Australian Capital Territory

Crimes Act 1900

A1900-40

Republication No 139

Effective: 20 December 2022 – 23 May 2023

Republication date: 20 December 2022

Last amendment made by A2022-13
(republication for amendments by A2022-10)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

About this republication

The republished law

This is a republication of the *Crimes Act 1900* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 20 December 2022. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 20 December 2022.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is $160 for an individual and $810 for a corporation (see *Legislation Act 2001*, s 133).

Australian Capital Territory

Crimes Act 1900

Contents

Page

Part 1 Preliminary

1	Name of Act	2
2	Application of Act	2
4	Dictionary	2
5	Meaning of *loaded arms*	2
6	Reference to *the jury* read as reference to magistrate	2
7	Notes	3
7A	Offences against Act—application of Criminal Code etc	3
8	Public place etc	4
9	Abolition of distinctions between felony and misdemeanour	4

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

Part 2 Offences against the person

9A	Meaning of *aggravated offence*—pt 2	5
10	When child born alive	5
11	No time limit on criminal responsibility for homicide	5
12	Murder	5
13	Trial for murder—provocation	6
14	Trial for murder—diminished responsibility	8
15	Manslaughter	9
16	Suicide etc—not an offence	9
17	Suicide—aiding etc	9
18	Prevention of suicide	10
19	Intentionally inflicting grievous bodily harm	10
20	Recklessly inflicting grievous bodily harm	10
21	Wounding	11
22	Assault with intent to commit other offence	11
23	Inflicting actual bodily harm	11
24	Assault occasioning actual bodily harm	12
25	Causing grievous bodily harm	12
26	Common assault	12
26A	Assault of frontline community service provider	12
26B	Assault of frontline community service provider—alternative verdict	15
27	Acts endangering life etc	15
28	Acts endangering health etc	18
28AA	Food or drink spiking	19
28A	Throwing etc objects at vehicles	21
28B	Discharging firearm at building or conveyance	22
29	Culpable driving of motor vehicle	22
29A	Driving motor vehicle at police	24
29B	Damaging police vehicle	25
30	Threat to kill	26
31	Threat to inflict grievous bodily harm	27
32	Demands accompanied by threats	27
33	Possession of object with intent to kill etc	29

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

34 Forcible confinement 29
35 Stalking 29
35A Affray 32
35AA Affray—alternative verdicts 33
35AB Review—affray provisions 34
36 Torture 34
36A Abuse of vulnerable person 35
36B Failure to protect vulnerable person from criminal offence 39
36C Neglect of vulnerable person 40
37 Abduction of young person 42
38 Kidnapping 43
39 Neglect etc of children 43
40 Unlawfully taking child etc 44
41 Exposing or abandoning child 45
42 Child destruction 45
43 Childbirth—grievous bodily harm 45
47 Concealment of birth 45
48 Misconduct with regard to corpses 46
48A Aggravated offences—pt 2 offences against pregnant women 46
48B Alternative verdicts for aggravated offences—pt 2 offences against pregnant women 48
48C Aggravated offences—pt 2 offences involving family violence 50
48D Alternative verdicts for aggravated offences—offences involving family violence 52
49 Alternative verdicts for certain other offences against the person 57

Part 3 Sexual offences

50A Objects—pt 3 60
50B Meaning of *consent*—pt 3 60
50C Meaning of *sexual act*—pt 3 60
50 Definitions—pt 3 62
51 Sexual assault in the first degree 63
52 Sexual assault in the second degree 63
53 Sexual assault in the third degree 64

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

		Page
54	Sexual intercourse without consent	65
55	Sexual intercourse with young person	65
55A	Sexual intercourse with young person under special care	66
56	Persistent sexual abuse of child or young person under special care	69
57	Act of indecency in the first degree	74
58	Act of indecency in the second degree	74
59	Act of indecency in the third degree	75
60	Act of indecency without consent	75
61	Acts of indecency with young people	76
61A	Act of indecency with young person under special care	77
61B	Intimate observations or capturing visual data etc	78
62	Incest and similar offences	82
63	Abduction	83
63A	Bestiality	83
64	Using child for production of child exploitation material etc	83
64A	Trading in child exploitation material	85
65	Possessing child exploitation material	86
66	Grooming and depraving young people	87
66AA	Failure to report child sexual offence	89
66AB	Making false report about child sexual offence	91
66A	Failure by person in authority to protect child or young person from sexual offence	92
66B	Course of conduct charge—child sexual offences	95
67	When a person does not consent to an act	97
68	Sexual intercourse—people not to be presumed incapable by reason of age	100
69	Marriage no bar to conviction	100
70	Alternative verdicts for certain sexual offences	100
71	Adding count for act of indecency	101
72	Indictment for act of indecency	102
72AA	Aggravated offences—pt 3 offences involving family violence	102
72AB	Alternative verdicts for aggravated offences—offences involving family violence	103

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

Part 3A Intimate image abuse

72A Definitions—pt 3A 108
72B Meaning of *distribute*—pt 3A 109
72C Non-consensual distribution of intimate images 109
72D Distribution of intimate image of young person 110
72E Threaten to capture or distribute intimate images 111
72EA Aggravated offences—pt 3A offences involving family violence 112
72EB Alternative verdicts for aggravated offences—offences involving family violence 113
72F Consent—pt 3A 114
72G Exceptions for reasonable distribution 115
72H Court may order rectification 116

Part 4 Female genital mutilation

73 Meaning of *female genital mutilation* for pt 4 117
74 Prohibition of female genital mutilation 117
75 Removal of child from ACT for genital mutilation 117
76 Exception—medical procedures for genuine therapeutic purposes 118
77 Exception—sexual reassignment procedures 119

Part 5 Sexual servitude

78 Meaning of *sexual servitude* and *sexual services* for pt 5 120
79 Sexual servitude offences 121
80 Deceptive recruiting for sexual services 122
81 Sexual servitude offence etc against person younger than 18 years—charges and proof 122
82 Alternative verdicts—sexual servitude offence etc 122

Part 6 Offences relating to property

Division 6.2A Money laundering and organised fraud

114A Definitions for div 6.2A 124
114B Money laundering 125
114C Possession etc of property suspected of being proceeds of crime 125
114D Organised fraud 125

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

Division 6.3 Criminal damage to property

115 Interpretation for div 6.3 126
116 Destroying or damaging property 127
117 Arson 129
119 Defacing premises 129
120 Defacing premises—strict liability 130
122 Untrue representations 131
123 Alternative verdicts—criminal damage to property offences 131

Division 6.6 Contamination of goods and related offences

135 Definitions of *contaminate* and *goods* 132
136 Meaning of economic loss 132
137 Contaminating goods with intent to cause public alarm or economic loss 133
138 Threatening to contaminate goods with intent to cause public alarm or economic loss 133
139 Making false statements about contamination of goods with intent to cause public alarm or economic loss 133
140 Territorial nexus for offences 134

Division 6.7 Offences relating to causing public alarm

140A Acting with intent to cause public alarm 134
140B Threatening to act with intent to cause public alarm 135
140C Making false statements with intent to cause public alarm 135
140D Territorial nexus for offences 135

Division 6.8 Miscellaneous

141 Hindering working of mines 136
142 Removal of sea banks etc 136
143 Obstructing navigation of rivers 136
144 Offences in relation to railways 137
145 Obstructing railway engines 137
146 Alternative verdict 137
147 Displaying false signals 138
148 Removing or concealing buoys etc 138
151 Forcible entry on land 138
152 Forcible detainer of land 138

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

153 Disclosure of information by territory officer 139
154 Additional offences on territory premises 139

Part 7 Escape provisions

158 Meaning of *detention during pleasure* 141
159 Aiding prisoner to escape 141
160 Escaping 142
161 Rescuing a prisoner from custody etc 142
162 Person unlawfully at large 143
163 Permitting escape 143
164 Harbouring etc escapee 144
166 Failure to answer bail etc—offence 144

Part 8 Anabolic steroids

170 Meaning of *anabolic steroid* 146
171 Prescribing and supplying anabolic steroids 146
172 Possessing anabolic steroids 147
173 Administering anabolic steroids 147

Part 9 Exclusion powers

174 Definitions—pt 9 149
175 Exclusion direction 149
176 Exclusion zone 150
177 Exclusion direction—information to be given 150
178 Exclusion direction—information to be recorded 151
179 Failing to comply with exclusion direction 152

Part 10 Criminal investigation

Division 10.1 Preliminary

185 Definitions for pt 10 153
185A Search of transgender or intersex person 156
186 Application of pt 10 157
187 Application of Cwlth Crimes Act, pt 1C 157

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

Division 10.2 Preventative action

188 Police powers of entry 159
189 Issue of warrant 159
190 Entry in emergencies 160
191 Seizure of firearms—warrants and emergencies 160
192 Seizure of firearms—protection orders 162
193 Power to conduct search of person for knife 164

Division 10.3 Search warrants

194 When search warrants can be issued 165
194A Electronic versions of affidavits and warrants 168
195 The things that are authorised by search warrant 169
196 Availability of assistance and use of force in executing warrant 172
197 Details of warrant to be given to occupier etc 172
198 Specific powers available to police officers executing warrant 173
199 Use of equipment to examine or process things 173
200 Use of electronic equipment at premises 174
201 Compensation for damage to electronic equipment 177
202 Copies of seized things to be provided 177
203 Occupier entitled to be present during search 178
204 Receipts for things seized under warrant 178
205 Warrants by telephone or other electronic means 178
206 Restrictions on personal searches 180

Division 10.4 Powers to stop and search

207 Stopping, searching and detaining people 180
208 How a police officer exercises a power under s 207 181
209 Stopping, searching and detaining conveyances 182
210 How a police officer exercises a power under s 209 183

Division 10.4A Crime scene powers

210A Definitions—div 10.4A 183
210B Meaning of *public place*—div 10.4A 184
210C Establish crime scene—public place 185
210D Establish crime scene—private premises 185
210E When crime scene established 187

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

210F Senior police officer to be told about crime scene 187
210G Crime scene powers 188
210H Crime scene—duration 189
210I Crime scene—frequency 190
210J Crime scene obligations—all places 190
210K Crime scene obligations—conveyances 191
210L Offence—fail to comply with direction 191

Division 10.5 Arrest and related matters

211 Requirement to provide name etc 191
212 Power of arrest without warrant by police officers 193
213 Arrest without warrant in possession 194
214 Arrest of prisoner unlawfully at large 195
217 Arrest without warrant for offences committed outside ACT 196
218 Power of arrest without warrant by other persons 197
219 Warrants for arrest 198
220 Power to enter premises to arrest offender 199
221 Use of force in making arrest 200
222 Persons to be informed of grounds of arrest 201
223 Power to conduct frisk search of arrested person 201
224 Power to conduct ordinary search of arrested person 202
225 Power to conduct search of arrested person's premises 202
226 Power to conduct search at police station 203
227 Power to conduct strip search 204
228 Rules for conduct of strip search 205
229 Safekeeping of things seized 207
230 Identification material—person at least 18 years old 208
230A Identification material—person under 18 years old 211
231 Destruction of identification material 215
232 Offence—refusing to allow fingerprint or photo to be taken 216
233 Identification parades—general 217
234 Identification parades for suspects under 18 etc 220
235 Identification by means of photographs 222
236 Identification procedures if more than 1 suspect 225

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

237 Descriptions 225
238 Examination 226

Division 10.6 General

239 Assisting officers—search and arrest of persons 228
240 Conduct of ordinary searches and frisk searches 228
241 Announcement before entry 228
242 Offence of making false statements in warrants 229
243 Offences relating to telephone warrants 229
244 Return of seized knife or thing 230
245 Magistrates Court may permit thing to be retained 231
247 Laws relating to taking forensic samples not affected 232
248 Forfeiture of knife 232
249 Seizure of forfeited articles 233
250 Disposal of forfeited articles by public trustee 234
252 When case not to be proceeded with gaoler to discharge prisoner on certificate from Attorney-General etc 235

Division 10.7 Particular provisions for children

Subdivision 10.7.1 Arrest of children under 10 years old

252A Warrant for arrest of child under 10 years old 235
252B Arrest of child under 10 years old—without warrant 236
252C Police action after arresting child under 10 years old 236

Subdivision 10.7.2 Preliminary procedures in relation to children and young people

252D Definitions—subdiv 10.7.2 237
252E Meaning of *under restraint* 237
252F Meaning of *in the company of a police officer* 238
252G Interviewing children and young people about offences 240
252H Interviewing children and young people about offences—urgent circumstances 241
252I Parents etc to be told if children and young people under restraint 242
252J Police to summons children and young people unless ineffective 242
252K Parents etc to be told if children and young people charged 242

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

Division 10.8 Investigations relating to acquittals

252L Authorisation of police investigations—acquitted person 243

Division 10.9 Fortification of premises

252M Definitions—div 10.9 245
252N Fortification removal order—application for order or variation 246
252O Fortification removal order 247
252P Fortification removal order—length 248
252Q Fortification removal order—compliance period 249
252R Fortification removal order—inspection 249
252S Fortification removal order—removal by police 249
252T Fortification inspection order—application for order or variation 250
252U Fortification inspection order 251
252V Fortification inspection order—length 251
252W Fortification inspection order—inspection 252
252X Exercising powers—announce entry and explain purpose 252
252Y Exercising powers—occupier entitled to be present during inspection 253
252Z Exercising powers—use reasonable force 253
252ZA Premises must not be fortified 253
252ZB Fortification must not be replaced or restored 254
252ZC Protection from liability 255
252ZD Chief police officer delegations 255

Part 11 Investigation of extraterritorial offences

253 Interpretation for pt 11 256
254 Declaration of corresponding law 257
255 Issue of search warrants 257
256 Authority given by search warrant 259
257 Offence of hindering execution of search warrant 260
258 Ministerial arrangements for transmission and return of objects seized under pt 11 or corresponding law 260

Part 12 Procedure, evidence, verdict etc

260 What defects do not vitiate indictment 262
261 Formal objections—when to be taken 262

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

		Page
262	Judgment on demurrer to indictment	262
263	Traversing indictment	263
264	Orders for amendment of indictment, separate trial and postponement of trial	263
265	Amended indictment	264
266	Verdict and judgment valid after amendment	265
267	Form of record after amendment	265
268	Respiting undertakings on postponement	265
269	Separate offences—when can be joined	265
270	Accessories may be charged together in 1 indictment	265
271	Indictment charging previous offence also	266
272	Property of partners or joint owners	266
273	Description of written instruments	266
274	General averment of intent to defraud or injure	266
275	Indictment for murder or manslaughter	267
276	Form of indictment against accessories to murder	267
277	Addition of count for assault	267
279	Indictments for conspiracy	267
280	Arraignment etc on charge of previous conviction	268
280A	Treason trials	268
281	Plea of not guilty	268
282	Refusal to plead	268
283	Plea of autrefois convict etc	268
284	Practice as to entering the dock	269
285	Accused may be defended by lawyer	269
286	Right to inspect depositions on trial	269
287	Power of judge to record verdict of acquittal	269
288	Notice of alibi	270
289	Abolition of presumption of marital coercion	271
290	Incriminating statements admissible though on oath	272
291	Evidence of previous conviction charged in indictment	272
292	Proof of lawful authority or excuse	272
294	Order of closing addresses	272
295	Witnesses in mitigation	272

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

296 Conviction for alternative offence 273
297 After trial for offence, if alternative verdict possible, no further prosecution 273
298 On trial for any offence—verdict of attempt 273
299 Multiple alternative verdicts 274

Part 13 Unfitness to plead and mental impairment

Division 13.1 Preliminary

300 Definitions for pt 13 275
301 Limitation on orders and detention—non-acquittals 276
302 Limitation on orders and detention—acquittals 277
303 Limitation on Supreme Court orders 277
304 Limitation on orders and detention—dismissal of charge 278
305 Limitation on orders and detention—Magistrates Court 279
306 Limitation on Magistrates Court orders 279
307 How relevant court may inform itself 280
308 Criteria for detention 280
309 Assessment whether emergency detention required 281

Division 13.2 Unfitness to plead

310 Application of div 13.2 282
311 When a person is unfit to plead 282
312 Presumption of fitness to plead, standard of proof etc 283
313 Who can raise question of unfitness to plead 283
314 Procedure if question raised 284
315 Procedure if question reserved for investigation 284
315A Investigation into fitness to plead 285
315B Person found fit to plead 286
315C Person found unfit to plead and unlikely to become fit to plead 286
315D Person found temporarily unfit to plead 286
316 Special hearing 288
317 Verdicts available at special hearing 290
318 Non-acquittal at special hearing—non-serious offence 291
319 Non-acquittal at special hearing—serious offence 292
319A Action if accused becomes fit to plead after special hearing 292

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

Division 13.3 Supreme Court—special verdict of not guilty because of mental impairment

321 Supreme Court—plea of not guilty because of mental impairment 293
322 Explanation to jury 293
323 Supreme Court orders following special verdict of not guilty because of mental impairment—non-serious offence 294
324 Supreme Court orders following special verdict of not guilty because of mental impairment—serious offence 294

Division 13.4 Magistrates Court—finding of not guilty because of mental impairment

325 Meaning of *serious offence* in div 13.4 295
327 Magistrates Court—plea of not guilty because of mental impairment 295
328 Magistrates Court orders following finding of not guilty because of mental impairment—non-serious offence 296
329 Magistrates Court orders following finding of not guilty because of mental impairment—serious offence 297

Division 13.5 Referring people with mental impairment to ACAT after conviction

330 Application of div 13.5 297
331 Referral to ACAT 297

Division 13.6 Summary proceedings against mentally impaired people

332 Application of div 13.6 298
333 Indictable offences heard and determined summarily 299
334 Powers of Magistrates Court 299
335 Fitness to plead—Magistrates Court 301
335A Action if accused becomes fit to plead after hearing 303
336 How Magistrates Court may be informed 304

Part 16 Proceedings after sentence

367 Procedure on forfeiture 305
371 What not sufficient to stay or reverse judgment 306
372 Pronouncing proper judgment 306
373 New trials regulated 306

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

Part 17 Offences punishable summarily and summary procedure generally

374	Summary disposal of certain cases at prosecutor's election	307
375	Summary disposal of certain cases	308
375A	Withdrawal of consent to summary disposal of case	313
376	Saving of other summary jurisdiction	313
377	Certificate of dismissal	313
378	Summary conviction or dismissal bar to indictment	314
379	Misbehaviour at public meetings	314
380	Possession of offensive weapons and disabling substances	314
381	Possession of offensive weapons and disabling substances with intent	315
382	Possession of knife in public place or school	315
383	Sale of knife to person under 16	316
384	Retail supplier of knives to display sign	317
385	Laying of poison	317
387	Making false invoice	317
388	Application of compensation	318
389	Obstruction of stream etc	318
390	Entrance to cellars etc	318
391	Fighting	318
392	Offensive behaviour	318
393	Indecent exposure	319
393A	Urinating in public place	319
394	Noise abatement directions	319
395	Bogus advertisements	322
396	Public mischief	323
397	Apprehended violence or injury—recognisance to keep the peace etc	323
398	Alternative methods of proceeding before magistrate	324
399	General averment of intent to defraud or injure	324

Part 20 Inquiries into convictions

Division 20.1 Preliminary

421	Definitions for pt 20	325

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

Division 20.2 How to start inquiry

422 Grounds for ordering inquiry 325
423 Executive order for inquiry 326
424 Supreme Court order for inquiry 326
425 Rights and duties in relation to orders for inquiry 327

Division 20.3 Inquiry procedure

426 Application of Inquiries Act 327
427 Appointment of board of inquiry 327
428 Report by board 328

Division 20.4 Supreme Court orders following inquiry report

429 Publication of report 328
430 Action on report by Supreme Court 329

Division 20.5 Application to earlier convictions

432 Inquiries about earlier convictions 329

Part 22 Miscellaneous

434A Application of certain sections of Commonwealth Crimes Act to territory laws 330
434B Joinder of charges 330
434C Aggravated offence may allege more than 1 factor of aggravation 331
435 Protection of persons acting under Act 332
437 Power of courts to bring detainees before them 332
438 Witnesses neglecting to attend trial and captured under warrant may be admitted to bail 332
439 Offence of criminal defamation 333
440 Prosecutions for blasphemy 334
441 Retrospective repeal of limitation period on criminal proceeding for particular sexual offences 334
441A Criminal proceedings not allowed by section 441 336
441B Retrospective application of repealed alternative verdict provision for carnal knowledge 336
442 Change of venue 337
442B Review of operation of offences against frontline community service providers 337

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

442C Review of operation of offences of abuse of vulnerable people 338
442D Review—pt 3 338
443 Approved forms 338
444 Regulation-making power 339

Schedule 1 Anabolic steroids 340

Dictionary 343

Endnotes
1 About the endnotes 353
2 Abbreviation key 353
3 Legislation history 354
4 Amendment history 385
5 Earlier republications 510
6 Expired transitional or validating provisions 524
7 Renumbered provisions 525

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Australian Capital Territory

Crimes Act 1900

An Act to consolidate the statutes relating to criminal law

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 1 Preliminary

1 Name of Act

This Act is the *Crimes Act 1900*.

