Insert:

23 *Reasonable excuse for non-compliance*

24 (4A) Subsection (4) does not apply if the person has a reasonable
25 excuse.

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

28 **13 Subsection 203DG(5)**

29 Omit “subsection (4)”, substitute “subsection (4A)”.

1 Note: The heading to subsection 203DG(7) is altered by omitting “*Knowingly making*” and
2 substituting “*Making*”.

1
2 **Schedule 38—Parliamentary Privileges Act**
3 **1987**
4

5 **1 After section 3**

6 Insert:

7 **3A Application of the *Criminal Code***

8 (1) Chapter 2 of the *Criminal Code* applies to all offences against this
9 Act.

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

12 (2) To avoid doubt, subsection (1) does not apply the *Criminal Code* to
13 an offence against a House.

1
2 **Schedule 39—Passenger Movement Charge**
3 **Collection Act 1978**
4

5 **1 After section 4**

6 Insert:

7 **4A Application of the *Criminal Code***

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

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

12 **2 After subsection 6(2)**

13 Insert:

14 (2A) Subsection (2) is an offence of strict liability.

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

16 **3 Subsection 8(1)**

17 Omit “, without reasonable excuse, refuse”, substitute “fail”.

18 **4 After subsection 8(1)**

19 Insert:

20 (1A) Subsection (1) does not apply if the person has a reasonable
21 excuse.

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

24 (1B) Subsection (1) is an offence of strict liability.

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

26 **5 Subsection 8(3)**

27 Omit “, without reasonable excuse,”.

28 **6 After subsection 8(3)**

29 Insert:

1 (3A) Subsection (3) does not apply if the person has a reasonable
2 excuse.

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

5 **7 At the end of section 8**

6 Add:

7 (5) For the purposes of an offence against subsection (3) or (4), strict
8 liability applies to the following physical elements of circumstance
9 of the offence:

10 (a) that the person obstructed or hindered is an authorised
11 officer;

12 (b) that the authorised officer is acting in the performance of his
13 or her functions or the exercise of his or her powers under
14 this Act.

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

16 **8 Paragraphs 9(3)(b) and (c)**

17 Repeal the paragraphs, substitute:

18 (b) make a statement, in or in connection with a claim for a
19 refund, reckless as to the fact that the statement is false or
20 misleading in a material particular; or

21 (c) present a document, in connection with an application for a
22 refund, reckless as to the fact that the document is false or
23 misleading in a material particular.

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Schedule 40—Privacy Act 1988

1 After section 3

Insert:

3A Application of the *Criminal Code*

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

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

2 Subsections 18C(4), 18D(4), 18K(4), 18L(2), 18N(2), 18Q(9), 18R(2) and 18S(3)

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

3 Subsection 46(2)

Omit “and, without reasonable excuse”, substitute “and who”.

4 After subsection 46(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*).

5 Subsection 49(4) (paragraph (b) of the definition of *credit reporting offence*)

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

6 Subsection 49(4) (paragraph (b) of the definition of *tax file number offence*)

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

1 **7 Subsection 65(1)**

2 Omit “, without reasonable excuse”.

3 **8 Subsection 65(2)**

4 Repeal the subsection, substitute:

5 (2) Subsection (1) does not apply if the person has a reasonable
6 excuse.

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

9 **9 Subsection 66(1)**

10 Omit “, without reasonable excuse”.

11 **10 Subsection 66(1A)**

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

13 **11 Before subsection 66(2)**

14 Insert:

15 (1B) Subsection (1) does not apply if the person has a reasonable
16 excuse.

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

19 **12 Subsections 66(3) and (10)**

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

21 **13 Subsection 99A(9)**

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

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Schedule 41—Proceeds of Crime Act 1987

1 At the end of Part I

Add:

13A Application of the *Criminal Code*

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

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

2 Subsection 52(1)

Omit “knowingly”, substitute “intentionally”.

3 Paragraph 68(1)(a)

Omit “without reasonable excuse”.

4 After subsection 68(1)

Insert:

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

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

5 Subsection 73(7)

Omit “knowingly”, substitute “intentionally”.

6 After subsection 77(6)

Insert:

(6A) An offence against this section (as referred to in subsection (6)) is an offence of strict liability.

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

7 At the end of section 78

Add:

1 (4) An offence against this section (as referred to in subsection (3)) is
2 an offence of strict liability.

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

4 **8 Subsection 78A(3)**

5 Omit “or recklessly”.

1
2 **Schedule 42—Public Order (Protection of**
3 **Persons and Property) Act 1971**
4

5 **1 At the end of Part I**

6 Add:

7 **5A Application of the *Criminal Code***

8 (1) Chapter 2 of the *Criminal Code* applies to all offences against this
9 Act.