2 Application of Act

The provisions of this Act, so far as they can be applied, shall be in force with respect to all offences, whether at common law or by statute, whensoever committed and in whatsoever court tried.

4 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (***signpost definitions***) to other terms defined elsewhere in this Act.

For example, the signpost definition '***motor vehicle***—see the *Road Transport (General) Act 1999*, dictionary.' means that the term 'motor vehicle' is defined in that dictionary and the definition applies to this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

5 Meaning of *loaded arms*

For this Act, a firearm, airgun or air pistol that is unlawfully presented at a person is taken, unless the contrary is proved, to be ***loaded arms***.

6 Reference to *the jury* read as reference to magistrate

In a provision of this Act relating to an offence, a reference to ***the jury*** is, if a person charged with the offence is dealt with summarily, a reference to the magistrate.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

7 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

7A Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 *Criminal Code*

The Criminal Code, ch 2 applies to the following offences against this Act (see Code, pt 2.1):

- s 26A (Assault of frontline community service provider)
- s 28AA (Food or drink spiking)
- s 28A (Throwing etc objects at vehicles)
- s 28B (Discharging firearm at building or conveyance)
- s 29A (Driving motor vehicle at police)
- s 29B (Damaging police vehicle)
- s 35A (Affray)
- s 36A (Abuse of vulnerable person)
- s 36B (Failure to protect vulnerable person from criminal offence)
- s 36C (Neglect of vulnerable person)
- s 61B (Intimate observations or capturing visual data etc)
- s 63A (Bestiality)
- s 64 (Using child for production of child exploitation material etc)
- s 64A (Trading in child exploitation material)
- s 65 (Possessing child exploitation material)
- s 72C (Non-consensual distribution of intimate images)
- s 72D (Distribution of intimate image of young person)
- s 72E (Threaten to capture or distribute intimate images)
- s 72H (Court may order rectification)
- s 114B (Money laundering)
- s 114C (Possession etc of property suspected of being proceeds of crime)
- s 114D (1) (Organised fraud)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

- s 119 (Defacing premises)
- s 120 (Defacing premises—strict liability)
- s 171 (Prescribing and supplying anabolic steroids)
- s 172 (Possessing anabolic steroids)
- s 173 (Administering anabolic steroids)
- s 252ZA (Premises must not be fortified)
- s 252ZB (Fortification must not be replaced or restored)
- s 393A (Urinating in public place)
- s 394 (Noise abatement directions)
- s 439 (Offence of criminal defamation).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg ***conduct***, ***intention***, ***recklessness*** and ***strict liability***).

Note 2 *Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

8 Public place etc

If, by this or any other Act, any offence, conduct, or language, in a public place, or open and public place, or place of public resort, is made punishable, or a person guilty thereof is made liable by apprehension, the place shall be deemed public for the purposes of the enactment or taken to be otherwise within its meaning if the same, although a vessel or vehicle only, or a room, or field, or place, ordinarily private, was at the time used for a public purpose, or as a place of common resort, or was open to the public on the payment of money or otherwise.

9 Abolition of distinctions between felony and misdemeanour

All distinctions between felony and misdemeanour are abolished.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 2 Offences against the person

9A Meaning of *aggravated offence*—pt 2

In this part:

aggravated offence—

(a) for an offence committed against a pregnant woman—see section 48A (2); and

(b) for an offence involving family violence—see section 48C (2).

10 When child born alive

For this part, a child shall be taken to have been born alive if he or she has breathed and has been wholly born, whether or not he or she has had an independent circulation.

11 No time limit on criminal responsibility for homicide

(1) Any rule of law that a death which occurs more than a year and a day after the injury that caused it is to be conclusively presumed not to have been caused by the injury, is abolished.

(2) This section does not apply in respect of an injury received before the commencement of this section.

12 Murder

(1) A person commits murder if he or she causes the death of another person—

(a) intending to cause the death of any person; or

(b) with reckless indifference to the probability of causing the death of any person; or

(c) intending to cause serious harm to any person.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) A person who commits murder is guilty of an offence punishable, on conviction, by imprisonment for life.

(3) In this section:

serious harm—see the Criminal Code, dictionary.

13 Trial for murder—provocation

(1) If, on a trial for murder—

(a) it appears that the act or omission causing death occurred under provocation; and

(b) apart from this subsection and the provocation, the jury would have found the accused guilty of murder;

the jury shall acquit the accused of murder and find him or her guilty of manslaughter.

(2) For subsection (1), an act or omission causing death shall be taken to have occurred under provocation if—

(a) the act or omission was the result of the accused's loss of self-control induced by any conduct of the deceased (including grossly insulting words or gestures) towards or affecting the accused; and

(b) the conduct of the deceased was such as could have induced an ordinary person in the position of the accused to have so far lost self-control—

(i) as to have formed an intent to kill the deceased; or

(ii) as to be recklessly indifferent to the probability of causing the deceased's death; or

(iii) as to have formed an intent to cause serious harm to the deceased;

whether that conduct of the deceased occurred immediately before the act or omission causing death or at any previous time.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) However, conduct of the deceased consisting of a non-violent sexual advance (or advances) towards the accused—

(a) is taken not to be sufficient, by itself, to be conduct to which subsection (2) (b) applies; but

(b) may be taken into account together with other conduct of the deceased in deciding whether there has been an act or omission to which subsection (2) applies.

(4) For the purpose of determining whether an act or omission causing death occurred under provocation, there is no rule of law that provocation is negatived if—

(a) there was not a reasonable proportion between the act or omission causing death and the conduct of the deceased that induced the act or omission; or

(b) the act or omission causing death did not occur suddenly; or

(c) the act or omission causing death occurred with any intent to take life or inflict grievous bodily harm.

(5) If, on a trial for murder, there is evidence that the act or omission causing death occurred under provocation, the onus of proving beyond reasonable doubt that the act or omission did not occur under provocation lies on the prosecution.

(6) This section does not exclude or limit any defence to a charge of murder.

(7) In this section:

serious harm—see the Criminal Code, dictionary.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

14 Trial for murder—diminished responsibility

(1) A person on trial for murder shall not be convicted of murder if, when the act or omission causing death occurred, the accused was suffering from an abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent cause or whether it was induced by disease or injury) that substantially impaired his or her mental responsibility for the act or omission.

(2) An accused has the onus of proving that he or she is, under subsection (1), not liable to be convicted of murder.

(3) A person who, apart from subsection (1), would be liable (whether as principal or accessory) to be convicted of murder is liable to be convicted of manslaughter.

(4) The fact that a person is, under subsection (1), not liable to be convicted of murder does not affect the question whether any other person is liable to be convicted of murder in respect of the same death.

(5) If, on a trial for murder, the accused contends—

(a) that he or she is entitled to be acquitted on the ground that he or she was mentally ill at the time of the act or omission causing the death; or

(b) that he or she is, under subsection (1), not liable to be convicted of murder;

the prosecution may offer evidence tending to prove the other of those contentions and the court may give directions as to the stage of the proceedings when that evidence may be offered.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

15 Manslaughter

(1) Except if a law expressly provides otherwise, an unlawful homicide that is not, under section 12, murder shall be taken to be manslaughter.

(2) A person who commits manslaughter is guilty of an offence punishable, on conviction, by imprisonment for 20 years.

(3) However, for an aggravated offence against this section, the maximum penalty is imprisonment for 28 years.

Note Section 48A (Aggravated offences—pt 2 offences against pregnant women) and s 48C (Aggravated offences—pt 2 offences involving family violence) make provision in relation to an aggravated offence against this section.

16 Suicide etc—not an offence

The rule of law that it is an offence for a person to commit, or to attempt to commit, suicide is abolished.

17 Suicide—aiding etc

(1) A person who aids or abets the suicide or attempted suicide of another person is guilty of an offence punishable, on conviction, by imprisonment for 10 years.

(2) If—

(a) a person incites or counsels another person to commit suicide; and

(b) the other person commits, or attempts to commit, suicide as a consequence of that incitement or counselling;

the firstmentioned person is guilty of an offence punishable, on conviction, by imprisonment for 10 years.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

18 Prevention of suicide

It is lawful for a person to use the force that is reasonable to prevent the suicide of another person or any act that the person believes on reasonable grounds would, if committed, result in the suicide of another person.

19 Intentionally inflicting grievous bodily harm

(1) A person who intentionally inflicts grievous bodily harm on another person is guilty of an offence punishable, on conviction, by imprisonment for 20 years.

(2) However, for an aggravated offence against this section, the maximum penalty is imprisonment for 25 years.

Note Section 48A (Aggravated offences—pt 2 offences against pregnant women) and s 48C (Aggravated offences—pt 2 offences involving family violence) make provision in relation to an aggravated offence against this section.

20 Recklessly inflicting grievous bodily harm

(1) A person who recklessly inflicts grievous bodily harm on another person is guilty of an offence punishable, on conviction, by imprisonment for 13 years.

(2) However, for an aggravated offence against this section, the maximum penalty is imprisonment for 15 years.

Note Section 48A (Aggravated offences—pt 2 offences against pregnant women) and s 48C (Aggravated offences—pt 2 offences involving family violence) make provision in relation to an aggravated offence against this section.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

21 Wounding

(1) A person who intentionally wounds another person is guilty of an offence punishable, on conviction, by imprisonment for 5 years.

(2) However, for an aggravated offence against this section, the maximum penalty is imprisonment for 7 years.

Note Section 48A (Aggravated offences—pt 2 offences against pregnant women) and s 48C (Aggravated offences—pt 2 offences involving family violence) make provision in relation to an aggravated offence against this section.

22 Assault with intent to commit other offence

A person who assaults another person with intent to commit another offence against this part punishable by imprisonment for a maximum period of 5 years or longer is guilty of an offence punishable, on conviction, by imprisonment for 5 years.

23 Inflicting actual bodily harm

(1) A person who intentionally or recklessly inflicts actual bodily harm on another person is guilty of an offence punishable, on conviction, by imprisonment for 5 years.

(2) However, for an aggravated offence against this section, the maximum penalty is imprisonment for 7 years.

Note Section 48A (Aggravated offences—pt 2 offences against pregnant women) and s 48C (Aggravated offences—pt 2 offences involving family violence) make provision in relation to an aggravated offence against this section.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

24 Assault occasioning actual bodily harm

(1) A person who assaults another person and by the assault occasions actual bodily harm is guilty of an offence punishable, on conviction, by imprisonment for 5 years.

(2) However, for an aggravated offence against this section, the maximum penalty is imprisonment for 7 years.

Note Section 48A (Aggravated offences—pt 2 offences against pregnant women) and s 48C (Aggravated offences—pt 2 offences involving family violence) make provision in relation to an aggravated offence against this section.

25 Causing grievous bodily harm

A person who, by any unlawful or negligent act or omission, causes grievous bodily harm to another person is guilty of an offence punishable, on conviction, by imprisonment for 5 years.

26 Common assault

(1) A person who assaults another person is guilty of an offence punishable, on conviction, by imprisonment for 2 years.

(2) However, for an aggravated offence against this section, the maximum penalty is imprisonment for 3 years.

Note Section 48C (Aggravated offences—pt 2 offences involving family violence) makes provision in relation to an aggravated offence against this section.

26A Assault of frontline community service provider

(1) A person commits an offence if—

(a) the person assaults another person; and

(b) the other person is a frontline community service provider; and

(c) the person knows, or is reckless about whether, the other person is a frontline community service provider; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(d) the assault is committed—

(i) when the frontline community service provider is exercising a function given to the person as a frontline community service provider; or

(ii) as a consequence of, or in retaliation for, action taken by the person in exercising a function as a frontline community service provider; or

(iii) because the person is a frontline community service provider.

Maximum penalty: imprisonment for 2 years.

(2) For subsection (1) (c), it is presumed, unless there is evidence to the contrary, that the defendant knew that the person was a frontline community service provider if—

(a) the person identified themselves as a frontline community service provider; or

(b) the fact that the person was a frontline community service provider was reasonably apparent, having regard to all of the circumstances, including the conduct and manner of the frontline community service provider.

Examples—par (b)

1 the frontline community service provider was in uniform

2 the frontline community service provider was in an emergency vehicle

(3) The defendant has an evidential burden in relation to evidence to the contrary mentioned in subsection (2).

(4) For subsection (1) (d) (i) and (ii)—

(a) strict liability applies to the circumstance that the frontline community service provider was exercising a function as a frontline community service provider; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) it does not matter if the frontline community service provider was off duty when exercising a function as a frontline community service provider.

(5) In this section:

corrections worker means a corrections officer, or an interstate escort officer, exercising a function under the *Corrections Management Act 2007*.

frontline community service provider means—

(a) a police officer; or

(b) a protective service officer; or

(c) a corrections worker; or

(d) a member of an emergency service.

interstate escort officer means a person mentioned in the *Corrections Management Act 2007*, section 213.

member, of an emergency service—

(a) see the *Emergencies Act 2004*, dictionary; and

(b) includes—

(i) a person operating in the ACT in accordance with a cooperative arrangement under the *Emergencies Act 2004*, section 176; and

(ii) a person employed by the ACT Emergency Services Agency; and

(iii) a volunteer assisting the ACT Emergency Services Agency.

protective service officer means a person in relation to whom a declaration under the *Australian Federal Police Act 1979* (Cwlth), section 40EA is in force.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

26B Assault of frontline community service provider—alternative verdict

(1) This section applies if, in a prosecution for an offence against section 26A, the trier of fact is not satisfied that the defendant committed the offence but is satisfied beyond reasonable doubt that the defendant committed an offence against section 26 (Common assault).

(2) The trier of fact may find the defendant guilty of the offence against section 26 but only if the defendant has been given procedural fairness in relation to that finding of guilt.

27 Acts endangering life etc

(1) In this section:

choke, a person, includes apply pressure, to any extent, to the person's neck.

conveyance means a vehicle (including an aircraft) or vessel of a kind used for transporting persons, animals or goods.

public utility service means—

(a) the supply of electricity, gas or water; or

(b) the supply of fuel; or

(c) the collection and disposal of sewerage and other waste;

as a service to the public.

strangle, a person, includes apply pressure, to any extent, to the person's neck.

suffocate, a person, includes the following:

(a) obstruct, to any extent, any part of the person's—

(i) respiratory system; or

(ii) accessory systems of respiration;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) interfere, to any extent, with the operation of the person's—

(i) respiratory system; or

(ii) accessory systems of respiration;

(c) impede, to any extent, the person's respiration.

transport facility means a facility provided to permit the transportation of persons, animals or goods, whether by air or over land or water, or provided in connection with such transportation.

(2) For subsection (3) (g), an interference shall be taken to include any act or omission that, whether temporarily or permanently, damages, renders inoperative, obstructs, causes to malfunction or puts to an improper purpose.

(3) A person who intentionally and unlawfully—

(a) chokes, suffocates or strangles another person so as to render that person insensible or unconscious or, by any other means, renders another person insensible or unconscious; or

(b) administers to, or causes to be taken by, another person any stupefying or overpowering drug or poison or any other injurious substance likely to endanger human life or cause a person grievous bodily harm; or

(c) uses against another person any offensive weapon likely to endanger human life or cause a person grievous bodily harm; or

(d) discharges any loaded arms at another person or so as to cause another person reasonable apprehension for his or her safety; or

(e) causes an explosion or throws, places, sends or otherwise uses any explosive device or any explosive, corrosive or inflammable substance in circumstances likely to endanger human life or cause a person grievous bodily harm; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(f) sets a trap or device for the purpose of creating circumstances likely to endanger human life or cause a person (including a trespasser) grievous bodily harm; or

(g) interferes with any conveyance or transport facility or any public utility service in circumstances likely to endanger human life or cause a person grievous bodily harm; or

(h) interferes with a prescribed traffic control device (within the meaning of the *Road Transport (Safety and Traffic Management) Act 1999*) in circumstances likely to endanger life or cause a person grievous bodily harm;

is guilty of an offence punishable, on conviction, by imprisonment for—

(i) in the case of an aggravated offence against this section—13 years; or

(j) in any other case—10 years.

Note Section 48C (Aggravated offences—pt 2 offences involving family violence) makes provision in relation to an aggravated offence against this section.

(4) A person who does an act referred to in subsection (3)—

(a) intending to commit an indictable offence against this part punishable by imprisonment for a maximum period exceeding 10 years; or

(b) intending to prevent or hinder his or her lawful apprehension or detention or that of another person; or

(c) intending to prevent or hinder a police officer from lawfully investigating an act or matter that reasonably calls for investigation by the officer;

is guilty of an offence punishable, on conviction, by imprisonment for 15 years.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

28 Acts endangering health etc

(1) In this section:

choke, a person—see section 27 (1).

conveyance—see section 27 (1).

interferes with—see section 27 (2).

public utility service—see section 27 (1).

strangle, a person—see section 27 (1).

suffocate, a person—see section 27 (1).

transport facility—see section 27 (1).

(2) A person who intentionally and unlawfully—

(a) chokes, suffocates or strangles another person; or

(b) administers to, or causes to be taken by, another person any poison or other injurious substance with intent to injure or cause pain or discomfort to that person; or

(c) causes an explosion or throws, places, sends or otherwise uses any explosive device or any explosive, corrosive or inflammable substance in circumstances dangerous to the health, safety or physical wellbeing of another person; or

(d) sets a trap or device for the purpose of creating circumstances dangerous to the health, safety or physical wellbeing of another person (including a trespasser); or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(e) interferes with any conveyance or transport facility or any public utility service in circumstances dangerous to the health, safety or physical wellbeing of another person;

is guilty of an offence punishable, on conviction, by imprisonment for—

(f) in the case of an aggravated offence against this section—7 years; or

(g) in any other case—5 years.

Note Section 48C (Aggravated offences—pt 2 offences involving family violence) makes provision in relation to an aggravated offence against this section.

28AA Food or drink spiking

(1) A person commits an offence if—

(a) the person—

(i) gives or causes another person to be given food or drink; or

(ii) causes another person to consume food or drink; and

(b) the food or drink contains an intoxicating substance; and

(c) the other person is not aware the food or drink contains the intoxicating substance; and

(d) the person intends a person to be harmed by the consumption of the food or drink.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) A person commits an offence if—

(a) the person—

(i) gives or causes another person to be given food or drink; or

(ii) causes another person to consume food or drink; and

(b) the food or drink contains more of an intoxicating substance than the other person would reasonably expect it to contain; and

(c) the person intends a person to be harmed by the consumption of the food or drink.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

(3) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant is a health practitioner and the intoxicating substance was given to the other person in the course of practising a health profession.

Note The defendant has a legal burden in relation to the matters mentioned in s (3) (see Criminal Code, s 59).

(4) In this section:

give, food or drink, includes—

(a) prepare food or drink; or

(b) make food or drink available for consumption.

harm, to a person, includes impairment of the senses or understanding that the person might reasonably be expected to object to in the circumstances.

impair includes further impair.

intoxicating substance includes any substance that affects a person's senses or understanding.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

28A Throwing etc objects at vehicles

(1) A person commits an offence if—

(a) the person intentionally throws an object at, drops an object on, or places an object in the path of, a vehicle; and

(b) the vehicle is on a road, road related area or railway; and

(c) a person is in the vehicle; and

(d) the conduct risks the safety of any person.

Maximum penalty: imprisonment for 2 years.

Note The fault element of recklessness applies to paragraphs (b), (c) and (d) (see Criminal Code, s 22 (2)).

(2) For subsection (1) (b), the vehicle may be moving, parked or otherwise stopped.

(3) In a prosecution for an offence against this section it is not necessary to prove that the object made contact with the vehicle.

(4) In this section:

road—see the *Road Transport (General) Act 1999*, dictionary.

road related area—see the *Road Transport (General) Act 1999*, dictionary.

vehicle includes the following:

(a) a motor vehicle;

(b) a light rail vehicle, train or tram;

(c) a bicycle;

(d) a vehicle drawn by an animal or an animal ridden by a person.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

28B Discharging firearm at building or conveyance

(1) A person commits an offence if the person recklessly discharges a firearm at a building or conveyance.

Maximum penalty: imprisonment for 10 years.

(2) In this section:

building includes—

(a) part of a building; or

(b) a mobile home, caravan, tent or other temporary structure.

conveyance includes an aircraft, vehicle or vessel.

firearm includes an airgun and air pistol.

29 Culpable driving of motor vehicle

(1) In this section:

drug—see the *Road Transport (Alcohol and Drugs) Act 1977*, dictionary.

(2) A person who, by the culpable driving of a motor vehicle, causes the death of another person is guilty of an offence punishable, on conviction, by imprisonment for 14 years.

(3) However, for an aggravated offence against subsection (2), the maximum penalty is imprisonment for 16 years.

Note Section 48A (Aggravated offences—pt 2 offences against pregnant women) and s 48C (Aggravated offences—pt 2 offences involving family violence) make provision in relation to an aggravated offence against this section.

(4) A person who, by the culpable driving of a motor vehicle, causes grievous bodily harm to another person is guilty of an offence punishable, on conviction, by imprisonment for 10 years.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(5) However, for an aggravated offence against subsection (4), the maximum penalty is imprisonment for 12 years.

(6) For this section, a person shall be taken to drive a motor vehicle culpably if the person drives the vehicle—

(a) negligently; or

(b) while under the influence of alcohol, or a drug, to such an extent as to be incapable of having proper control of the vehicle.

(7) For this section, a person shall be taken to drive a motor vehicle negligently if the person fails unjustifiably and to a gross degree to observe the standard of care that a reasonable person would have observed in all the circumstances of the case.

(8) An information or indictment for an offence against subsection (2) or (4) shall specify the nature of the culpability, within the meaning of subsection (6), that is alleged.

(9) Nothing in subsection (8) renders inadmissible in proceedings for an offence against subsection (2) or (4) evidence that, apart from that subsection, would be admissible in the proceedings.

(10) Nothing in this section affects—

(a) the liability of a person to be convicted of murder or manslaughter or any other offence; or

(b) the punishment that may be imposed for such an offence.

Note Under the *Road Transport (General) Act 1999*, s 62 (Automatic disqualification for culpable driving), if a person is convicted, or found guilty, of an offence against this section, the person is automatically disqualified from holding or obtaining a driver licence.

(11) A person who has been convicted or acquitted of an offence against subsection (2) or (4) is not liable to be convicted of any other offence against this Act on the same facts or on substantially the same facts.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(12) Subject to section 49, a person is not liable to be convicted of an offence against subsection (2) or (4) if the person has been convicted or acquitted of any other offence on the same facts or on substantially the same facts.

29A Driving motor vehicle at police

(1) A person commits an offence if—

(a) the person drives a motor vehicle near or at a police officer; and

(b) the person knows, or is reckless about whether, the police officer is a police officer; and

(c) the police officer is exercising a function given to the officer as a police officer; and

(d) the person—

(i) intends to risk the police officer's safety by that conduct; or

(ii) is reckless about risking the police officer's safety by that conduct.

Maximum penalty: imprisonment for 15 years.

(2) Strict liability applies to subsection (1) (c).

(3) For subsection (1) (b), it is presumed, unless there is evidence to the contrary, that the defendant knew that the police officer was a police officer if—

(a) the officer identified themselves as a police officer; or

(b) the officer was inside a vehicle that stated "police" on the outside of the vehicle; or

(c) the officer was inside a vehicle and it was reasonably apparent that the vehicle was being used, or was ordinarily used, by a police officer in the exercise of the officer's functions; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(d) the fact that the police officer was a police officer was reasonably apparent, having regard to all of the circumstances, including the conduct and manner of the police officer.

Example—par (c)

the vehicle was an unmarked car displaying a flashing blue or red light (whether or not it was displaying other lights) or was using a siren

(4) The defendant has an evidential burden in relation to evidence to the contrary mentioned in subsection (3).

(5) A person may be guilty of an offence against this section regardless of whether the person's driving injured the police officer.

29B Damaging police vehicle

(1) A person commits an offence if—

(a) the person drives a motor vehicle and causes damage to a police vehicle by that conduct; and

(b) the person knows, or is reckless about whether, the damaged vehicle is a police vehicle; and

(c) the person intends to cause, or is reckless about causing, damage to the police vehicle.

Maximum penalty: imprisonment for 5 years.

(2) For subsection (1) (b), it is presumed, unless there is evidence to the contrary, that the defendant knew that the damaged vehicle was a police vehicle if—

(a) the vehicle stated "police" on the outside of the vehicle; or

(b) the fact that the vehicle was a police vehicle was reasonably apparent, having regard to all of the circumstances, including the manner in which it was being driven.

Example—par (b)

the vehicle was an unmarked car displaying a flashing blue or red light (whether or not it was displaying other lights) or was using a siren

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) The defendant has an evidential burden in relation to evidence to the contrary mentioned in subsection (2).

(4) A person may be guilty of an offence against this section regardless of whether the damaged vehicle was occupied by a police officer.

(5) In this section:

police vehicle means a motor vehicle that is being used, or is ordinarily used, by a police officer in the exercise of the officer's functions.

30 Threat to kill

If—

(a) a person makes a threat to another person to kill that other person or any third person—

(i) intending that other person to fear that the threat would be carried out; or

(ii) being reckless whether or not that other person would fear that the threat would be carried out; and

(b) the threat is made—

(i) without lawful excuse; and

(ii) in circumstances in which a reasonable person would fear that the threat would be carried out;

the firstmentioned person is guilty of an offence punishable, on conviction, by imprisonment for—

(c) in the case of an aggravated offence against this section—13 years; or

(d) in any other case—10 years.

Note Section 48C (Aggravated offences—pt 2 offences involving family violence) makes provision in relation to an aggravated offence against this section.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

31 Threat to inflict grievous bodily harm

If—

(a) a person makes a threat to another person to inflict grievous bodily harm on that other person or any third person—

(i) intending that other person to fear that the threat would be carried out; or

(ii) being reckless whether or not that other person would fear that the threat would be carried out; and

(b) the threat is made—

(i) without lawful excuse; and

(ii) in circumstances in which a reasonable person would fear that the threat would be carried out;

the firstmentioned person is guilty of an offence punishable, on conviction, by imprisonment for—

(c) in the case of an aggravated offence against this section—7 years; or

(d) in any other case—5 years.

Note Section 48C (Aggravated offences—pt 2 offences involving family violence) makes provision in relation to an aggravated offence against this section.

32 Demands accompanied by threats

(1) A person who—

(a) makes a demand of another person; or

(b) resists, prevents or hinders his or her lawful apprehension or detention, or that of another person; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) prevents or hinders a police officer from lawfully investigating any act or matter that reasonably calls for investigation by the officer;

with a threat to kill or inflict grievous bodily harm on a person (other than the offender or an accomplice of the offender) is guilty of an offence punishable, on conviction, by imprisonment for—

(d) in the case of an aggravated offence against this section—25 years; or

(e) in any other case—20 years.

(2) A person who—

(a) makes a demand of another person; or

(b) resists, prevents or hinders his or her lawful apprehension or detention, or that of another person; or

(c) prevents or hinders a police officer from lawfully investigating any act or matter that reasonably calls for investigation by the officer;

with a threat to endanger the health, safety or physical wellbeing of a person (other than the offender or an accomplice of the offender) is guilty of an offence punishable, on conviction, by imprisonment for—

(d) in the case of an aggravated offence against this section—13 years; or

(e) in any other case—10 years.

Note Section 48C (Aggravated offences—pt 2 offences involving family violence) makes provision in relation to an aggravated offence against this section.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

33 Possession of object with intent to kill etc

A person who—

(a) has possession of an object capable of causing harm to another person; and

(b) intends to use the object, or to cause or permit another person to use the object, unlawfully to kill another person or cause grievous bodily harm to another person;

is guilty of an offence punishable, on conviction, by imprisonment for 5 years.

34 Forcible confinement

A person who unlawfully confines or imprisons another person is guilty of an offence punishable, on conviction, by imprisonment for 10 years.

35 Stalking

(1) A person must not stalk someone with intent—

(a) to cause apprehension, or fear of harm, in the person stalked or someone else; or

(b) to cause harm to the person stalked or someone else; or

(c) to harass the person stalked.

Maximum penalty:

(a) for an aggravated offence against this section—

(i) imprisonment for 7 years if—

(A) the offence involved a contravention of an injunction or other order made by a court; or

(B) the offender was in possession of an offensive weapon; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(ii) in any other case—imprisonment for 3 years; or

(b) for an offence against this section other than an aggravated offence—

(i) imprisonment for 5 years if—

(A) the offence involved a contravention of an injunction or other order made by a court; or

(B) the offender was in possession of an offensive weapon; or

(ii) in any other case—imprisonment for 2 years.

Note Section 48C (Aggravated offences—pt 2 offences involving family violence) makes provision in relation to an aggravated offence against this section.

(2) For this section, a person ***stalks*** someone else (the ***stalked person***) if, on at least 2 occasions, the person does 1 or more of the following:

(a) follows or approaches the stalked person;

(b) loiters near, watches, approaches or enters a place where the stalked person resides, works or visits;

(c) keeps the stalked person under surveillance;

(d) interferes with property in the possession of the stalked person;

(e) gives or sends offensive material to the stalked person or leaves offensive material where it is likely to be found by, given to or brought to the attention of, the stalked person;

(f) telephones, sends electronic messages to or otherwise contacts the stalked person;

(g) sends electronic messages about the stalked person to anybody else;

(h) makes electronic messages about the stalked person available to anybody else;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(i) acts covertly in a way that could reasonably be expected to arouse apprehension or fear in the stalked person;

(j) engages in conduct amounting to intimidation, harassment or molestation of the stalked person.

(3) However, this section does not apply to reasonable conduct engaged in by a person as part of the person's employment if it is a function of the person's employment to engage in the conduct and the conduct is not otherwise unlawful.

(4) Without limiting subsection (1), a person is also taken to have the intent mentioned in the subsection if the person knows that, or is reckless about whether, stalking the other person would be likely—

(a) to cause apprehension or fear of harm in the person stalked or someone else; or

(b) to harass the person stalked.

(5) In a prosecution for an offence against subsection (1), it is not necessary to prove that the person stalked or someone else apprehended or feared harm or that the person stalked was harassed.

(6) For this section:

harm means physical harm, harm to mental health, or disease, whether permanent or temporary.

harm to mental health includes psychological harm.

physical harm includes unconsciousness, pain, disfigurement and physical contact that might reasonably be objected to in the circumstances, whether or not there was an awareness of the contact at the time.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

35A Affray

(1) A person commits an offence if—

(a) the person engages in conduct; and

(b) the conduct is violence or the threat of violence; and

(c) the violence or threat is directed towards someone else; and

(d) the violence or threat would be likely to cause a reasonable person to fear for his or her safety.

Maximum penalty: imprisonment for 2 years.

(2) A person commits an offence if—

(a) the person engages in conduct; and

(b) the conduct is violence or the threat of violence; and

(c) the violence or threat is directed towards someone else; and

(d) 2 or more other people present are also engaging in conduct that is violence, or the threat of violence, directed towards someone else; and

(e) the conduct of the person and the other people taken together would be likely to cause a reasonable person to fear for their safety.

Maximum penalty: imprisonment for 5 years.

(3) A person commits an offence if—

(a) the person engages in conduct; and

(b) the conduct is violence or the threat of violence; and

(c) the violence or threat is directed towards someone else; and

(d) 5 or more other people present are also engaging in conduct that is violence, or the threat of violence, directed towards someone else; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(e) the conduct of the person and the other people taken together would be likely to cause a reasonable person to fear for their safety.

Maximum penalty: imprisonment for 10 years.

(4) For an offence against this section—

(a) the violence or the threat of violence—

(i) must involve more than words; and

(ii) need not be carried out in common purpose with any other person; and

(b) a person towards whom the violence or threat of violence is directed does not need to be involved in the violence or threat; and

(c) a reasonable person does not need to be, or be likely to be, present at the place where the conduct happened; and

(d) a person does not need to have actually feared for their safety.

(5) In this section:

engage in conduct—see the Criminal Code, section 13.

35AA Affray—alternative verdicts

(1) This section applies if, in a prosecution for an offence against section 35A (2) or (3), the trier of fact is not satisfied that the defendant committed the offence but is satisfied beyond reasonable doubt that the defendant committed another offence against section 35A carrying a lesser penalty than the offence charged.

(2) The trier of fact may find the defendant guilty of the other offence but only if the defendant has been given procedural fairness in relation to that finding of guilt.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

35AB Review—affray provisions

(1) The Minister must review the operation of the following provisions as soon as practicable after the end of their 3rd year of operation:

(a) section 35A (2) and (3);

(b) section 35AA.

(2) The Minister must present a report of the review to the Legislative Assembly within 6 months after the day the review is started.

(3) This section expires 5 years after the day it commences.

36 Torture

(1) In this section:

act of torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person—

(a) for such purposes as—

(i) obtaining from the person or from a third person information or a confession; or

(ii) punishing the person for an act that the person or a third person has committed or is suspected of having committed; or

(iii) intimidating or coercing the person or a third person; or

(b) for any reason based on discrimination of any kind;

but does not include an act arising only from, inherent in or incidental to, lawful sanctions that are not inconsistent with the articles of the International Covenant on Civil and Political Rights (being the covenant a copy of the English text of which is set out in the *Australian Human Rights Commission Act 1986* (Cwlth), schedule 2.

(2) A person who—

(a) is a public employee or acting in an official capacity; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) is acting at the instigation, or with the consent or acquiescence, of a public employee or a person acting in an official capacity;

and who commits an act of torture is guilty of an offence punishable, on conviction, by imprisonment for 10 years.

36A Abuse of vulnerable person

(1) A person commits an offence if—

(a) the person is responsible for providing care to a vulnerable person; and

(b) the person engages in abusive conduct towards the vulnerable person; and

(c) the conduct results in—

(i) harm to the vulnerable person; or

(ii) a financial benefit for the person or someone else associated with the person; and

(d) the person is reckless about—

(i) if the vulnerable person suffers harm—causing the harm; or

(ii) if the person or someone else associated with the person obtains a financial benefit—obtaining the benefit.

Maximum penalty:

(a) if the person's conduct results in harm, other than serious harm, or a financial benefit—imprisonment for 3 years; or

(b) if the person's conduct results in serious harm—imprisonment for 5 years.

Note A law that creates an offence applies to a corporation as well as to an individual (see Legislation Act, s 161).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) Without limiting subsection (1) (a), a defendant is responsible for providing care to a vulnerable person—

(a) if the defendant exercises control over any aspect of the care needed by the vulnerable person; and

(b) regardless of whether the care of the vulnerable person is short-term or long-term care.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that—

(a) the defendant's conduct was reasonable in all the circumstances; or

(b) for a defendant who is associated with a relevant institution providing care to the vulnerable person—

(i) the defendant's conduct complied with—

(A) the relevant institution's procedures and practices for the care, supervision or control of the vulnerable person; or

(B) the direction of a person in authority in the relevant institution; or

(ii) the abusive conduct happened as a result of circumstances beyond the defendant's control.

Note The defendant has a legal burden in relation to the matters mentioned in s (3) (see Criminal Code, s 59).

(4) For subsection (3) (b), a defendant is ***associated*** with a relevant institution if the defendant—

(a) owns, manages or controls the institution; or

(b) is employed or engaged by the institution; or

(c) works as a volunteer for the institution; or

(d) engages in an activity with or for the institution; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(e) is in any other position of authority in relation to the institution.

(5) In this section:

abusive conduct, engaged in by a person (the ***abusive person***) toward a vulnerable person, means an act or omission—

(a) that is directed at the vulnerable person, and is of a violent, threatening, intimidating or sexually inappropriate nature; or

(b) that—

(i) is directed at the vulnerable person, or someone known to the vulnerable person, and is reasonably likely to—

(A) make the vulnerable person dependent on or subordinate to the abusive person; or

(B) isolate the vulnerable person from friends or family; or

(C) limit the vulnerable person's access to services needed by the vulnerable person; or

(D) deprive or restrict the vulnerable person's freedom of action; or

(E) frighten, humiliate, degrade or punish the vulnerable person; and

(ii) is not reasonably necessary for the safe and effective care of the vulnerable person, or for the safety of another person who is present or nearby.

harm means physical, psychological or financial detriment.

relevant institution means—

(a) an entity, other than an individual, that operates facilities for, engages in activities with, or provides services to, vulnerable people under the entity's care, supervision or control; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) a group of entities mentioned in paragraph (a) if the entities—

(i) interact with each other, share similar characteristics and collectively have a sense of unity; or

(ii) are controlled, managed or governed by another entity.

Examples—par (a)

religious organisations, hospitals, nursing homes

Example—par (b)

a group of nursing homes controlled by a religious organisation or operated by a company

serious harm means any harm (including the cumulative effect of more than 1 harm) that—

(a) endangers, or is likely to endanger, human life; or

(b) is, or is likely to be, significant and longstanding.

vulnerable person means an adult who—

(a) has a disability within the meaning of the *Disability Services Act 1991*; or

(b) is at least 60 years old and—

(i) has a disorder, illness or disease that affects the person's thought processes, perception of reality, emotions or judgement or otherwise results in disturbed behaviour; or

(ii) has an impairment that—

(A) is intellectual, psychiatric, sensory or physical in nature; and

(B) results in a substantially reduced capacity of the person for communication, learning or mobility; or

(iii) for any other reason is socially isolated or unable to participate in the life of the person's community.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

36B Failure to protect vulnerable person from criminal offence

(1) A person commits an offence if—

(a) the person is a person in authority in a relevant institution (the ***person in authority***); and

(b) there is a substantial risk that a serious offence will be committed against a vulnerable person under the institution's care, supervision or control by—

(i) a person associated with the institution; or

(ii) by another person in authority in the institution; and

(c) the person in authority is aware that the risk exists; and

(d) the person in authority can, because of the position the person occupies in the institution, reduce or remove the risk; and

(e) the person in authority recklessly or negligently fails to reduce or remove the risk.

Maximum penalty: imprisonment for 5 years.

Note A law that creates an offence applies to a corporation as well as to an individual (see Legislation Act, s 161).

(2) In a prosecution for an offence against this section—

(a) it does not matter that an act or omission constituting the criminal offence happens, or is at risk of happening, outside the ACT if—

(i) the vulnerable person was in the ACT at any time the person in authority was aware that the risk mentioned in subsection (1) (b) existed; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(ii) the person mentioned in subsection (1) (b) (i) or (ii) was a person associated with, or in authority in, a relevant institution in the ACT at any time the person in authority was aware that the risk existed; and

(b) it is not necessary to prove that a criminal offence has been committed.

(3) In this section:

associated—a person is ***associated*** with a relevant institution if the person—

(a) owns, manages or controls the institution; or

(b) is employed or engaged by the institution; or

(c) works as a volunteer for the institution; or

(d) engages in an activity with or for the institution; or

(e) is in any other position of authority in relation to the institution.

relevant institution—see section 36A (5).

serious offence means—

(a) an offence punishable by imprisonment for 5 years or longer; or

(b) an offence in another jurisdiction that would be an offence under paragraph (a) if committed in the ACT.

vulnerable person—see section 36A (5).

36C Neglect of vulnerable person

(1) A person commits an offence if—

(a) the person is responsible for providing care to a vulnerable person; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) the person recklessly or negligently fails to provide the vulnerable person with the necessities of life that are a necessary part of the care the person is responsible for providing to the vulnerable person; and

(c) the person's failure causes serious harm to the vulnerable person.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

Note A law that creates an offence applies to a corporation as well as to an individual (see Legislation Act, s 161).

(2) Without limiting subsection (1) (a), a defendant is responsible for providing care to a vulnerable person—

(a) if the defendant exercises control over any aspect of the care needed by the vulnerable person; and

(b) regardless of whether the care of the vulnerable person is short-term or long-term care.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that—

(a) the defendant's conduct was reasonable in all the circumstances; or

(b) for a defendant who is associated with a relevant institution providing care to the vulnerable person—

(i) the defendant's conduct complied with—

(A) the relevant institution's procedures and practices for the care, supervision or control of the vulnerable person; or

(B) the direction of a person in authority in the relevant institution; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(ii) the failure to provide the necessities of life happened as a result of circumstances beyond the defendant's control.

Note The defendant has a legal burden in relation to the matters mentioned in s (4) (see Criminal Code, s 59).

(4) For subsection (3) (b), a defendant is ***associated*** with a relevant institution if the defendant—

(a) owns, manages or controls the institution; or

(b) is employed or engaged by the institution; or

(c) works as a volunteer for the institution; or

(d) engages in an activity with or for the institution; or

(e) is in any other position of authority in relation to the institution.