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

12 (2) Section 10.5 of the *Criminal Code* applies to an offence against
13 section 13F as if it covered conduct that is justified or excused by a
14 law of the Commonwealth or of a State or Territory.

15 **2 After subsection 6(1)**

16 Insert:

17 (1A) For the purposes of an offence against subsection (1), absolute
18 liability applies to such of the following physical elements of
19 circumstance as are relevant to the offence:

20 (a) that the assembly is in a Territory or is wholly or partly on
21 Commonwealth premises;

22 (b) that the persons conduct themselves in the Territory or on the
23 Commonwealth premises.

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

25 **3 Subsection 6(2)**

26 Omit “wilfully and without lawful excuse, does an act or thing by way
27 of physical violence to another person or damage to property”,
28 substitute “intentionally does an act of physical violence to another
29 person, or an act that results in damage to property.”.

30 **4 At the end of section 6**

31 Add:

- 1 (3) For the purposes of an offence against subsection (2), absolute
2 liability applies to the physical element of circumstance of the
3 offence, that the person is in a Territory or on Commonwealth
4 premises.

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

6 **5 Section 7**

7 Omit “wilfully and without lawful excuse”, substitute “intentionally”.

8 **6 At the end of section 7**

9 Add:

- 10 (2) For the purposes of an offence against subsection (1), absolute
11 liability applies to such of the following physical elements of
12 circumstance as are relevant to the offence:

- 13 (a) that the person is in a Territory or on Commonwealth
14 premises;
15 (b) that the extent of the damage to property exceeds \$1,500.

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

17 **7 Subsection 8(3)**

18 Omit “, without reasonable excuse,”.

19 **8 After subsection 8(3)**

20 Insert:

- 21 (3A) Strict liability applies to paragraphs (3)(a) and (b).

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

- 23 (3B) Subsection (3) does not apply to a person who has a reasonable
24 excuse.

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

27 **9 At the end of section 9**

28 Add:

- 29 (2) For the purposes of an offence against subsection (1), absolute
30 liability applies to the physical element of circumstance of the

1 offence, that the person is in a Territory or on Commonwealth
2 premises.

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

4 **10 Subsection 10(1)**

5 Omit “and without lawful excuse”.

6 **11 Paragraph 10(1)(d)**

7 Omit “in a manner likely to”, substitute “, being reckless as to whether
8 doing so will”.

9 **12 After subsection 10(1)**

10 Insert:

11 (1A) For the purposes of an offence against subsection (1), absolute
12 liability applies to the physical element of circumstance of the
13 offence, that the person is in a Territory or on Commonwealth
14 premises.

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

16 (1B) Paragraph (1)(a) does not apply if the person has a reasonable
17 excuse.

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

20 **13 Subsection 11(1)**

21 Omit “, without reasonable excuse,”.

22 **14 Paragraph 11(2)(c)**

23 Omit “, without reasonable excuse,”.

24 **15 After subsection 11(2)**

25 Insert:

26 (2A) For the purposes of an offence against subsection (1) or (2),
27 absolute liability applies to the physical element of circumstance of
28 the offence, that the premises are in a Territory.

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

1 (2B) Subsection (1) and paragraph (2)(c) do not apply if the person has a
2 reasonable excuse.

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

5 **16 Subsection 12(1)**

6 Omit “, without reasonable excuse,”.

7 **17 Paragraph 12(2)(c)**

8 Omit “, without reasonable excuse,”.

9 **18 At the end of section 12**

10 Add:

11 (3) For the purposes of an offence against subsection (1) or (2),
12 absolute liability applies to the physical element of circumstance of
13 the offence, that the premises are Commonwealth premises.

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

15 (4) For the purposes of an offence against paragraph (2)(c), strict
16 liability applies to the physical element of circumstance of the
17 offence, that the direction had been given by:

18 (a) a constable; or

19 (b) a protective service officer; or

20 (c) a person authorised in writing by a Minister or the public
21 authority under the Commonwealth occupying the premises
22 to give directions for the purposes of this section.

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

24 (5) Subsection (1) and paragraph (2)(c) do not apply if the person has a
25 reasonable excuse.

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

28 **19 Subsection 13C(2)**

29 Omit “, without reasonable excuse”.

30 **20 At the end of section 13C**

31 Add:

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

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

5 **21 Subsection 13D(2)**

6 Omit “, without reasonable excuse,”.

7 **22 After subsection 13D(2)**

8 Insert:

9 (2A) Subsection (2) does not apply if the person has a reasonable
10 excuse.

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

13 **23 Section 13F**

14 Omit “without lawful excuse,”.

15 **24 After subsection 15(1)**

16 Insert:

17 (1A) For the purposes of an offence against subsection (1), strict liability
18 applies to the physical element of circumstance of the offence, that
19 the way in which the persons conduct themselves gives rise to a
20 reasonable apprehension that the assembly will be carried on in a
21 manner involving unlawful physical violence to persons or
22 unlawful damage to property.