(5) In this section:

necessities of life includes adequate food, clothing, shelter, hygiene and health care.

relevant institution—see section 36A (5).

serious harm—see section 36A (5).

vulnerable person—see section 36A (5).

37 Abduction of young person

A person who unlawfully takes, or causes to be taken, an unmarried person under the age of 16 years out of the lawful control and against the will of a person having lawful control of the unmarried person is guilty of an offence punishable, on conviction, by imprisonment for 5 years.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

38 Kidnapping

A person who leads, takes or entices away or detains a person with intent to hold that person for ransom or for any other advantage to any person is guilty of an offence punishable, on conviction, by—

(a) if that other person suffers any grievous bodily harm while being so led, taken or enticed away, or detained—imprisonment for 20 years; or

(b) in any other case—imprisonment for 15 years.

39 Neglect etc of children

(1) A person must not—

(a) ill-treat or abuse a child who is in the person's care; or

(b) neglect a child for whom he or she is caring or has parental responsibility.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

(2) A person is not guilty of an offence referred to in subsection (1) (b) by reason only of failing to provide a thing for a child if the person did not provide the thing because he or she could not afford to do so.

(3) A person must not, knowingly or recklessly, leave a child unattended in such circumstances and for such a time that the child could suffer injury or sickness or otherwise be in danger.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(4) A police officer, medical practitioner or director-general responsible for the *Children and Young People Act 2008* may act (including by entering any building, place or vehicle, with such force that is necessary and reasonable) if the police officer, medical practitioner or director-general reasonably believes—

(a) that a child is being or has been ill-treated, abused or neglected as mentioned in subsection (1) or left unattended as mentioned in subsection (3); and

(b) that it is necessary to act immediately to safeguard the child.

(5) An action does not lie against a person by reason of the person having acted under subsection (4) in good faith, without negligence and with reasonable care in the circumstances.

(6) In this section:

parental responsibility, for a child, means all the duties, powers, responsibilities and authority parents ordinarily have by law in relation to their children.

40 Unlawfully taking child etc

A person who, by force or deception, leads, takes or entices away or detains a child under the age of 12 years—

(a) intending unlawfully to deprive another person of the lawful control of the child; or

(b) intending to steal any article on or about the person of the child;

is guilty of an offence punishable, on conviction, by imprisonment for 10 years.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

41 Exposing or abandoning child

A person who unlawfully abandons or exposes a child under the age of 2 years and by the abandonment or exposure endangers the life or health of the child is guilty of an offence punishable, on conviction, by imprisonment for 5 years.

42 Child destruction

A person who unlawfully and, either intentionally or recklessly, by any act or omission occurring in relation to a childbirth and before the child is born alive—

(a) prevents the child from being born alive; or

(b) contributes to the child's death;

is guilty of an offence punishable, on conviction, by imprisonment for 15 years.

43 Childbirth—grievous bodily harm

A person who unlawfully and, either intentionally or recklessly, by any act or omission occurring in relation to a childbirth and before the child is born alive, inflicts grievous bodily harm on the child, is guilty of an offence punishable, on conviction, by imprisonment for 10 years.

47 Concealment of birth

(1) A person who disposes of the dead body of a child (whether or not the child was born alive) with intent to conceal the child's birth is guilty of an offence punishable, on conviction, by imprisonment for 2 years.

(2) It is a defence to a charge for an offence against subsection (1) if the accused satisfies the court or jury that the body disposed of had issued from the mother's body before the end of the 28th week of pregnancy.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

48 Misconduct with regard to corpses

A person who—

(a) indecently interferes with any dead human body; or

(b) improperly interferes with, or offers any indignity to, any dead human body or human remains (whether buried or not);

is guilty of an offence punishable, on conviction, by imprisonment for 2 years.

48A Aggravated offences—pt 2 offences against pregnant women

(1) This section applies to an offence against any of the following provisions:

(a) section 15 (Manslaughter);

(b) section 19 (Intentionally inflicting grievous bodily harm);

(c) section 20 (Recklessly inflicting grievous bodily harm);

(d) section 21 (Wounding);

(e) section 23 (Inflicting actual bodily harm);

(f) section 24 (Assault occasioning actual bodily harm);

(g) section 29 (2) or (4) (Culpable driving of motor vehicle).

(2) The offence is an ***aggravated offence*** if—

(a) the offence was committed against a pregnant woman; and

(b) the commission of the offence caused—

(i) the loss of, or serious harm to, the pregnancy; or

(ii) the death of, or serious harm to, a child born alive as a result of the pregnancy.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) However, the offence is not an ***aggravated offence*** if the defendant proves, on the balance of probabilities, that the defendant did not know, and could not reasonably have known, that the woman was pregnant.

(4) If the prosecution intends to prove that the offence is an aggravated offence, the relevant factors of aggravation must be stated in the charge.

(5) To remove any doubt—

(a) it is not necessary for the prosecution to prove that the defendant had a fault element in relation to any factor of aggravation; and

(b) the Criminal Code, chapter 2 (other than the applied provisions) does not apply to an offence to which this section applies, whether or not it is an aggravated offence.

(6) In this section:

cause loss, serious harm or death—a person's conduct causes loss, serious harm or death if it substantially contributes to the loss, serious harm or death.

factor of aggravation means a matter mentioned in subsection (2) (a) or (b).

harm to a child—see the Criminal Code, dictionary, definition of ***harm***.

harm to a pregnancy includes maternal haemorrhage, rupture of the uterus or membranes, placental abruption, pre-term uterine contractions, fetal haemorrhage and trauma to the fetus.

loss of a pregnancy means a miscarriage or stillbirth.

serious harm to a child—see the Criminal Code, dictionary, definition of ***serious harm***.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

serious harm to a pregnancy means any harm (including the cumulative effect of more than 1 harm) that—

(a) is likely to cause loss of the pregnancy; or

(b) endangers, or is likely to endanger, the natural course of the pregnancy.

48B Alternative verdicts for aggravated offences—pt 2 offences against pregnant women

(1) This section applies if, in a prosecution for an aggravated offence mentioned in column 2 of an item in table 48B, the trier of fact—

(a) is not satisfied that the defendant committed the aggravated offence; but

(b) is satisfied beyond reasonable doubt that the defendant committed an offence mentioned in column 3 of the item (the ***alternative offence***).

(2) The trier of fact may find the defendant guilty of the alternative offence but only if the defendant has been given procedural fairness in relation to the finding of guilt.

Table 48B

column 1 item	column 2 aggravated offence	column 3 alternative offences
1	section 15 (Manslaughter), aggravated offence	• section 15, simple offence • section 17 (1) (Suicide—aiding etc) • section 17 (2) • section 20 (Recklessly inflicting grievous bodily harm), aggravated offence • section 20, simple offence • section 25 (Causing grievous bodily harm) • section 29 (2) (Culpable driving of motor vehicle—causing death), aggravated offence

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

column 1 item	column 2 aggravated offence	column 3 alternative offences
		• section 29 (2), simple offence • section 42 (Child destruction) • section 47 (Concealment of birth)
2	section 19 (Intentionally inflicting grievous bodily harm), aggravated offence	• section 19, simple offence • section 20 (Recklessly inflicting grievous bodily harm), aggravated offence • section 20, simple offence • section 21 (Wounding), aggravated offence • section 21, simple offence • section 23 (Inflicting actual bodily harm), aggravated offence • section 23, simple offence • section 43 (Childbirth—grievous bodily harm)
3	section 20 (Recklessly inflicting grievous bodily harm), aggravated offence	• section 20, simple offence • section 23 (Inflicting actual bodily harm), aggravated offence • section 23, simple offence • section 25 (Causing grievous bodily harm) • section 29 (4) (Culpable driving of motor vehicle—causing grievous bodily harm), aggravated offence • section 29 (4), simple offence • section 43 (Childbirth—grievous bodily harm)
4	section 21 (Wounding), aggravated offence	• section 21, simple offence • section 23 (Inflicting actual bodily harm), aggravated offence • section 23, simple offence • section 24 (Assault occasioning actual bodily harm), aggravated offence • section 24, simple offence

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

column 1 item	column 2 aggravated offence	column 3 alternative offences
		• section 26 (Common assault), simple offence
5	section 23 (Inflicting actual bodily harm)—aggravated offence	• section 23, simple offence
6	section 24 (Assault occasioning actual bodily harm)—aggravated offence	• section 24, simple offence • section 26 (Common assault), aggravated offence • section 26, simple offence
7	section 29 (2) (Culpable driving of motor vehicle)—causing death—aggravated offence	• section 29 (2), simple offence • *Road Transport (Safety and Traffic Management) Act 1999*, section 6 (1) (a) (Negligent driving)—causing death
8	section 29 (4) (Culpable driving of motor vehicle)—causing grievous bodily harm—aggravated offence	• section 29 (4), simple offence • *Road Transport (Safety and Traffic Management) Act 1999*, section 6 (1) (b) (Negligent driving)—causing grievous bodily harm

48C Aggravated offences—pt 2 offences involving family violence

(1) This section applies to an offence against any of the following provisions:

(a) section 15 (Manslaughter);

(b) section 19 (Intentionally inflicting grievous bodily harm);

(c) section 20 (Recklessly inflicting grievous bodily harm);

(d) section 21 (Wounding);

(e) section 23 (Inflicting actual bodily harm);

(f) section 24 (Assault occasioning actual bodily harm);

(g) section 26 (Common assault);

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(h) section 27 (Acts endangering life etc);

(i) section 28 (Acts endangering health etc);

(j) section 29 (Culpable driving of motor vehicle);

(k) section 30 (Threat to kill);

(l) section 31 (Threat to inflict grievous bodily harm);

(m) section 32 (Demands accompanied by threats);

(n) section 35 (Stalking).

(2) The offence is an ***aggravated offence*** if the offence involves family violence.

(3) If the prosecution intends to prove that the offence is an aggravated offence, the factors of aggravation must be stated in the charge.

(4) To remove any doubt—

(a) it is not necessary for the prosecution to prove that the defendant had a fault element in relation to any factor of aggravation; and

(b) the Criminal Code, chapter 2 (other than the applied provisions) does not apply to an offence mentioned in subsection (1), whether or not it is an aggravated offence.

(5) In this section:

factor of aggravation means the matter mentioned in subsection (2).

Note The following sections also provide that particular offences involving family violence are aggravated offences:

(a) s 72AA (Aggravated offences—pt 3 offences involving family violence);

(b) s 72EA (Aggravated offences—pt 3A offences involving family violence);

(c) s 116 (Destroying or damaging property).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

48D Alternative verdicts for aggravated offences—offences involving family violence

(1) This section applies if, in a prosecution for an aggravated offence mentioned in column 2 of an item in table 48D, the trier of fact—

(a) is not satisfied that the defendant committed the aggravated offence; but

(b) is satisfied beyond reasonable doubt that the defendant committed an offence mentioned in column 3 of the item (the ***alternative offence***).

(2) The trier of fact may find the defendant guilty of the alternative offence but only if the defendant has been given procedural fairness in relation to that finding of guilt.

Table 48D

column 1 **item**	**column 2** **aggravated offence**	**column 3** **alternative offences**
1	section 15 (Manslaughter), aggravated offence	• section 15, simple offence • section 17 (1) (Suicide—aiding etc) • section 17 (2) • section 20 (Recklessly inflicting grievous bodily harm), aggravated offence • section 20, simple offence • section 29 (2) (Culpable driving of motor vehicle—causing death), aggravated offence • section 29 (2), simple offence

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

column 1 item	column 2 aggravated offence	column 3 alternative offences
2	section 19 (Intentionally inflicting grievous bodily harm), aggravated offence	• section 19, simple offence • section 20 (Recklessly inflicting grievous bodily harm), aggravated offence • section 20, simple offence • section 21 (Wounding), aggravated offence • section 21, simple offence • section 23 (Inflicting actual bodily harm), aggravated offence • section 23, simple offence • section 43 (Childbirth—grievous bodily harm), simple offence
3	section 20 (Recklessly inflicting grievous bodily harm), aggravated offence	• section 20, simple offence • section 23 (Inflicting actual bodily harm), aggravated offence • section 23, simple offence • section 29 (4) (Culpable driving of motor vehicle—causing grievous bodily harm), aggravated offence • section 29 (4), simple offence
4	section 21 (Wounding), aggravated offence	• section 21, simple offence • section 23 (Inflicting actual bodily harm), aggravated offence • section 23, simple offence • section 24 (Assault occasioning actual bodily harm), aggravated offence • section 24, simple offence • section 26 (Common assault), aggravated offence • section 26, simple offence
5	section 23 (Inflicting actual bodily harm), aggravated offence	• section 23, simple offence

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

column 1 item	column 2 aggravated offence	column 3 alternative offences
6	section 24 (Assault occasioning actual bodily harm), aggravated offence	• section 24, simple offence • section 26 (Common assault), aggravated offence • section 26, simple offence
7	section 26 (Common assault), aggravated offence	• section 26, simple offence
8	section 27 (3) (a) (Acts endangering life etc—choking etc rendering person unconscious etc), aggravated offence	• section 27 (3) (a), simple offence • section 28 (2) (a) (Choking, suffocating or strangling)
9	section 27 (3) (b) (Acts endangering life etc—administering drugs etc endangering life etc), aggravated offence	• section 27 (3) (b), simple offence • section 28 (2) (b) (administering poison etc with intent to injure etc)
10	section 27 (3) (e) (Acts endangering life etc—causing explosions etc endangering life etc), aggravated offence	• section 27 (3) (e), simple offence • section 28 (2) (c) (Causing explosions etc endangering health etc)
11	section 27 (3) (f) (Acts endangering life etc)—setting traps endangering life etc, aggravated offence	• section 27 (3) (f), simple offence • section 28 (2) (d) (Setting traps endangering health etc)
12	section 27 (3) (g) (Acts endangering life etc—interfering with conveyances and endangering life etc), aggravated offence	• section 27 (3) (g), simple offence • section 28 (2) (e) (Interfering with conveyances and endangering health etc)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

column 1 item	column 2 aggravated offence	column 3 alternative offences
13	section 27 (4) (Acts endangering life etc—intending to commit indictable offence/prevent or hinder apprehension/police officer), aggravated offence	• section 27 (3) (Acts endangering life etc), aggravated offence • section 27 (3), simple offence
14	section 28 (2) (a) (Acts endangering health etc—choking, suffocating or strangling), aggravated offence	• section 28 (2) (a), simple offence • section 26 (Common assault)
15	section 28 (2) (b) (Acts endangering health etc—administering poisons etc with intent to injure etc), aggravated offence	• section 28 (2) (b), simple offence
16	section 28 (2) (c) (Acts endangering health etc—causing explosions etc endangering health etc), aggravated offence	• section 28 (2) (c), simple offence
17	section 28 (2) (d) (Acts endangering health etc—setting traps endangering health etc), aggravated offence	• section 28 (2) (d), simple offence
18	section 28 (2) (e) (Acts endangering health etc—interfering with conveyances and endangering health etc), aggravated offence	• section 28 (2) (e), simple offence

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

column 1 item	column 2 aggravated offence	column 3 alternative offences
19	section 29 (2) (Culpable driving of motor vehicle—causing death), aggravated offence	• section 29 (2), simple offence • *Road Transport (Safety and Traffic Management) Act 1999*, section 6 (1), penalty, paragraph (a) (Negligent driving—causing death)
20	section 29 (4) (Culpable driving of motor vehicle—causing grievous bodily harm), aggravated offence	• section 29 (4), simple offence • *Road Transport (Safety and Traffic Management) Act 1999*, section 6 (1), penalty, paragraph (b) (Negligent driving—causing grievous bodily harm)
21	section 30 (Threat to kill), aggravated offence	• section 30, simple offence
22	section 31 (Threat to inflict grievous bodily harm), aggravated offence	• section 31, simple offence
23	section 32 (Demands accompanied by threats), aggravated offence	• section 32, simple offence
24	section 35 (Stalking), aggravated offence	• section 35, simple offence

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

49 Alternative verdicts for certain other offences against the person

If, on a trial for an offence against a provision specified in column 2 in an item in table 49, the jury is not satisfied that the accused is guilty of that offence but is satisfied that the accused is guilty of an offence against a provision specified in column 3 in that item, it may find the accused not guilty of the offence charged but guilty of the offence against the provision specified in column 3:

Table 49

column 1 Item	column 2 offence charged	column 3 alternative offences
1	section 12 (2) (Murder)	• section 15 (2) (Manslaughter) • section 17 (1) (Suicide—aiding etc) • section 17 (2) • section 42 (Child destruction) • section 47 (1) (Concealment of birth)
2	section 15 (1) (Manslaughter)	• section 17 (1) (Suicide—aiding etc) • section 17 (2) • section 20 (Recklessly inflicting grievous bodily harm), simple offence • section 25 (Causing grievous bodily harm) • section 29 (2) (Culpable driving of motor vehicle) • section 42 (Child destruction) • section 47 (1) (Concealment of birth)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

column 1 Item	column 2 offence charged	column 3 alternative offences
3	section 19 (Intentionally inflicting grievous bodily harm)	• section 20 (Recklessly inflicting grievous bodily harm), simple offence • section 21 (Wounding), simple offence • section 23 (Inflicting actual bodily harm), simple offence • section 43 (Childbirth—grievous bodily harm)
4	section 20 (Recklessly inflicting grievous bodily harm)	• section 23 (Inflicting actual bodily harm), simple offence • section 25 (Causing grievous bodily harm) • section 29 (4) (Culpable driving of motor vehicle) • section 43 (Childbirth—grievous bodily harm)
5	section 21 (Wounding)	• section 23 (Inflicting actual bodily harm), simple offence • section 24 (Assault occasioning actual bodily harm), simple offence • section 26 (Common assault), simple offence
6	section 22 (Assault with intent to commit other offence)	• section 26 (Common assault), simple offence
7	section 24 (Assault occasioning actual bodily harm)	• section 26 (Common assault), simple offence

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

column 1 Item	column 2 offence charged	column 3 alternative offences
8	section 27 (3) (a) (Acts endangering life etc—choking etc rendering person unconscious etc)	• section 28 (2) (a) (Acts endangering health etc), simple offence
9	section 27 (3) (b) (Acts endangering life etc—administering drugs etc endangering life etc)	• section 28 (2) (b) (Acts endangering health etc), simple offence
10	section 27 (3) (e) (Acts endangering life etc—causing explosions etc endangering life etc)	• section 28 (2) (c) (Acts endangering health etc), simple offence
11	section 27 (3) (f) (Acts endangering life etc—setting traps endangering life etc)	• section 28 (2) (d) (Acts endangering health etc), simple offence
12	section 27 (3) (g) (Acts endangering life etc—interfering with conveyances and endangering life etc)	• section 28 (2) (e) (Acts endangering health etc), simple offence
13	section 28 (2) (a) (Acts endangering health etc—choking, suffocating or strangling)	• section 26 (Common assault), simple offence
14	section 29 (2) (Culpable driving of motor vehicle)—causing death	• *Road Transport (Safety and Traffic Management) Act 1999*, section 6 (1), penalty, paragraph (a) (Negligent driving)—causing death
15	section 29 (4) (Culpable driving of motor vehicle)—causing grievous bodily harm	• *Road Transport (Safety and Traffic Management) Act 1999*, section 6 (1), penalty, paragraph (b) (Negligent driving)—causing grievous bodily harm

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 3 Sexual offences

50A Objects—pt 3

An object of this part is to recognise the following in relation to a sexual act:

(a) consent to participate in a sexual act is not to be presumed;

(b) every person has a right to choose not to participate in a sexual act;

(c) a consensual sexual act involves ongoing and mutual communication and decision-making by the people participating in the sexual act.

50B Meaning of *consent*—pt 3

In this part:

consent, to a sexual act, means informed agreement to the sexual act that is—

(a) freely and voluntarily given; and

(b) communicated by saying or doing something.

Note See s 67 for when a person does not consent to an act.

50C Meaning of *sexual act*—pt 3

(1) In this part:

sexual act—

(a) means—

(i) sexual intercourse; and

(ii) sexual touching; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(iii) any other act in circumstances where a reasonable person would consider the act to be sexual; but

(b) does not include an act carried out for a proper medical purpose or otherwise authorised by law.

(2) The matters to be taken into account in deciding whether a reasonable person would consider an act to be sexual include the following:

(a) whether the area of the body involved in the act is a person's breasts, genital area or anal area;

(b) whether the person carrying out the act does so for the purpose of sexual arousal or sexual gratification;

(c) whether any other aspect of the act (including the circumstances in which it is carried out) makes it sexual.

(3) In this section:

object—see section 50 (2).

sexual touching, by a person (the ***first person***) means—

(a) touching another person, including through something, with any part of the first person's body or with an object in circumstances where a reasonable person would consider the touching to be sexual; and

(b) the continuation of sexual touching as defined in paragraph (a).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

50 Definitions—pt 3

(1) In this part:

aggravated offence, for an offence involving family violence—see section 72AA (2).

sexual intercourse means—

(a) the penetration, to any extent, of the genitalia or anus of a person by any part of the body of another person, except if that penetration is carried out for a proper medical purpose or is otherwise authorised by law; or

(b) the penetration, to any extent, of the genitalia or anus of a person by an object, being penetration carried out by another person, except if that penetration is carried out for a proper medical purpose or is otherwise authorised by law; or

(c) the introduction of any part of the penis of a person into the mouth of another person; or

(d) fellatio; or

(e) cunnilingus; or

(f) the continuation of sexual intercourse as defined in paragraph (a), (b), (c), (d) or (e).

(2) In this section:

genitalia includes surgically constructed or altered genitalia.

object includes an animal.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

51 Sexual assault in the first degree

(1) A person who inflicts grievous bodily harm on another person with intent to engage in sexual intercourse with that other person, or with a third person who is present or nearby, is guilty of an offence punishable, on conviction, by imprisonment for 17 years.

(2) However, for an aggravated offence against subsection (1), the maximum penalty is imprisonment for 21 years.

Note Section 72AA (Aggravated offences—pt 3 offences involving family violence) makes provision in relation to an aggravated offence against this section.

(3) A person who, acting in company with any other person, inflicts, or assists in inflicting, grievous bodily harm on a third person with the intent that the firstmentioned person, or any person with whom he or she is in company, should engage in sexual intercourse with that third person, or with any other person who is present or nearby, is guilty of an offence punishable, on conviction, by imprisonment for 20 years.

(4) However, for an aggravated offence against subsection (3), the maximum penalty is imprisonment for 25 years.

52 Sexual assault in the second degree

(1) A person who inflicts actual bodily harm on another person with intent to engage in sexual intercourse with that other person, or with a third person who is present or nearby, is guilty of an offence punishable, on conviction, by imprisonment for 14 years.

(2) However, for an aggravated offence against subsection (1), the maximum penalty is imprisonment for 18 years.

Note Section 72AA (Aggravated offences—pt 3 offences involving family violence) makes provision in relation to an aggravated offence against this section.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) A person who, acting in company with any other person, inflicts, or assists in inflicting, actual bodily harm on a third person with the intent that the firstmentioned person, or any person with whom he or she is in company, should engage in sexual intercourse with that third person, or with any other person who is present or nearby, is guilty of an offence punishable, on conviction, by imprisonment for 17 years.

(4) However, for an aggravated offence against subsection (3), the maximum penalty is imprisonment for 21 years.

53 Sexual assault in the third degree

(1) A person who unlawfully assaults, or threatens to inflict grievous or actual bodily harm on, another person with intent to engage in sexual intercourse with that other person, or with a third person who is present or nearby, is guilty of an offence punishable, on conviction, by imprisonment for 12 years.

(2) However, for an aggravated offence against subsection (1), the maximum penalty is imprisonment for 15 years.

Note Section 72AA (Aggravated offences—pt 3 offences involving family violence) makes provision in relation to an aggravated offence against this section.

(3) A person who, acting in company with any other person, unlawfully assaults, or threatens to inflict grievous or actual bodily harm on, a third person with the intent that the firstmentioned person, or any person with whom he or she is in company, should engage in sexual intercourse with that third person, or with any other person who is present or nearby, is guilty of an offence punishable, on conviction, by imprisonment for 14 years.

(4) However, for an aggravated offence against subsection (3), the maximum penalty is imprisonment for 18 years.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

54 Sexual intercourse without consent

(1) A person who engages in sexual intercourse with another person without the consent of that other person and who is reckless as to whether that other person consents to the sexual intercourse is guilty of an offence punishable, on conviction, by imprisonment for 12 years.

(2) However, for an aggravated offence against subsection (1), the maximum penalty is imprisonment for 15 years.

Note Section 72AA (Aggravated offences—pt 3 offences involving family violence) makes provision in relation to an aggravated offence against this section.

(3) A person who, acting in company with any other person, engages in sexual intercourse with another person without the consent of that other person and who is reckless as to whether that other person consents to the sexual intercourse is guilty of an offence punishable, on conviction, by imprisonment for 14 years.

(4) However, for an aggravated offence against subsection (3), the maximum penalty is imprisonment for 18 years.

(5) For this section, proof of knowledge or recklessness is sufficient to establish the element of recklessness.

55 Sexual intercourse with young person

(1) A person who engages in sexual intercourse with another person who is under the age of 10 years is guilty of an offence punishable, on conviction, by imprisonment for 17 years.

(2) However, for an aggravated offence against subsection (1), the maximum penalty is imprisonment for 21 years.

Note Section 72AA (Aggravated offences—pt 3 offences involving family violence) makes provision in relation to an aggravated offence against this section.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) A person who engages in sexual intercourse with another person who is under the age of 16 years is guilty of an offence punishable, on conviction, by imprisonment for 14 years.

(4) However, for an aggravated offence against subsection (3), the maximum penalty is imprisonment for 18 years.

(5) It is a defence to a prosecution for an offence against subsection (3) if the defendant establishes that—

(a) he or she believed on reasonable grounds that the person on whom the offence is alleged to have been committed was of or above the age of 16 years; or

(b) at the time of the alleged offence—

(i) the person on whom the offence is alleged to have been committed was of or above the age of 10 years; and

(ii) the defendant was not more than 2 years older;

and that that person consented to the sexual intercourse.

55A Sexual intercourse with young person under special care

(1) A person commits an offence if—

(a) the person engages in sexual intercourse with a young person; and

(b) the young person is under the person's special care.

Maximum penalty: imprisonment for 10 years.

Note A reference to an offence includes a reference to a related ancillary offence, eg attempt (see Legislation Act, s 189).

(2) Without limiting subsection (1), a young person is under the ***special care*** of a person if the person—

(a) is a teacher at a school, or a person with responsibility for students at a school, and the young person is a student at the school; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) is a parent, step-parent, grandparent, foster carer or legal guardian of the young person; or

(c) is a domestic partner of a person mentioned in paragraph (b); or

(d) has an established personal relationship with the young person in relation to the provision of religious, sporting, musical or other instruction; or

(e) is the young person's employer; or

(f) provides professional counselling to the young person; or

(g) is a health service provider and the young person is the person's patient; or

(h) is a custodial officer and the young person is a young detainee in the officer's care, custody or control; or

(i) is a carer for the young person if the young person has impaired decision-making ability; or

(j) is otherwise responsible for the care, supervision or control of the young person.

(3) Subsection (1) does not apply to a person if the person—

(a) was married to the young person at the time of the alleged offence; or

(b) is not more than 2 years older than the young person.

Note The defendant has an evidential burden in relation to the matters mentioned in s (3) (see Criminal Code, s 58).

(4) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that the defendant believed on reasonable grounds that the young person was at least 18 years old.

Note The defendant has a legal burden in relation to the matters mentioned in s (4) (see Criminal Code, s 59).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(5) In this section:

custodial officer means—

(a) a police officer; or

(b) a corrections officer; or

(c) a youth detention officer under the *Children and Young People Act 2008*, section 96; or

(d) a transfer escort under the *Children and Young People Act 2008*, section 114; or

(e) a prison officer under the *Crimes (Sentence Administration) Act 2005*, section 217.

employer, of a young person, includes someone authorised to—

(a) decide or vary the terms of the young person's employment; or

(b) end the young person's employment.

foster carer—see the *Children and Young People Act 2008*, section 518 (2).

health service—see the *Human Rights Commission Act 2005*, section 7.

health service provider includes—

(a) a health practitioner; and

(b) someone providing a health service.

young detainee—see the *Children and Young People Act 2008*, section 95.

young person means a person who is at least 16 years old, but not yet an adult.

Note ***Adult***—see the Legislation Act, dictionary, pt 1.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

56 Persistent sexual abuse of child or young person under special care

(1) A person commits an offence if the person—

(a) is an adult; and

(b) engages in a relationship with a child, or a young person under the special care of the adult, that involves more than 1 sexual act.

Maximum penalty: imprisonment for 25 years.

(2) For subsection (1) (b)—

(a) a ***relationship*** includes repeated contact, interaction, engagement or association, of a sexual nature or otherwise; and

(b) the relationship may have started, or started and ended, before the amendment day; and

(c) 1 or more of the sexual acts may have occurred before the amendment day; and

(d) a sexual offence that could be charged and proved under section 66B (Course of conduct charge—child sexual offences) can be 1 of the sexual acts.

(3) For a person to be convicted of an offence against subsection (1), the trier of fact must unanimously be satisfied beyond reasonable doubt that the relationship existed.

(4) However, in a proceeding for an offence against subsection (1), there is no requirement for—

(a) the prosecution to allege the particulars of a sexual act that would be necessary if the act were charged as a separate offence; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) the trier of fact to be satisfied of the particulars of a sexual act that it would need to be satisfied of if the act were charged as a separate offence; or

(c) if the trier of fact is a jury—all the members of the jury to agree on the same sexual acts involved in the relationship.

(5) In a proceeding for an offence against subsection (1)—

(a) the prosecution is required to allege the particulars of the period of the relationship; and

(b) without limiting the Criminal Code, section 64 (2) (Extension of offences if required geographical nexus exists), a geographical nexus exists for this offence if—

(i) any part of the relationship was engaged in inside the ACT; or

(ii) at least 1 of the sexual acts occurred inside the ACT.

(6) For an offence against this section that occurred partly or wholly before 2 March 2018, the maximum penalty is the current maximum penalty, however, for a relationship engaged in over the period mentioned in table 56, column 2, the sentence imposed must not be more than the penalty mentioned in column 3 for that period.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Table 56

column 1 item	column 2 period of relationship	column 3 penalty
1	wholly before 24 December 1991	the lesser of— (a) the current maximum penalty; and (b) either— (i) if 2 or more sexual acts alleged to be involved in the relationship are found to have occurred—the total of the maximum penalties for each offence constituted by the sexual acts; or (ii) in any other case—the highest maximum penalty for the offences constituted by the sexual acts alleged to be involved in the relationship
2	started before, on or after 24 December 1991 and ended before 2 March 2018	the lesser of— (a) the current maximum penalty; and (b) the 1991 maximum penalty
3	started on or after 24 December 1991 and ended on or after 2 March 2018	the current maximum penalty
4	started on or after 2 March 2018	the current maximum penalty

Example—item 1, column 3, par (b) (i)

An offender is convicted of an offence against this section for a relationship that occurred wholly before 24 December 1991. The jury agrees that 3 acts of indecency occurred. The maximum penalty for committing an act of indecency at the time the acts occurred is 5 years imprisonment. A court may impose a sentence for an offence against this section of up to the total of the maximum penalty for the 3 acts of indecency, ie 15 years imprisonment.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Example—item 1, column 3, par (b) (ii)

An offender is convicted of an offence against this section for a relationship that occurred wholly before 24 December 1991. The sexual acts that were alleged to be involved in the relationship included conduct that, if sufficiently particularised, would have constituted an act of indecency in the third degree and 3 acts of indecency without consent. The jury agrees that 2 sexual acts occurred but were not unanimous about which ones. The maximum penalty for the sexual acts at the time the acts occurred are 10 years and 5 years imprisonment respectively. A court may impose a sentence for an offence against this section of up to the highest maximum penalty for the alleged sexual acts, ie 10 years imprisonment.

(7) A person—

(a) may be charged on a single indictment with, and convicted of and punished for, both—

(i) an offence against subsection (1); and

(ii) 1 or more sexual offences committed by the person against the same child or young person under the special care of the person during the alleged period of the relationship; but

(b) must not be required to serve the sentences for the offence against subsection (1) and the sexual offences consecutively.

(8) Except as provided by subsection (7), a person cannot be convicted of an offence—

(a) against subsection (1) if the person has already been convicted or acquitted of an offence constituted by 1 or more of the sexual acts alleged to be involved in the relationship; or

(b) constituted by a sexual act against a child or young person under the special care of the person if the sexual act is alleged to have been committed during the period for which the person has already been convicted or acquitted of an offence against subsection (1) in relation to the child or young person.

(9) For subsection (8), a person is taken not to have been convicted of an offence if the conviction is quashed or set aside.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(10) A proceeding for a charge for an offence under this section must not be started without the consent of the director of public prosecutions.

(11) The Criminal Code, chapter 2 (other than the applied provisions) does not apply to an offence against this section.

(12) In this section:

1991 maximum penalty means the maximum penalty for this offence applying on 24 December 1991.

Note This section was previously s 92EA which was inserted into this Act by the *Crimes (Amendment) Act (No 3) 1991* (A1991-90). See that Act for the maximum penalty for this offence applying on 24 December 1991.

amendment day means the day the *Royal Commission Criminal Justice Legislation Amendment Act 2020*, section 3 commenced.

child means a person who is under the age of 16 years.

current maximum penalty means the maximum penalty mentioned in subsection (1).

sexual act—

(a) means—

(i) an act that constitutes an offence against this part; or

(ii) an act that constituted an offence against a sexual offence provision of this Act previously in force (a ***historical offence***); or

(iii) an attempt to commit an act that constitutes or constituted an offence against this part or a historical offence; or

(iv) an act that, if particulars of the time when or place where the act took place were sufficiently particularised, would constitute or have constituted an offence against this part or a historical offence at the time the act occurred; but

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) does not include an act referred to in—

(i) section 55 (3) (Sexual intercourse with young person) if the person who committed the act establishes the matters referred to in section 55 (5) that would be a defence if the person had been charged with an offence against section 55 (3); or

(ii) section 61 (3) (Act of indecency with young people) if the person who committed the act establishes the matters referred to in section 61 (5) that would be a defence if the person had been charged with an offence against section 61 (3).

special care—see section 55A (2).

young person means a person who is at least 16 years old, but not yet an adult.

57 Act of indecency in the first degree

(1) A person who inflicts grievous bodily harm on another person with intent to commit an act of indecency on, or in the presence of, that other person, or a third person who is present or nearby, is guilty of an offence punishable, on conviction, by imprisonment for 15 years.

(2) However, for an aggravated offence against subsection (1), the maximum penalty is imprisonment for 19 years.

Note Section 72AA (Aggravated offences—pt 3 offences involving family violence) makes provision in relation to an aggravated offence against this section.

58 Act of indecency in the second degree

(1) A person who inflicts actual bodily harm on another person with intent to commit an act of indecency on, or in the presence of, that other person, or a third person who is present or nearby, is guilty of an offence punishable, on conviction, by imprisonment for 12 years.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) However, for an aggravated offence against subsection (1), the maximum penalty is imprisonment for 15 years.

Note Section 72AA (Aggravated offences—pt 3 offences involving family violence) makes provision in relation to an aggravated offence against this section.

59 Act of indecency in the third degree

(1) A person who unlawfully assaults, or threatens to inflict grievous or actual bodily harm on, another person with intent to commit an act of indecency on, or in the presence of, that other person, or a third person who is present or nearby, is guilty of an offence punishable, on conviction, by imprisonment for 10 years.

(2) However, for an aggravated offence against subsection (1), the maximum penalty is imprisonment for 13 years.

Note Section 72AA (Aggravated offences—pt 3 offences involving family violence) makes provision in relation to an aggravated offence against this section.

60 Act of indecency without consent

(1) A person who commits an act of indecency on, or in the presence of, another person without the consent of that person and who is reckless as to whether that other person consents to the committing of the act of indecency is guilty of an offence punishable, on conviction, by imprisonment for 7 years.

(2) However, for an aggravated offence against subsection (1), the maximum penalty is imprisonment for 9 years.

Note Section 72AA (Aggravated offences—pt 3 offences involving family violence) makes provision in relation to an aggravated offence against this section.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) A person who, acting in company with any other person, commits an act of indecency on, or in the presence of, another person without the consent of that other person and who is reckless as to whether that other person consents to the committing of the act of indecency is guilty of an offence punishable, on conviction, by imprisonment for 9 years.

(4) However, for an aggravated offence against subsection (3), the maximum penalty is imprisonment for 11 years.

(5) For this section, proof of knowledge or recklessness is sufficient to establish the element of recklessness.

61 Acts of indecency with young people

(1) A person who commits an act of indecency on, or in the presence of, another person who is under the age of 10 years is guilty of an offence punishable, on conviction, by imprisonment for 12 years.

(2) However, for an aggravated offence against subsection (1), the maximum penalty is imprisonment for 15 years.

Note Section 72AA (Aggravated offences—pt 3 offences involving family violence) makes provision in relation to an aggravated offence against this section.

(3) A person who commits an act of indecency on, or in the presence of, another person who is under the age of 16 years is guilty of an offence punishable, on conviction, by imprisonment for 10 years.

(4) However, for an aggravated offence against subsection (3), the maximum penalty is imprisonment for 13 years.

(5) It is a defence to a prosecution for an offence against subsection (3) if the defendant establishes that—

(a) he or she believed on reasonable grounds that the person on whom the offence is alleged to have been committed was of or above the age of 16 years; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) at the time of the alleged offence—

(i) the person on whom the offence is alleged to have been committed was of or above the age of 10 years; and

(ii) the defendant was not more than 2 years older;

and that that person consented to the committing of the act of indecency.

61A Act of indecency with young person under special care

(1) A person commits an offence if—

(a) the person commits an act of indecency on, or in the presence of, a young person; and

(b) the young person is under the person's special care.

Maximum penalty: imprisonment for 7 years.

Note A reference to an offence includes a reference to a related ancillary offence, eg attempt (see Legislation Act, s 189).

(2) Subsection (1) does not apply to a person if the person—

(a) was married to the young person at the time of the alleged offence; or

(b) is not more than 2 years older than the young person.

Note The defendant has an evidential burden in relation to the matters mentioned in s (2) (see Criminal Code, s 58).

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that the defendant believed on reasonable grounds that the young person was at least 18 years old.

Note The defendant has a legal burden in relation to the matters mentioned in s (3) (see Criminal Code, s 59).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(4) In this section:

special care—see section 55A (2).

young person—see section 55A (5).

61B Intimate observations or capturing visual data etc

(1) A person (the ***offender***) commits an offence if—

(a) the offender—

(i) observes another person with the aid of a device; or

(ii) captures visual data of another person; and

(b) a reasonable person would, in all the circumstances, consider the observing or capturing of visual data to be—

(i) an invasion of privacy; and

(ii) indecent.

Maximum penalty:

(a) for an aggravated offence—250 penalty units, imprisonment for 3 years or both; or

(b) in any other case—200 penalty units, imprisonment for 2 years or both.

(2) Strict liability applies to subsection (1) (b) (i).

(3) Absolute liability applies to subsection (1) (b) (ii).

(4) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that the defendant—

(a) believed on reasonable grounds that the other person consented to the defendant observing or capturing visual data of the other person; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) did not know, and could not reasonably be expected to have known, that the observing or capturing of visual data of the other person was without consent.

Note The defendant has a legal burden in relation to the matters mentioned in s (4) (see Criminal Code, s 59).

(5) A person (the ***offender***) commits an offence if—

(a) the offender observes with the aid of a device or captures visual data of—

(i) another person's genital or anal region; or

(ii) for a female or a transgender or intersex person who identifies as a female—the breasts; and

Example

using a mobile phone to take photos of a woman's underwear under her skirt or down the front of her blouse

(b) a reasonable person would, in all the circumstances, consider the observing or capturing of visual data to be an invasion of privacy.

Maximum penalty:

(a) for an aggravated offence—250 penalty units, imprisonment for 3 years or both; or

(b) in any other case—200 penalty units, imprisonment for 2 years or both.

Note Section 72AA (Aggravated offences—pt 3 offences involving family violence) makes provision in relation to an aggravated offence against this section.

(6) Strict liability applies to subsection (5) (b).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(7) It is a defence to a prosecution for an offence against subsection (5) if the defendant proves that the defendant—

(a) believed on reasonable grounds that the other person consented to the defendant observing or capturing visual data of the other person's genital or anal region or breasts; or

(b) did not know, and could not reasonably be expected to have known, that the observing or capturing of visual data of the other person's genital or anal region or breasts was without consent.

Note The defendant has a legal burden in relation to the matters mentioned in s (7) (see Criminal Code, s 59).