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

24 **25 Subsection 15(2)**

25 Omit “and without lawful excuse, does an act or thing by way of
26 physical violence to another person or damage to property”, substitute
27 “, intentionally does an act of physical violence to another person, or an
28 act that results in damage to property,”.

29 **26 At the end of section 15**

30 Add:

1 (3) For the purposes of an offence against subsection (1) or (2),
2 absolute liability applies to the physical element of circumstance of
3 the offence, that the assembly is in relation to protected premises or
4 a protected person.

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

6 **27 Section 16**

7 Omit “wilfully and without lawful excuse”, substitute “intentionally”.

8 **28 At the end of section 16**

9 Add:

10 (2) For the purposes of an offence against paragraph 16(1)(b), absolute
11 liability applies to the physical element of circumstance, that the
12 extent of the damage to property exceeds \$1,500.

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

14 **29 Subsection 17(3)**

15 Omit “, without reasonable excuse,”.

16 **30 After subsection 17(3)**

17 Insert:

18 (3A) Strict liability applies to paragraphs (3)(a) and (b).

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

20 (3B) Subsection (3) does not apply to a person who has a reasonable
21 excuse.

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

24 **31 At the end of section 18**

25 Add:

26 (2) For the purposes of an offence against paragraph (1)(a), (b), (c) or
27 (d), absolute liability applies to such of the following physical
28 elements of circumstance as are relevant to the offence:

29 (a) that the person mentioned in the paragraph is a protected
30 person;

1 (b) that interference with the discharge of the duties of such a
2 person is interference with the free and safe discharge of
3 those duties.

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

5 **32 Subsection 19(1)**

6 Omit “, without lawful excuse”.

7 **33 Paragraph 19(1)(d)**

8 Omit “in a manner likely to”, substitute “, being reckless as to whether
9 doing so will”.

10 **34 After subsection 19(1)**

11 Insert:

12 (1A) Paragraph (1)(a) does not apply if the person has a reasonable
13 excuse.

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

16 **35 Subsection 20(1)**

17 Omit “, without reasonable excuse,”.

18 **36 Paragraph 20(2)(c)**

19 Omit “, without reasonable excuse,”.

20 **37 At the end of section 20**

21 Add:

22 (3) Subsection (1) and paragraph (2)(c) do not apply if the person has a
23 reasonable excuse.

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

26 (4) For the purposes of an offence against subsection (1) or (2),
27 absolute liability applies to the physical element of circumstance of
28 the offence, that the relevant premises are protected premises.

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

- 1 (5) For the purposes of an offence against paragraph (2)(c), strict
2 liability applies to the physical element of circumstance of the
3 offence, that the direction had been given by:
4 (a) a constable; or
5 (b) a protective service officer; or
6 (c) a protected person residing or performing duties on the
7 premises; or
8 (d) a person acting in accordance with authority conferred on
9 him or her by such a protected person.

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

11 **38 Subsection 23(1)**

12 Omit “section 7 or section 16”, substitute “subsection 7(1) or subsection
13 16(1)”.

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Schedule 43—Racial Discrimination Act 1975

1 After section 6A

Insert:

6B 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 After subsection 27(1)

Insert:

(1A) For the purposes of an offence against subsection (1), strict liability applies to the physical element of circumstance, that a person is exercising or performing any of the powers or functions referred to in this Act.

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

3 Subsection 27F(1)

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

4 At the end of subsection 27F(3)

Add:

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

5 After subsection 27F(3)

Insert:

(3A) Subsection (1) does not prevent a person from making a record of, divulging, communicating or making use of information, or producing a document, if the person does so:

(a) in the performance of a duty under or in connection with this Act; or

1 (b) in the performance or exercise of a function or power
2 conferred on the Commission or on the Commissioner under
3 this Act.

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

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2 **Schedule 44—Service and Execution of**
3 **Process Act 1992**
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5 **1 After section 8**

6 Insert:

7 **8A Application of the *Criminal Code***

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

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

12 **2 Paragraph 84(3)(b)**

13 Omit “knowingly”, substitute “intentionally”.

14 **3 Subsection 103(1)**

15 Omit “or refuse”.

16 **4 Subsection 103(1) (penalty)**

17 Omit “12”, substitute “6”.

18 **5 After subsection 103(1)**

19 Insert:

20 (1A) Subsection (1) is an offence of strict liability.

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

1
2 **Schedule 45—Sex Discrimination Act 1984**
3

4 **1 At the end of Part I**

5 Add:

6 **13A Application of the *Criminal Code***

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

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

11 **2 Subsection 86(1)**

12 Omit “, or cause or permit to be published or displayed,”.

13 **3 Section 87**

14 Omit “, without reasonable excuse,”.

15 **4 At the end of section 87**

16 Add:

17 (2) Subsection (1) does not apply if the person has a reasonable
18 excuse.