(8) Subsections (1) and (5) do not apply to—

(a) an observation made by viewing data that was previously captured; or

(b) an observation or capturing of visual data—

(i) by a law enforcement officer acting reasonably in the performance of the officer's duty; or

(ii) by a licensed security provider acting reasonably in carrying on a security activity authorised under the security provider's licence; or

(iii) of a child or other person incapable of giving consent in circumstances in which a reasonable person would regard the observing or capturing of visual data as acceptable; or

Example

taking a photograph or movie of a naked newborn relative

(iv) for a scientific, medical or educational purpose; or

Example

a patient consents to her doctor taking an image of a mole on her breast for the purpose of showing another doctor for a second opinion about the mole

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(v) by a person in the course of reasonably protecting premises owned by the person; or

(vi) in circumstances or for a purpose prescribed by regulation.

(9) Nothing in subsection (8) prevents a person being found guilty of an offence under or because of the Criminal Code, part 2.4 (Extensions of criminal responsibility).

(10) In this section:

breasts, of a female or a transgender or intersex person who identifies as a female, means the person's breasts whether covered by underwear or bare.

capture visual data—a person ***captures visual data*** of another person if the person captures moving or still images of the other person by a camera or any other means in such a way that—

(a) a recording is made of the images; or

(b) the images are capable of being transmitted in real time with or without retention or storage in a physical or electronic form; or

(c) the images are otherwise capable of being distributed.

device does not include spectacles, contact lenses or a similar device when used by someone with impaired sight to overcome the impairment.

genital or anal region, of a person, means the person's genital or anal region whether covered by underwear or bare.

law enforcement officer means—

(a) a police officer; or

(b) a member of the staff of the Australian Crime Commission established by the *Australian Crime Commission Act 2002* (Cwlth).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

licensed security provider means a person who holds a licence under the *Security Industry Act 2003*.

security activity—see the *Security Industry Act 2003*, section 7.

62 Incest and similar offences

(1) A person who engages in sexual intercourse with another person, being a person who is under the age of 10 years and who is, to the knowledge of the firstmentioned person, his or her lineal descendant, sister, half-sister, brother, half-brother or stepchild, is guilty of an offence punishable, on conviction, by imprisonment for 20 years.

(2) A person who engages in sexual intercourse with another person, being a person who is under the age of 16 years and who is, to the knowledge of the firstmentioned person, his or her lineal descendant, sister, half-sister, brother, half-brother or stepchild, is guilty of an offence punishable, on conviction, by imprisonment for 15 years.

(3) A person who engages in sexual intercourse with another person, being a person who is of or above the age of 16 years and who is, to the knowledge of the firstmentioned person, his or her lineal ancestor, lineal descendant, sister, half-sister, brother or half-brother, is guilty of an offence punishable, on conviction, by imprisonment for 10 years.

(4) A person shall not be convicted of an offence against subsection (2) or (3) if there is evidence that he or she engaged in the act alleged to constitute the offence under the coercion of the person with whom the offence is alleged to have been committed unless the evidence is rebutted by the prosecution.

(5) A person charged with an offence against this section shall, unless there is evidence to the contrary, be presumed to have known at the time of the alleged offence that he or she and the person with whom the offence is alleged to have been committed were related in the way charged.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(6) In this section:

stepchild, in relation to a person, means a person in relation to whom the firstmentioned person stands in place of a parent.

63 Abduction

(1) A person who abducts another person by force or by any other means or who unlawfully detains another person with the intent that the other person should engage in sexual intercourse with the firstmentioned person or with a third person (whether within the ACT or otherwise) is guilty of an offence punishable, on conviction, by imprisonment for 10 years.

(2) However, for an aggravated offence against subsection (1), the maximum penalty is imprisonment for 13 years.

Note Section 72AA (Aggravated offences—pt 3 offences involving family violence) makes provision in relation to an aggravated offence against this section.

63A Bestiality

A person commits an offence if the person engages in a sexual activity of any kind with an animal.

Maximum penalty: imprisonment for 10 years.

Note A reference to an offence includes a reference to a related ancillary offence, eg attempt (see Legislation Act, s 189).

64 Using child for production of child exploitation material etc

(1) A person commits an offence if—

(a) the person uses, offers or procures a child—

(i) for the production of child exploitation material; or

(ii) for a pornographic performance; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) the child is under 12 years old.

Maximum penalty:

(a) for an aggravated offence—1 900 penalty units, imprisonment for 19 years or both; or

(b) in any other case—1 500 penalty units, imprisonment for 15 years or both.

Note Section 72AA (Aggravated offences—pt 3 offences involving family violence) makes provision in relation to an aggravated offence against this section.

(2) Absolute liability applies to subsection (1) (b).

(3) A person commits an offence if—

(a) the person uses, offers or procures a child—

(i) for the production of child exploitation material; or

(ii) for a pornographic performance; and

(b) the child is 12 years old or older.

Maximum penalty:

(a) for an aggravated offence—1 300 penalty units, imprisonment for 13 years or both; or

(b) in any other case—1 000 penalty units, imprisonment for 10 years or both.

Note Section 72AA (Aggravated offences—pt 3 offences involving family violence) makes provision in relation to an aggravated offence against this section.

(4) Strict liability applies to subsection (3) (b).

(5) In this section:

child exploitation material means anything that represents—

(a) the sexual parts of a child; or

(b) a child engaged in an activity of a sexual nature; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) someone else engaged in an activity of a sexual nature in the presence of a child;

substantially for the sexual arousal or sexual gratification of someone other than the child.

pornographic performance means—

(a) a performance by a child engaged in an activity of a sexual nature; or

(b) a performance by someone else engaged in an activity of a sexual nature in the presence of a child;

substantially for the sexual arousal or sexual gratification of someone other than the child.

Examples of activity of a sexual nature

1 sexual intercourse or other explicit sexual activity (whether real or simulated)

2 a striptease

represent means depict or otherwise represent on or in a film, photograph, drawing, audiotape, videotape, computer game, the internet or anything else.

64A Trading in child exploitation material

(1) A person commits an offence if the person produces, publishes, offers or sells child exploitation material.

Maximum penalty:

(a) for an aggravated offence—1 500 penalty units, imprisonment for 15 years or both; or

(b) in any other case—1 200 penalty units, imprisonment for 12 years or both.

Note Section 72AA (Aggravated offences—pt 3 offences involving family violence) makes provision in relation to an aggravated offence against this section.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) In this section:

child exploitation material—see section 64 (5).

65 Possessing child exploitation material

(1) A person commits an offence if—

(a) the person intentionally possesses pornography; and

(b) the pornography is child exploitation material.

Maximum penalty:

(a) for an aggravated offence—900 penalty units, imprisonment for 9 years or both; or

(b) in any other case—700 penalty units, imprisonment for 7 years or both.

Note Section 72AA (Aggravated offences—pt 3 offences involving family violence) makes provision in relation to an aggravated offence against this section.

(2) Absolute liability applies to subsection (1) (b).

(3) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant had no reasonable grounds for suspecting that the pornography concerned was child exploitation material.

(4) In this section:

child exploitation material—see section 64 (5).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

66 Grooming and depraving young people

(1) A person must not, without reasonable excuse—

(a) in person or by any other means, encourage a young person to commit or take part in, or watch someone else committing or taking part in, an act of a sexual nature; or

Example

showing a young person indecent material online or on a mobile phone

(b) engage in conduct with a young person with the intention of making it more likely that the young person would commit or take part in, or watch someone else committing or taking part in, an act of a sexual nature; or

(c) engage in conduct with a person who has a relationship with a young person with the intention of making it more likely that the young person would commit or take part in, or watch someone else committing or taking part in, an act of a sexual nature.

Maximum penalty:

(a) for a 1st offence against a person under 10 years—

(i) for an aggravated offence—imprisonment for 11 years; or

(ii) in any other case—imprisonment for 9 years; or

(b) for a 1st offence against a young person 10 years or older—

(i) for an aggravated offence—imprisonment for 9 years; or

(ii) in any other case—imprisonment for 7 years; or

(c) for a 2nd or subsequent offence against a person under 10 years—

(i) for an aggravated offence—imprisonment for 15 years; or

(ii) in any other case—imprisonment for 12 years; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(d) for a 2nd or subsequent offence against a young person 10 years or older—

(i) for an aggravated offence—imprisonment for 13 years; or

(ii) in any other case—imprisonment for 10 years.

Note Section 72AA (Aggravated offences—pt 3 offences involving family violence) makes provision in relation to an aggravated offence against this section.

(2) The Criminal Code, chapter 2 (other than the immediately applied provisions) does not apply to an offence against subsection (1).

Note The Criminal Code does not apply to offences against this section that were offences in force before 1 January 2003 unless the offence is omitted and remade (see Criminal Code, s 8).

(3) A person must not send or make available pornographic material to a young person.

Maximum penalty:

(a) for an aggravated offence—900 penalty units, imprisonment for 9 years or both; or

(b) in any other case—700 penalty units, imprisonment for 7 years or both.

(4) It is a defence to a prosecution for an offence against subsection (3) if the defendant—

(a) is an Internet service provider; and

(b) had no knowledge that the defendant's facilities were used to commit the offence.

(5) It is not a defence to a prosecution for an offence against this section that the young person had consented to some or all of the defendant's conduct or actions.

(6) However, it is a defence to a prosecution for an offence against this section if the defendant proves that the defendant believed on reasonable grounds that the young person was at least 16 years old.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(7) In this section:

act of a sexual nature means sexual intercourse or an act of indecency.

classified—see the *Classification (Publications, Films and Computer Games) (Enforcement) Act 1995*, dictionary.

pornographic material means—

(a) material of a sexual nature that has been, or is likely to be, classified R 18+, RC, category 1 restricted or category 2 restricted; or

(b) material that has been, or is likely to be, classified X 18+.

young person means a person under 16 years old.

66AA Failure to report child sexual offence

(1) A person commits an offence if the person—

(a) is an adult; and

(b) obtains information that leads to the person reasonably believing that a sexual offence has been committed against a child; and

(c) does not, as soon as practicable after forming the belief, give the information to a police officer.

Maximum penalty: imprisonment for 2 years.

(2) Subsection (1) does not apply if—

(a) the person—

(i) obtains the information when the alleged victim was no longer a child; and

(ii) reasonably believes the alleged victim does not want a police officer to be told about the person's belief; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) the person reasonably believes that giving the information to a police officer would endanger the safety of a person (other than a person reasonably believed to have committed the sexual offence); or

(c) the person reasonably believes a police officer already has the information; or

(d) the person—

(i) is a mandated reporter under the *Children and Young People Act 2008*, section 356 (2); and

(ii) has reported the information under that Act, division 11.1.2 (Reporting abuse and neglect of children and young people) or reasonably believes someone else has done so; or

(e) subject to subsection (3), giving the information to a police officer would disclose information in relation to which privilege may be claimed under a law in force in the Territory; or

(f) the information is generally available in the public domain; or

(g) the person has another reasonable excuse.

(3) A person who is or was a member of the clergy of a church or religious denomination is not entitled to refuse to give information under subsection (1) because the information was communicated to the member during a religious confession.

(4) The Criminal Code, chapter 2 (other than the applied provisions) does not apply to an offence against this section.

(5) If a person gives information mentioned in subsection (1) to a police officer honestly and without recklessness—

(a) giving the information is not a breach of—

(i) confidence; or

(ii) professional etiquette or ethics; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(iii) a rule of professional conduct; and

(b) the person does not incur civil or criminal liability only because of giving the information.

(6) Subsection (5) does not apply if giving the information would be a breach of client legal privilege.

(7) This section applies to information obtained on or after the commencement of this section, including information about a sexual offence that occurred before the commencement of this section.

(8) In this section:

religious confession means a confession made by a person to a member of the clergy in the member's professional capacity according to the ritual of the member's church or religious denomination.

sexual offence means—

(a) an offence against—

(i) this part; or

(ii) any other provision prescribed by regulation; or

(b) an offence against a sexual offence provision of this Act previously in force.

66AB Making false report about child sexual offence

(1) A person commits an offence if—

(a) the person gives information to a police officer about an alleged sexual offence against a child; and

(b) the information is false or misleading in a material particular; and

(c) the person knows that the information—

(i) is false or misleading in a material particular; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(ii) omits something, without which, the information is false or misleading in a material particular.

Maximum penalty:

(a) for an aggravated offence—125 penalty units, imprisonment for 16 months or both; or

(b) in any other case—100 penalty units, imprisonment for 12 months or both.

Note Section 72AA (Aggravated offences—pt 3 offences involving family violence) makes provision in relation to an aggravated offence against this section.

(2) In this section:

sexual offence—see section 66AA (8).

66A Failure by person in authority to protect child or young person from sexual offence

(1) A person commits an offence if—

(a) the person is a person in authority in a relevant institution (the ***first person***); and

(b) there is a substantial risk that a sexual offence will be committed—

(i) against a child in the institution's care, supervision or control by a person associated with the institution; or

(ii) against a young person in the institution's care, supervision or control by another person in authority in the institution; and

(c) the first person is aware that the risk exists; and

(d) the first person can, because of the position the person occupies in the institution, reduce or remove the risk; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(e) the first person intentionally or negligently fails to reduce or remove the risk.

Maximum penalty: imprisonment for 5 years.

(2) In a prosecution for an offence against this section—

(a) it does not matter that an act or omission constituting the sexual offence happens, or is at risk of happening, outside the ACT if—

(i) the child or young person was in the ACT at any time the first person was aware that the risk mentioned in subsection (1) (b) existed; or

(ii) the person mentioned in subsection (1) (b) (i) or (ii) was a person associated with, or in authority in, a relevant institution in the ACT at any time the first person was aware that the risk existed; and

(b) for subsection (1) (c), it does not matter that the first person is aware of the risk mentioned in subsection (1) (b) because of information communicated to the person during a religious confession; and

(c) it is not necessary to prove that a sexual offence has been committed.

(3) For subsection (1) (e), the first person negligently fails to reduce or remove a risk if that failure involves a great falling short of the standard of care that a reasonable person would exercise in the circumstances.

(4) The Criminal Code, chapter 2 (other than the applied provisions) does not apply to an offence against this section.

(5) In this section:

associated—a person is ***associated*** with a relevant institution if the person is an adult who—

(a) owns, manages or controls the institution; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) is employed or engaged by the institution; or

(c) works as a volunteer for the institution; or

(d) engages in a regulated activity with or for the institution.

child means a person who is under 16 years old.

relevant institution means—

(a) an entity, other than an individual, that operates facilities for, engages in activities with, or provides services to, children under the entity's care, supervision or control; or

(b) a group of entities mentioned in paragraph (a) if the entities—

(i) interact with each other, share similar characteristics and collectively have a sense of unity; or

(ii) are controlled, managed or governed by another entity.

Examples—par (a)

schools, religious organisations, hospitals, child care centres, out-of-home carers, sports clubs, youth organisations

Examples—par (b)

a group of schools controlled by a religious organisation, a group of youth centres operated by a company, a group of churches sharing the same religious philosophy

religious confession—see section 66AA (8).

sexual offence means—

(a) an offence against—

(i) part 3 (Sexual offences); or

(ii) any other provision prescribed by regulation; or

(b) an offence committed in another jurisdiction that would be an offence under paragraph (a) if committed in the ACT.

young person means a person who is 16 years old or older, but not yet an adult.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

66B Course of conduct charge—child sexual offences

(1) More than 1 incident of the commission of the same child sexual offence may be included in a single charge if, and only if—

(a) each incident constitutes an offence against the same provision; and

(b) each incident relates to the same complainant; and

(c) the incidents take place on more than 1 occasion over a stated period; and

(d) the incidents, taken together, amount to a course of conduct having regard to—

(i) the time at which the incident happened; or

(ii) the place at which the incident happened; or

(iii) the purpose for which the incident was committed; or

(iv) any other relevant matter.

(2) For subsection (1), more than 1 type of act on different occasions may be alleged.

Example

penetrative sexual intercourse on 1 occasion and oral sexual intercourse on another occasion

(3) To remove any doubt—

(a) subsection (1) does not establish a new offence; and

(b) a charge under subsection (1) is a charge of a single offence.

(4) A charge for a child sexual offence under this section must contain particulars that are necessary to give reasonable information about the various incidents of the offence that are alleged to amount to a course of conduct over a stated period.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(5) However—

(a) the charge need not include particulars of any specific incident of the offence, including the date, time, place, circumstances or occasion of the incident; and

(b) the particulars do not need to distinguish any specific incident of the offence from any other.

(6) The prosecution must prove beyond reasonable doubt that the incidents of an offence committed by the accused, taken together, amount to a course of conduct having regard to—

(a) the time at which the incident happened; or

(b) the place at which the incident happened; or

(c) the purpose for which the incident was committed; or

(d) any other relevant matter.

(7) For subsection (6), it is not necessary to prove an incident with the same degree of specificity as to date, time, place, circumstance or occasion as would be required if the person were charged with the child sexual offence constituted only by that incident.

(8) Without limiting subsection (7), it is not necessary to prove—

(a) any particular number of incidents of the offence or the dates, times, places, circumstances or occasions of the incidents; or

(b) that there were distinctive features differentiating any of the incidents; or

(c) the general circumstances of any particular incident.

(9) To remove any doubt, a person charged under this section may rely on any exception, exemption, proviso, excuse or qualification that applies to the offence with which the person is charged.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(10) A proceeding for a charge for a child sexual offence under this section must not be started without the consent of the director of public prosecutions.

(11) However, a person may be arrested for, charged with, or remanded in custody or granted bail for, a child sexual offence before the consent has been given.

(12) In this section:

child sexual offence means—

(a) an offence against a child under this part; or

(b) an offence against a child under a sexual offence provision of this Act previously in force.

67 When a person does not consent to an act

(1) For a sexual offence consent provision, and without limiting the grounds on which it may be established that a person does not consent to an act mentioned in the provision, a person does not consent to an act mentioned in the provision if the person—

(a) says or does something to communicate withdrawing agreement to the act either before or during the act; or

(b) participates in the act because of the infliction of violence or force on the person, or another person, an animal or property; or

(c) participates in the act because of a threat to inflict violence or force on the person, or another person, an animal or property; or

(d) participates in the act because of extortion, coercion, blackmail, intimidation or a fear of public humiliation or disgrace of the person or another person; or

(e) participates in the act because of a threat to mentally or physically harass the person or another person; or

(f) participates in the act because of force or fear; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(g) is incapable of agreeing to the act because of intoxication; or

(h) is mistaken about the identity of the other person; or

(i) participates in the act because of fraudulent misrepresentation of any fact made by someone else; or

(j) participates in the act because of an intentional misrepresentation by another person about the use of a condom; or

(k) participates in the act as a result of an abuse of—

(i) a relationship of authority, trust or dependence; or

(ii) a professional relationship; or

(l) does not have the capacity to agree to the act; or

(m) is unconscious; or

(n) is asleep; or

(o) is unlawfully detained or knows that another person is unlawfully detained.

(2) A person also does not consent to an act with another person (the ***accused person***) only because the person—

(a) does not say or do something to resist the act; or

(b) consented to—

(i) another act with the accused person; or

(ii) the same act with the accused person at a different time or place; or

(iii) the same act with a person other than the accused person; or

(iv) a different act with a person other than the accused person.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) If it is established that an accused person who knows, or is reckless about whether, the consent of another person to an act mentioned in a sexual offence consent provision has been caused by any of the circumstances set out in subsection (1) (a) to (o), the accused person is taken to know that the other person does not consent to the act.

(4) An accused person is taken to know that another person does not consent to an act mentioned in a sexual offence consent provision if any belief that the accused person has, or may have, that the other person consents to the act is not reasonable in the circumstances.

(5) For subsection (4), without limiting the grounds on which it may be established that an accused person's belief is not reasonable in the circumstances, the accused person's belief is taken not to be reasonable in the circumstances if the accused person did not say or do anything to ascertain whether the other person consented.

(6) In this section:

intoxication means intoxication because of the consumption of alcohol, a drug or any other substance.

sexual offence consent provision means any of the following:

(a) section 54;

(b) section 55 (5) (b);

(c) section 60;

(d) section 61 (5) (b).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

68 Sexual intercourse—people not to be presumed incapable by reason of age

(1) For this part, a person shall not, by reason only of his or her age, be presumed to be incapable of engaging in sexual intercourse with another person.

(2) Subsection (1) shall not be construed so as to affect the operation of any law relating to the age when a child can be found guilty of an offence.

(3) This section applies whether the offence or alleged offence was committed before or after the commencement of this section.

69 Marriage no bar to conviction

The fact that a person is married to a person on whom an offence against section 54 is alleged to have been committed shall be no bar to the conviction of the firstmentioned person for the offence.

70 Alternative verdicts for certain sexual offences

(1) If, on the trial of a person for an offence against section 51 (1) or (3) or 57, the jury is satisfied that the accused inflicted actual bodily harm with the intent charged but is not satisfied that the harm was grievous bodily harm, it may find the accused not guilty of the offence charged but guilty of an offence against section 52 (1) or (3) or 58, as the case requires.

(2) If, on the trial of a person for an offence against section 51 (3), 52 (3), 53 (3), 54 (3) or 60 (3), the jury is not satisfied that the accused is guilty of that offence but is satisfied that the accused is guilty of an offence against section 51 (1), 52 (1), 53 (1), 54 (1) or 60 (1), it may find the accused not guilty of the offence charged but guilty of an offence against section 51 (1), 52 (1), 53 (1), 54 (1) or 60 (1), as the case requires.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) If, on the trial of a person for an offence against section 51 (1) or (3) or 57, the jury is satisfied that the accused inflicted grievous bodily harm but is not satisfied that he or she did so with the intent charged, it may find the accused not guilty of the offence charged but guilty of an offence against section 19, 20 or 25.

(4) If, on the trial of a person for an offence against section 52 (1) or (3) or 58, the jury is satisfied that the accused inflicted actual bodily harm but is not satisfied that he or she did so with the intent charged, it may find the accused not guilty of the offence charged but guilty of an offence against section 24.

(5) If, on the trial of a person for an offence against section 55 (1), 61 (1) or 62 (1), the jury—

(a) is not satisfied that the person in relation to whom the offence is alleged to have been committed was under 10 years of age when the offence is alleged to have been committed; but

(b) is satisfied that the accused is guilty of an offence against section 55 (3), 61 (3) or 62 (2), respectively;

the jury may find the accused not guilty of the offence charged but guilty of an offence against section 55 (3), 61 (3) or 62 (2), respectively.

(6) If, on the trial of a person for an offence against section 55A (1), the jury is not satisfied that the accused is guilty of the offence but is satisfied that the accused is guilty of an offence against section 61A (1), the jury may find the accused not guilty of the offence charged but guilty of an offence against section 61A (1).

71 Adding count for act of indecency

In an indictment for an offence against section 54 a count may be added for an offence against section 60.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

72 Indictment for act of indecency

In an indictment for an offence against section 60, 61 or 61A it shall not be necessary to describe the act constituting the act of indecency with which the accused is charged.

72AA Aggravated offences—pt 3 offences involving family violence

(1) This section applies to an offence against any of the following provisions:

(a) section 51 (Sexual assault in the first degree);

(b) section 52 (Sexual assault in the second degree);

(c) section 53 (Sexual assault in the third degree);

(d) section 54 (Sexual intercourse without consent);

(e) section 55 (Sexual intercourse with young person);

(f) section 57 (Act of indecency in the first degree);

(g) section 58 (Act of indecency in the second degree);

(h) section 59 (Act of indecency in the third degree);

(i) section 60 (Act of indecency without consent);

(j) section 61 (Acts of indecency with young people);

(k) section 61B (Intimate observations or capturing visual data etc);

(l) section 63 (Abduction);

(m) section 64 (Using child for production of child exploitation material etc);

(n) section 64A (Trading in child exploitation material);

(o) section 65 (Possessing child exploitation material);

(p) section 66 (Grooming and depraving young people);

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(q) section 66AB (Making false report about child sexual offence).

(2) The offence is an ***aggravated offence*** if the offence involves family violence.

(3) If the prosecution intends to prove that the offence is an aggravated offence, the factors of aggravation must be stated in the charge.

(4) To remove any doubt—

(a) it is not necessary for the prosecution to prove that the defendant had a fault element in relation to any factor of aggravation; and

(b) the Criminal Code, chapter 2 (other than the applied provisions) does not apply to an offence mentioned in subsection (1), whether or not it is an aggravated offence, unless the chapter applied to the offence before the commencement of this section.

Note The Criminal Code does not apply to offences against this part that were offences in force before 1 January 2003 unless the offence is omitted and remade (see Criminal Code, s 8).

(5) In this section:

factor of aggravation means the matter mentioned in subsection (2).

Note The following sections also provide that particular offences involving family violence are aggravated offences:

(a) s 48C (Aggravated offences—pt 2 offences involving family violence);

(b) s 72EA (Aggravated offences—pt 3A offences involving family violence);

(c) s 116 (Destroying or damaging property).

72AB Alternative verdicts for aggravated offences—offences involving family violence

(1) This section applies if, in a prosecution for an aggravated offence mentioned in column 2 of an item in table 72AB, the trier of fact—

(a) is not satisfied that the defendant committed the aggravated offence; but

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) is satisfied beyond reasonable doubt that the defendant committed an offence mentioned in column 3 of the item (the ***alternative offence***).

(2) The trier of fact may find the defendant guilty of the alternative offence but only if the defendant has been given procedural fairness in relation to that finding of guilt.

Table 72AB

column 1 **item**	**column 2** **aggravated offence**	**column 3** **alternative offences**
1	section 51 (Sexual assault in the first degree), aggravated offence	• section 19 (Intentionally inflicting grievous bodily harm), aggravated offence • section 19, simple offence • section 20 (Recklessly inflicting grievous bodily harm), aggravated offence • section 20, simple offence • section 25 (Causing grievous bodily harm) • section 51, simple offence • section 52 (Sexual assault in the second degree), aggravated offence • section 52, simple offence • section 53 (Sexual assault in the third degree), aggravated offence • section 53, simple offence • section 54 (Sexual intercourse without consent), aggravated offence • section 54, simple offence

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

column 1 item	column 2 aggravated offence	column 3 alternative offences
2	section 52 (Sexual assault in the second degree), aggravated offence	• section 24 (Assault occasioning actual bodily harm), aggravated offence • section 24, simple offence • section 52, simple offence • section 53 (Sexual assault in the third degree), aggravated offence • section 53, simple offence • section 54 (Sexual intercourse without consent), aggravated offence • section 54, simple offence
3	section 53 (Sexual assault in the third degree), aggravated offence	• section 53, simple offence • section 54 (Sexual intercourse without consent), aggravated offence • section 54, simple offence
4	section 54 (Sexual intercourse without consent), aggravated offence	• section 54, simple offence
5	section 55 (Sexual intercourse with young person), aggravated offence	• section 55, simple offence

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

column 1 item	column 2 aggravated offence	column 3 alternative offences
6	section 57 (Act of indecency in the first degree), aggravated offence	• section 19 (Intentionally inflicting grievous bodily harm), aggravated offence • section 19, simple offence • section 20 (Recklessly inflicting grievous bodily harm), aggravated offence • section 20, simple offence • section 25 (Causing grievous bodily harm) • section 57, simple offence • section 58 (Act of indecency in the second degree), aggravated offence • section 58, simple offence
7	section 58 (Act of indecency in the second degree), aggravated offence	• section 24 (Assault occasioning actual bodily harm), aggravated offence • section 24, simple offence • section 58, simple offence
8	section 59 (Act of indecency in the third degree), aggravated offence	• section 59, simple offence
9	section 60 (Act of indecency without consent), aggravated offence	• section 60, simple offence
10	section 61 (Acts of indecency with young people), aggravated offence	• section 61, simple offence
11	section 61B (1) (Intimate observations or capturing visual data etc), aggravated offence	• section 61B (1), simple offence

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

column 1 item	column 2 aggravated offence	column 3 alternative offences
12	section 61B (5) (Intimate observations or capturing visual data etc), aggravated offence	• section 61B (5), simple offence
13	section 63 (Abduction), aggravated offence	• section 63, simple offence
14	section 64 (Using child for production of child exploitation material etc), aggravated offence	• section 64, simple offence
15	section 64A (Trading in child exploitation material), aggravated offence	• section 64A, simple offence
16	section 65 (Possessing child exploitation material), aggravated offence	• section 65, simple offence
17	section 66 (Grooming and depraving young people), aggravated offence	• section 66, simple offence
18	section 66AB (Making false report about child sexual offence), aggravated offence	• section 66AB, simple offence

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 3A Intimate image abuse

72A Definitions—pt 3A

In this part:

aggravated offence, for an offence involving family violence—see section 72EA (2).

breasts, of a female or a transgender or intersex person who identifies as a female, means the person's breasts whether covered by underwear or bare.

engaged in a private act means—

(a) in a state of undress; or

(b) using the toilet, showering or bathing; or

(c) engaged in an act of a sexual nature of a kind not ordinarily done in public.

genital or anal region, of a person, means the person's genital or anal region whether covered by underwear or bare.

intimate image, of a person—

(a) means a still or moving image, in any form—

(i) of the person's genital or anal region; or

(ii) for a female or a transgender or intersex person who identifies as a female—of the person's breasts; or

(iii) of the person engaged in a private act; or

(iv) that depicts the person in a sexual manner or context; and

(b) includes an image, in any form, that has been altered to appear to show any of the things mentioned in paragraph (a).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

72B Meaning of *distribute*—pt 3A

(1) In this part:

distribute—

(a) includes any of the following conduct, whether done in person, electronically, digitally or in any other way:

(i) send, supply, show, exhibit, transmit or communicate to another person;

(ii) make available for viewing or access by another person, whether in person or by electronic, digital or any other means; but

(b) does not include conduct mentioned in paragraph (a) done by a person solely in the person's capacity as an internet service provider, internet content host or a carriage service provider.

(2) A person is taken to have distributed an image whether or not another person views or accesses the image.

72C Non-consensual distribution of intimate images

A person (the ***offender***) commits an offence if—

(a) the offender distributes an intimate image of another person; and

(b) the offender—

(i) knows the other person does not consent to the distribution; or

(ii) is reckless about whether the other person consents to the distribution.

Maximum penalty:

(a) for an aggravated offence—400 penalty units, imprisonment for 4 years or both; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) in any other case—300 penalty units, imprisonment for 3 years or both.

Note Section 72EA (Aggravated offences—pt 3A offences involving family violence) makes provision in relation to an aggravated offence against this section.

72D Distribution of intimate image of young person

(1) A person commits an offence if—

(a) the person distributes an intimate image of another person; and

(b) the other person is under 16 years old.

Maximum penalty:

(a) for an aggravated offence—600 penalty units, imprisonment for 6 years or both; or

(b) in any other case—500 penalty units, imprisonment for 5 years or both.

Note Section 72EA (Aggravated offences—pt 3A offences involving family violence) makes provision in relation to an aggravated offence against this section.

(2) It is a defence to a prosecution for an offence against this section if the defendant proves that—

(a) at the time of the offence—

(i) the defendant believed on reasonable grounds that the person against whom the offence is alleged to have been committed was at least 16 years old; or

(ii) the person against whom the offence is alleged to have been committed was—

(A) at least 10 years old; and

(B) not more than 2 years younger than the defendant; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) the person against whom the offence is alleged to have been committed consented to the distribution of the intimate image.

Note The defendant has a legal burden in relation to the matters mentioned in this section (see Criminal Code, s 59).

72E Threaten to capture or distribute intimate images

(1) A person commits an offence if—

(a) the person threatens to capture or distribute an intimate image of another person; and

(b) the person—

(i) intends the other person to fear that the threat would be carried out; or

(ii) is reckless about whether the other person would fear that the threat would be carried out.

Maximum penalty:

(a) for an aggravated offence—400 penalty units, imprisonment for 4 years or both; or

(b) in any other case—300 penalty units, imprisonment for 3 years or both.

Note Section 72EA (Aggravated offences—pt 3A offences involving family violence) makes provision in relation to an aggravated offence against this section.

(2) In a prosecution for an offence against this section—

(a) a threat may be made by any conduct whether explicit, implicit, conditional, or unconditional; and

(b) it is not necessary to prove that the other person actually feared that the threat would be carried out; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) a person may be found guilty even if carrying out the threat is impossible.

Examples—par (c)

- the image does not exist
- technical limitations prevent the person from capturing or distributing the image

(3) In this section:

capture intimate image—a person ***captures an intimate image*** of another person if the person captures an image of the other person, with a camera or by any other means, in such a way that—

(a) a recording is made of the image; or

(b) the image is capable of being transmitted in real time, with or without retention or storage, in a physical or electronic form; or

(c) the image is otherwise capable of being distributed.

72EA Aggravated offences—pt 3A offences involving family violence

(1) This section applies to an offence against any of the following provisions:

(a) section 72C (Non-consensual distribution of intimate images);

(b) section 72D (Distribution of intimate image of young person);

(c) section 72E (Threaten to capture or distribute intimate images).

(2) The offence is an ***aggravated offence*** if the offence involves family violence.

(3) If the prosecution intends to prove that the offence is an aggravated offence, the factors of aggravation must be stated in the charge.

(4) To remove any doubt, it is not necessary for the prosecution to prove that the defendant had a fault element in relation to any factor of aggravation.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(5) In this section:

factor of aggravation means the matter mentioned in subsection (2).

Note The following sections also provide that particular offences involving family violence are aggravated offences:

(a) s 48C (Aggravated offences—pt 2 offences involving family violence);

(b) s 72AA (Aggravated offences—pt 3 offences involving family violence);

(c) s 116 (Destroying or damaging property).

72EB Alternative verdicts for aggravated offences—offences involving family violence

(1) This section applies if, in a prosecution for an aggravated offence mentioned in column 2 of an item in table 72EB, the trier of fact—

(a) is not satisfied that the defendant committed the aggravated offence; but

(b) is satisfied beyond reasonable doubt that the defendant committed an offence mentioned in column 3 of the item (the ***alternative offence***).

(2) The trier of fact may find the defendant guilty of the alternative offence but only if the defendant has been given procedural fairness in relation to the finding of guilt.

Table 72EB

column 1 item	column 2 aggravated offence	column 3 alternative offences
1	section 72C (Non-consensual distribution of intimate images), aggravated offence	• section 72C, simple offence

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

column 1 item	column 2 aggravated offence	column 3 alternative offences
2	section 72D (Distribution of intimate image of young person), aggravated offence	• section 72D, simple offence
3	section 72E (Threaten to capture or distribute intimate images), aggravated offence	• section 72E, simple offence

72F Consent—pt 3A

(1) For this part, and without limiting the grounds on which it may be established that consent is negated, a person does not consent to the distribution of an intimate image of the person by another person (the ***offender***) if the consent is caused by a circumstance set out in section 67 (1) (a) to (o).

(2) Also, a person does not consent to the distribution of an intimate image of the person by the offender only because the person—

(a) consented to the offender distributing the image or another intimate image on another occasion; or

(b) consented to someone else distributing the image or another intimate image; or

(c) consented to the offender or someone else distributing the image or another intimate image in a different way to the way the offender distributed the image; or

(d) distributed the image or another intimate image to someone else.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

72G Exceptions for reasonable distribution

(1) An offence against section 72C or section 72D does not apply to the distribution of an intimate image—

(a) by a law enforcement officer acting reasonably in the performance of the officer's duty; or

(b) for a lawful and common practice of law enforcement, criminal reporting or a legal proceeding; or

(c) for the purpose of reporting unlawful conduct to a law enforcement officer; or

(d) by a licensed security provider acting reasonably in the performance of a security activity; or

(e) for a scientific, medical or educational purpose; or

Example

a patient consents to her a doctor providing an image of a mole on her breast to another doctor for a second opinion about the mole

(f) by a person in the course of reasonably protecting premises owned by the person; or

(g) of a child or other person incapable of giving consent in circumstances in which a reasonable person would regard the distribution of the intimate image as acceptable; or

Example

sharing a photograph or movie of a naked newborn relative

(h) in circumstances or for a purpose prescribed by regulation.

(2) Nothing in this section prevents a person being found guilty of an offence under or because of the Criminal Code, part 2.4 (Extensions of criminal responsibility).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) In this section:

law enforcement officer means—

(a) a police officer; or

(b) a member of the staff of the Australian Crime Commission established by the *Australian Crime Commission Act 2002* (Cwlth).

licensed security provider means a person who holds a licence under the *Security Industry Act 2003*.

security activity—see the *Security Industry Act 2003*, section 7.

72H Court may order rectification

(1) This section applies if a person is found guilty of an offence against—

(a) section 72C (Non-consensual distribution of intimate images); or

(b) section 72D (Distribution of intimate image of young person); or

(c) section 72E (Threaten to capture or distribute intimate images).

(2) The court may order the person to take reasonable action to remove, retract, recover, delete or destroy an intimate image involved in the offence within a stated period.

(3) The person commits an offence if the person fails to comply with the order.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 4 Female genital mutilation

73 Meaning of *female genital mutilation* for pt 4

In this part:

female genital mutilation means—

(a) clitoridectomy or the excision of any other part of the female genital organs; or

(b) infibulation or similar procedure; or

(c) any other mutilation of the female genital organs.

74 Prohibition of female genital mutilation

(1) A person shall not intentionally perform female genital mutilation on another person.

Maximum penalty: imprisonment for 15 years.

(2) It is not a defence to a prosecution for an offence against this section that the person on whom the female genital mutilation was performed, or a parent or guardian of that person, consented to the mutilation.

75 Removal of child from ACT for genital mutilation

(1) A person shall not take a child from the ACT, or arrange for a child to be taken from the ACT, with the intention of having female genital mutilation performed on the child.

Maximum penalty: imprisonment for 7 years.

(2) In proceedings for an offence against subsection (1), if it is proved that—

(a) the defendant took a child, or arranged for a child to be taken, from the ACT; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) female genital mutilation was performed on the child while outside the ACT;

it will be presumed, in the absence of proof to the contrary, that the defendant took the child, or arranged for the child to be taken, from the ACT with the intention of having female genital mutilation performed on the child.

(3) In this section:

child means a person under the age of 18 years.

76 Exception—medical procedures for genuine therapeutic purposes

(1) It is not an offence against this part to perform a medical procedure that has a genuine therapeutic purpose or to take a person, or arrange for a person to be taken, from the ACT with the intention of having such a procedure performed on the person.

(2) A medical procedure has a genuine therapeutic purpose only if—

(a) performed on a person in labour, or who has just given birth, and for medical purposes connected with the labour or birth, by a doctor or midwife; or

(b) it is necessary for the health of the person on whom it is performed and is performed by a doctor.

(3) A medical procedure that is performed as, or as part of, a cultural, religious or other social custom is not of itself to be regarded as being performed for a genuine therapeutic purpose.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

77 Exception—sexual reassignment procedures

(1) It is not an offence against this part to perform a sexual reassignment procedure or to take, or arrange for a person to be taken, from the ACT with the intention of having a sexual reassignment procedure performed on the person.

(2) In subsection (1):

sexual reassignment procedure means a surgical procedure performed by a medical practitioner to give a female person, or a person whose sex is ambivalent, the genital appearance of a person of the opposite sex or of a particular sex (whether male or female).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 5 Sexual servitude

78 Meaning of *sexual servitude* and *sexual services* for pt 5

(1) In this part:

sexual services means the commercial use or display of the body of the person providing the service for the sexual gratification of others.

sexual servitude is the condition of a person who provides sexual services and who, because of the use of force or a threat, is not free—

(a) to stop providing sexual services; or

(b) to leave the place or area where the person provides sexual services.

(2) For subsection (1), definition of ***sexual servitude***, the question whether, because of the use of force or a threat, a person is not free to stop providing sexual services, or to leave the place or area where the person provides sexual services, is to be decided according to whether a reasonable adult would consider, in the circumstances, that the person is not free to stop or leave.

(3) In this section:

threat means—

(a) a threat of force; or

(b) a threat to cause a person's deportation; or

(c) a threat of other detrimental action unless there are reasonable grounds for the threat.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

79 Sexual servitude offences

(1) A person commits an offence if—

(a) the person's conduct causes someone else to enter into or remain in sexual servitude; and

(b) the person intends to cause, or is reckless about causing, someone else to enter into or remain in sexual servitude.

Maximum penalty:

(a) if a person who enters or remains in sexual servitude is younger than 18 years—imprisonment for 19 years; or

(b) in any other case—imprisonment for 15 years.

(2) A person commits an offence if the person—

(a) conducts a business that involves the sexual servitude of others; and

(b) knows that, or is reckless about whether, the business involves the sexual servitude of others.

Maximum penalty:

(a) if a person in sexual servitude involved with the business is younger than 18 years—imprisonment for 19 years; or

(b) in any other case—imprisonment for 15 years.

(3) In this section:

conducts a business includes—

(a) taking part in the management of the business; or

(b) exercising control or direction over the business; or

(c) providing finance for the business.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

80 Deceptive recruiting for sexual services

A person commits an offence if the person, with the intention of inducing someone else to enter into an engagement to provide sexual services, deceives the other person about the fact that the engagement will involve the provision of sexual services.