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

21 (3) Subsection (1) is an offence of strict liability.

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

23 **5 After subsection 92(1)**

24 Insert:

25 (1A) Subsection (1) is an offence of strict liability.

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

27 **6 At the end of section 95**

28 Add:

1 (2) For the purposes of an offence against subsection (1), strict liability
2 applies to the physical element of circumstance, that a person is
3 exercising a power or performing a function under this Act.

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

5 **7 Subsection 112(1)**

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

8 **8 At the end of subsection 112(3)**

9 Add:

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

12 **9 After subsection 112(3)**

13 Insert:

14 (3AA) Subsection (1) does not prevent a person from making a record of,
15 divulging, communicating or making use of information, or
16 producing a document, if the person does so:

17 (a) in the performance of a duty under or in connection with this
18 Act; or

19 (b) in the performance or exercise of a function or power
20 conferred on the Commission or on the Commissioner under
21 this Act.

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

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Schedule 46—Statutory Declarations Act 1959

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1 After section 5

Insert:

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5A Application of the *Criminal Code*

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

9
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Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

11

2 Section 11

12

Omit “wilfully”, substitute “intentionally”.

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2 **Schedule 47—Telecommunications**
3 **(Interception) Act 1979**
4

5 **1 At the end of Part I**

6 Add:

7 **4A Application of the *Criminal Code***

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

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

12 **2 Section 106**

13 Omit “, without reasonable excuse,”.

14 **3 At the end of section 106**

15 Add:

16 (2) Subsection (1) does not apply if the person obstructing or hindering
17 has a reasonable excuse.

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

20 **4 Subsection 107(1)**

21 Omit “, without reasonable excuse,”.

22 **5 At the end of subsection 107(1)**

23 Add:

24 Penalty: Imprisonment for 6 months.

25 **6 Paragraph 107(2)(a)**

26 Omit “without reasonable excuse, wilfully”, substitute “intentionally”.

27 **7 At the end of section 107**

28 Add:

1 (3) Subsection (1) and paragraph (2)(a) do not apply if the person first
2 mentioned in subsection (1) or (2) has a reasonable excuse.

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

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Schedule 48—Transfer of Prisoners Act 1983

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1 Paragraph 27(b)

Omit “Act;”, substitute “Act; or”.

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2 After paragraph 27(b)

Insert:

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(c) an ancillary offence (within the meaning of the *Criminal Code*) that relates to an offence against section 47 of the *Crimes Act 1914* in its application for the purposes of subsection 26(1) or (2) of this Act;

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2 **Schedule 49—War Crimes Act 1945**
3

4 **1 At the end of Part I**

5 Add:

6 **3A Application of the *Criminal Code***

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

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

11 **2 Subsection 9(2)**

12 Omit “5 and 7, and paragraph 86(1)(a), of the *Crimes Act 1914*”,
13 substitute “11.1, 11.2 and 11.5 of the *Criminal Code*”.

14 **3 At the end of section 9**

15 Add:

16 (3) For the purposes of an offence against subsection (1), absolute
17 liability applies to the following physical elements of circumstance
18 of the offence:

- 19 (a) if subsection 6(1) applies—that the relevant act was, under
20 the law in force at the relevant time in the relevant part of
21 Australia, an offence mentioned in that subsection;
- 22 (b) if subsection 6(3) applies—that the law in force at the
23 relevant time in some part of Australia was such that the
24 relevant act would, had it been done at that time in that part,
25 have been a serious crime under subsection 6(1).

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

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Schedule 50—Witness Protection Act 1994

1 After section 3

Insert:

3A 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 19(5)

Omit “, without reasonable excuse,”.

3 Subsection 19(5) (penalty)

Omit “for an offence against this subsection”.

4 At the end of section 19

Add:

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

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

5 Subsection 22(1)

Omit “, without lawful authority,”.

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**Schedule 51—Amendments (except for
Customs Act) commencing on the day
mentioned in subsection 2.2(2) of the
Criminal Code**

7

Commonwealth Places (Application of Laws) Act 1970

8

1 Subsection 5(2)

9

Omit “Sections 4,”, substitute “Sections”.

10

2 Subsection 5(2)

11

Omit “, 5, 6, 7, 7A and 86”, substitute “and 6”.

12

3 Clause 1 of the Schedule

13

Omit “14, 15, 15A, 15B, 15C and 15D”, substitute “15, 15A, 15B and
15C, and”.

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Crimes Act 1914

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4 Sections 3BB, 4, 5, 7, 7A, 14, 15D and 86

17

Repeal the sections.

18

Transfer of Prisoners Act 1983

19

5 Paragraph 27(b)

20

Repeal the paragraph.