Maximum penalty:

(a) if the deceived person is younger than 18 years old—imprisonment for 9 years; or

(b) in any other case—imprisonment for 7 years.

81 Sexual servitude offence etc against person younger than 18 years—charges and proof

In a prosecution for an offence against this part, if the prosecution intends to prove that the offence was committed against a person younger than 18 years old—

(a) the allegation that the offence was committed against a person younger than 18 years old must be stated in the charge; and

(b) the prosecution must prove that the defendant intended to commit, or was reckless about committing, the offence against a person younger than 18 years old.

82 Alternative verdicts—sexual servitude offence etc

(1) This section applies if, in a prosecution for an offence against section 79 or section 80, the trier of fact—

(a) is not satisfied that the defendant committed the offence; but

(b) is satisfied beyond reasonable doubt that the defendant committed another offence against the section carrying a lesser penalty than the offence charged.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) The trier of fact may find the defendant guilty of the other offence but only if the defendant has been given procedural fairness in relation to the finding of guilt.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 6 Offences relating to property

Division 6.2A Money laundering and organised fraud

114A Definitions for div 6.2A

In this division:

deal, with money or other property, means—

(a) receiving, possessing, concealing or disposing of money or other property; or

(b) bringing into the ACT money or other property.

proceeds of crime means—

(a) any property derived or realised, directly or indirectly, by anyone from the commission of an offence punishable by imprisonment for longer than 12 months; or

(b) any property derived or realised, directly or indirectly, by anyone from acts or omissions that—

(i) happened outside the ACT; and

(ii) would, if they had happened in the ACT, have been an offence punishable by imprisonment for longer than 12 months.

property includes property located in Australia outside the ACT or outside Australia.

unlawful activity means an act or omission that is an offence against the law of the Territory, the Commonwealth, a State, another Territory or a foreign country.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

114B Money laundering

A person commits an offence if—

(a) the person deals with money or other property; and

(b) the money or other property is proceeds of crime; and

(c) the person knows that, or is reckless about the fact that, the money or other property is derived or realised, directly or indirectly, from some form of unlawful activity.

Maximum penalty: 1 000 penalty units, imprisonment for 10 years or both.

114C Possession etc of property suspected of being proceeds of crime

(1) A person commits an offence if—

(a) the person deals with money or other property; and

(b) the money or other property is proceeds of crime.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

(2) An offence against this section is a strict liability offence.

114D Organised fraud

(1) A person who engages in organised fraud commits an offence.

Maximum penalty: 1 500 penalty units, imprisonment for 15 years or both.

(2) A person is taken to engage in organised fraud only if the person engages in acts or omissions—

(a) that constitute 3 or more public fraud offences; and

(b) from which the person derives substantial benefit.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) If, on a trial for an offence against subsection (1) (the ***offence charged***), the trier of fact is not satisfied that the person is guilty of the offence charged but is satisfied that the person is guilty of 1 or more public fraud offences (the ***other offences***), the trier of fact—

(a) must acquit the person of the offence charged; and

(b) may find the person guilty of the other offences.

(4) In this section:

public fraud offence means an offence against the Criminal Code, section 333 (General dishonesty).

Division 6.3 Criminal damage to property

115 Interpretation for div 6.3

(1) In this division:

property means any real or personal property (other than intangible property), and includes—

(a) a wild animal that is tamed or ordinarily kept in captivity; and

(b) a wild animal that is not tamed or ordinarily kept in captivity but that is—

(i) reduced into the possession of a person who has not lost or abandoned that possession; or

(ii) in the course of being reduced into the possession of a person.

(2) For this division, property shall be taken to belong to any person who—

(a) has possession or control of it; or

(b) has any proprietary right or interest in it, other than an equitable interest arising only from an agreement to transfer or grant an interest; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) has a charge on it.

(3) If any property is subject to a trust, the trustee and any person having a right to enforce the trust shall, for this division, be taken to be the persons to whom the property belongs.

(4) The property of a corporation sole shall, for this division, be taken to belong to the corporation notwithstanding any vacancy in the corporation.

(5) For section 116 (Destroying or damaging property) and section 117 (Arson), a person who destroys or damages property shall be taken to have done so intentionally if he or she acted—

(a) with intent to destroy or damage any property; or

(b) in the knowledge or belief that his or her actions were likely to result in destruction of or damage to property.

(6) For section 116 (Destroying or damaging property) and section 117 (Arson), a person who destroys or damages property shall be taken to have intended to endanger the life of another person by that destruction or damage if he or she acted—

(a) with intent to endanger the life of any other person; or

(b) in the knowledge or belief that his or her actions were likely to endanger the life of another person.

116 Destroying or damaging property

(1) A person who destroys or damages (otherwise than by means of fire or explosive) any property with intent to endanger the life of another person by that destruction or damage commits an offence.

Maximum penalty:

(a) for an aggravated offence—imprisonment for 25 years; or

(b) in any other case—imprisonment for 20 years.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) A person who dishonestly, with a view to gain for himself or herself or another person, destroys or damages (otherwise than by means of fire or explosive) any property commits an offence.

Maximum penalty:

(a) for an aggravated offence—380 penalty units, imprisonment for 19 years or both; or

(b) in any other case—300 penalty units, imprisonment for 15 years or both.

(3) A person commits an offence if—

(a) the person destroys or causes damage to property, other than by fire or explosive; and

(b) the property belongs to—

(i) someone else; or

(ii) the person and someone else; and

(c) the person intends to destroy or cause damage, or is reckless about destroying or causing damage, to the property; and

(d) the damage to the property does not exceed $5 000.

Maximum penalty:

(a) for an aggravated offence—60 penalty units, imprisonment for 3 years or both; or

(b) in any other case—50 penalty units, imprisonment for 2 years or both.

Note The defence of lawful authority applies in relation to the offence under s (3) (see Criminal Code, s 43).

(4) An offence against this section is an ***aggravated offence*** if the offence involves family violence.

(5) If the prosecution intends to prove that the offence is an aggravated offence, the factor of aggravation must be stated in the charge.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(6) To remove any doubt—

(a) it is not necessary for the prosecution to prove that the defendant had a fault element in relation to any factor of aggravation; and

(b) the Criminal Code, chapter 2 (other than the applied provisions) does not apply to an offence against this section, whether or not it is an aggravated offence.

(7) In this section:

factor of aggravation means the matter mentioned in subsection (4).

Note The following sections also provide that particular offences involving family violence are aggravated offences:

(a) s 48C (Aggravated offences—pt 2 offences involving family violence);

(b) s 72AA (Aggravated offences—pt 3 offences involving family violence);

(c) s 72EA (Aggravated offences—pt 3A offences involving family violence).

117 Arson

(1) A person who destroys or damages by means of fire or explosive any property with intent to endanger the life of another person by that destruction or damage commits an offence.

Maximum penalty: imprisonment for 25 years.

(2) A person who dishonestly, with a view to gain for himself or herself or another person, destroys or damages by means of fire or explosive any property commits an offence.

Maximum penalty: imprisonment for 20 years.

119 Defacing premises

(1) A person commits an offence if the person—

(a) affixes a placard or paper, or makes a mark with chalk, paint or any other material on private premises; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) does not have the consent of—

(i) if the premises are occupied—the occupier or person in charge of the premises; or

(ii) if the premises are not occupied—the owner or person in charge of the premises.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(2) A person commits an offence if the person unlawfully affixes a placard or paper, or makes a mark with chalk, paint or any other material, on public property.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(3) In this section:

public property means—

(a) a public road; or

(b) a bus shelter; or

(c) any other property of the Territory or Commonwealth or of an authority or body under a law of the Territory or the Commonwealth.

public road—see the *Public Unleased Land Act 2013*, section 9.

120 Defacing premises—strict liability

(1) A person commits an offence if the person—

(a) makes a mark with chalk, paint or any other material on private premises; and

(b) does not have the consent of—

(i) if the premises are occupied—the occupier or person in charge of the premises; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(ii) if the premises are not occupied—the owner or person in charge of the premises.

Maximum penalty: 10 penalty units.

(2) A person commits an offence if the person unlawfully makes a mark with chalk, paint or any other material, on public property.

Maximum penalty: 10 penalty units.

(3) An offence against this section is a strict liability offence.

(4) In this section:

public property—see section 119 (3).

122 Untrue representations

A person who knowingly makes in any manner an untrue representation to any other person, being a representation that tends to give rise to apprehension for the safety of any person (including the person making the representation and the person to whom it is made) or property, or both, commits an offence.

Maximum penalty: 100 penalty units, imprisonment for 5 years or both.

123 Alternative verdicts—criminal damage to property offences

(1) This section applies if, in a prosecution for an offence against this division, the trier of fact—

(a) is not satisfied that the defendant committed the offence; but

(b) is satisfied beyond reasonable doubt that the defendant committed another offence against this division carrying a lesser penalty than the offence charged.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) The trier of fact may find the defendant guilty of the other offence but only if the defendant has been given procedural fairness in relation to the finding of guilt.

Division 6.6 Contamination of goods and related offences

135 Definitions of *contaminate* and *goods*

In this division:

contaminate, for goods, includes—

(a) interfere with the goods; or

(b) make it appear that the goods have been contaminated or interfered with.

goods includes a substance—

(a) whether or not for human consumption; and

(b) whether natural or manufactured; and

(c) whether or not incorporated or mixed with other goods.

136 Meaning of economic loss

In this part, economic loss caused through public awareness of the contamination of goods, or the possibility of contamination, includes economic loss caused through—

(a) members of the public not buying or using the goods or similar goods; or

(b) steps taken to avoid public alarm or anxiety or to avoid harm to members of the public.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

137 Contaminating goods with intent to cause public alarm or economic loss

A person must not contaminate goods with the intention of—

(a) causing public alarm or anxiety; or

(b) causing economic loss through public awareness of the contamination.

Maximum penalty: 200 penalty units, imprisonment for 10 years or both.

138 Threatening to contaminate goods with intent to cause public alarm or economic loss

(1) A person must not threaten that goods will be contaminated with the intention of—

(a) causing public alarm or anxiety; or

(b) causing economic loss through public awareness of the possibility of contamination.

Maximum penalty: 200 penalty units, imprisonment for 10 years or both.

(2) For this section, a threat may be made by any conduct, and may be explicit or implicit and conditional or unconditional.

139 Making false statements about contamination of goods with intent to cause public alarm or economic loss

(1) A person must not make a statement that the person believes to be false with the intention of—

(a) inducing the person to whom the statement is made or others to believe that goods have been contaminated; and

(b) in that way, either—

(i) causing public alarm or anxiety; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(ii) causing economic loss through public awareness of the contamination, or the possibility of contamination.

Maximum penalty: 200 penalty units, imprisonment for 10 years or both.

(2) For this section, making a statement includes communicating information by any means.

140 Territorial nexus for offences

It is immaterial that the conduct of a person forming an offence against this division happened outside the jurisdiction if the person intended by the conduct—

(a) to cause public alarm or anxiety in the ACT; or

(b) to cause economic loss in the ACT through public awareness of the contamination, or the possibility of contamination.

Division 6.7 Offences relating to causing public alarm

140A Acting with intent to cause public alarm

A person must not, with the intention of causing public alarm or anxiety—

(a) do something that could endanger someone else's life or health; or

(b) do something that, in the circumstances in which it is done, a reasonable person would suspect could endanger someone else's life or health (whether or not it could do so).

Maximum penalty: 200 penalty units, imprisonment for 10 years or both.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

140B Threatening to act with intent to cause public alarm

(1) A person must not threaten to do something that could endanger someone else's life or health with the intention of causing public alarm or anxiety.

Maximum penalty: 200 penalty units, imprisonment for 10 years or both.

(2) For this section, a threat may be made by any conduct, and may be explicit or implicit and conditional or unconditional.

140C Making false statements with intent to cause public alarm

(1) A person must not make a statement that the person believes to be false with the intention of—

(a) inducing the person to whom the statement is made or others to believe that something that could endanger someone else's life or health has been done; and

(b) in that way, causing public alarm or anxiety.

Maximum penalty: 200 penalty units, imprisonment for 10 years or both.

(2) For this section, making a statement includes communicating information by any means.

140D Territorial nexus for offences

It is immaterial that the conduct of a person forming an offence against this division happened outside the ACT if the person intended by the conduct to cause public alarm or anxiety in the ACT.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Division 6.8 Miscellaneous

141 Hindering working of mines

A person who, with intent to hinder the working of a mine—

(a) causes water to be conveyed or permitted to enter the mine or any subterraneous passage communicating with the mine; or

(b) obstructs, or otherwise interferes with any airway, waterway, drain, pit, level or shaft of the mine;

commits an offence.

Maximum penalty: 200 penalty units, imprisonment for 7 years or both.

142 Removal of sea banks etc

A person who without lawful authority or excuse removes any article or material fixed in or placed on the ground and used for securing a sea bank or seawall, or the bank, dam or wall of any river, canal, drain, aqueduct, marsh, reservoir, pool, port, harbour, dock, quay, wharf, jetty or lock commits an offence.

Maximum penalty: 200 penalty units, imprisonment for 7 years or both.

143 Obstructing navigation of rivers

A person who opens or draws up any floodgate or sluice or who in any way damages any navigable river or canal with intent to obstruct or prevent the navigation of the river or canal commits an offence.

Maximum penalty: 200 penalty units, imprisonment for 7 years or both.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

144 Offences in relation to railways

A person who, with intent to obstruct, damage or destroy any light rail vehicle, railway engine, tender, carriage or truck—

(a) deposits any article or material on or across a railway; or

(b) removes or displaces any rail, sleeper or other thing belonging to a railway; or

(c) moves or diverts, or fails to move or divert, any point or other machinery belonging to a railway; or

(d) displays, masks or removes any signal or light on or near a railway;

or who does, or causes to be done, any other thing with that intent, commits an offence.

Maximum penalty: 200 penalty units, imprisonment for 10 years or both.

145 Obstructing railway engines

A person who, by any unlawful act, omission or neglect, obstructs, or causes to be obstructed, the passage or working of a light rail vehicle, railway engine or carriage on any railway commits an offence.

Maximum penalty: 100 penalty units, imprisonment for 3 years or both.

146 Alternative verdict

If, on the trial of a person for an offence against section 144, the jury is not satisfied that the person is guilty of that offence but is satisfied that he or she is guilty of an offence against section 145, the jury may acquit the person of the offence charged and find him or her guilty of an offence against section 145.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

147 Displaying false signals

A person who, with intent to endanger any vessel, masks, alters or removes any light or signal or displays any false light or signal commits an offence.

Maximum penalty: 200 penalty units, imprisonment for 10 years or both.

148 Removing or concealing buoys etc

A person who does any act with intent to cut away, cast adrift, remove, alter, deface, sink, destroy, damage or conceal any vessel, buoy, buoy-rope, perch or mark used or intended for the guidance of sailors or for the purposes of navigation commits an offence.

Maximum penalty: 200 penalty units, imprisonment for 7 years or both.

151 Forcible entry on land

A person who enters on land that is in the actual and peaceable possession of another person in a manner likely to cause a breach of the peace commits an offence.

Maximum penalty: 20 penalty units, imprisonment for 1 year or both.

152 Forcible detainer of land

A person who, being in actual possession of land without any legal right to possession, holds possession of the land against any person legally entitled to possession of the land in a manner likely to cause a breach of the peace commits an offence.

Maximum penalty: 20 penalty units, imprisonment for 1 year or both.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

153 Disclosure of information by territory officer

(1) A person who, being an officer of the Territory, publishes or communicates, except to some person to whom he or she is authorised to publish or communicate it, any fact or document which comes to his or her knowledge, or into his or her possession, by virtue of him or her being an officer of the Territory and which it is his or her duty not to disclose, commits an offence.

Maximum penalty: 50 penalty units, imprisonment for 2 years or both.

(2) A person who, having been an officer of the Territory, publishes or communicates, without lawful authority, any fact or document which came to his or her knowledge, or into his or her possession, by virtue of the person having been an officer of the Territory and which, at the time when he or she ceased to be an officer of the Territory, it was his or her duty not to disclose, commits an offence.

Maximum penalty: 50 penalty units, imprisonment for 2 years or both.

(3) In this section:

officer of the Territory means—

(a) a public employee; or

(b) a person who performs services for the Territory or a territory authority.

154 Additional offences on territory premises

(1) A person who, without reasonable excuse, trespasses on government premises commits an offence.

Maximum penalty: 1 penalty unit, imprisonment for 1 month or both.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) A person who—

(a) engages in unreasonable obstruction in relation to the passage of persons or vehicles into, out of, or on government premises, or otherwise in relation to the use of government premises; or

(b) being in or on government premises, behaves in an offensive or disorderly manner; or

(c) being in or on government premises, refuses or neglects, without reasonable excuse, to leave those premises on being directed to do so by a police officer or by a person authorised in writing by a Minister or the territory authority occupying the premises to give directions for this section;

commits an offence.

Maximum penalty: 2.5 penalty units, imprisonment for 3 months or both.

(3) In this section:

government premises means any land, building or part of a building occupied by the Territory or a territory authority.

unreasonable obstruction means anything done by someone that is, or contributes to, an obstruction of or interference with the exercise or enjoyment by other people of their lawful rights or privileges (including rights of passage on public streets) that is unreasonable in all the circumstances (including the place, time, length and nature of the obstruction or interference).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 7 Escape provisions

158 Meaning of *detention during pleasure*

In this part, a reference to ***detention during pleasure*** is a reference to detention during the pleasure of the Governor-General, the Governor of a State or the Administrator of the Northern Territory, as the case requires.

159 Aiding prisoner to escape

A person who—

(a) aids another person to escape, or to attempt to escape, from lawful custody in respect of an offence against a law of the Territory, a State or another Territory; or

(b) aids another person who has been lawfully arrested in respect of such an offence to escape, or to attempt to escape, from that arrest; or

(c) aids another person who is lawfully detained during pleasure in respect of such an offence to escape, or to attempt to escape, from that detention; or

(d) takes anything into a correctional centre, lockup or another place of lawful detention with intent to facilitate the escape from there of someone else who is detained or in custody in relation to an offence against a law of the Territory, the Commonwealth, a State or another Territory;

commits an offence.

Maximum penalty: 100 penalty units, imprisonment for 5 years or both.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

160 Escaping

A person who has been lawfully arrested, is in lawful custody, or is lawfully detained during pleasure, in respect of an offence against a law of the Territory, a State or another Territory and who escapes from that arrest, custody or detention commits an offence.

Maximum penalty: 100 penalty units, imprisonment for 5 years or both.

161 Rescuing a prisoner from custody etc

A person who—

(a) rescues by force a person (other than a person referred to in paragraph (c) or (d)) from lawful custody in respect of an offence against a law of the Territory, a State or another Territory with which the person has been charged; or

(b) rescues by force a person who has been lawfully arrested in respect of such an offence with which the person has not been charged from that arrest; or

(c) rescues by force a person who is in lawful custody at a correctional centre, lockup or another place of lawful detention in relation to an offence against a law of the Territory, the Commonwealth, a State or another Territory from that centre, lockup or place; or

(d) rescues by force a person who is lawfully detained during pleasure in respect of such an offence from that detention;

commits an offence.

Maximum penalty: imprisonment for 14 years.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

162 Person unlawfully at large

A person who—

(a) in accordance with a permission given under a law of the Territory, the Commonwealth, a State or another Territory, leaves a correctional centre, lockup or another place of lawful detention where the person is detained, in custody or detained during pleasure in relation to an offence against a law of the Territory, the Commonwealth, a State or another Territory; and

(b) fails, without reasonable excuse, to return to that correctional centre, lockup or place in accordance with that permission;

commits an offence.

Maximum penalty: 100 penalty units, imprisonment for 5 years or both.

163 Permitting escape

(1) A person who—

(a) is an officer of a correctional centre, lockup or other place of lawful detention, a constable or a Commonwealth officer; and

(b) is charged for the time being with the custody or detention of another person (including a person detained during pleasure) in respect of an offence against a law of the Territory, a State or another Territory; and

(c) wilfully or negligently permits that other person to escape from that custody or detention;

commits an offence.

Maximum penalty: 100 penalty units, imprisonment for 5 years or both.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) A constable or a Commonwealth officer who wilfully or negligently permits a person who has been lawfully arrested in respect of an offence against a law of the Territory, a State or another Territory to escape from that arrest commits an offence.

Maximum penalty: 100 penalty units, imprisonment for 5 years or both.

(3) In this section:

Commonwealth officer—see the *Crimes Act 1914* (Cwlth), section 3.

constable—see the *Crimes Act 1914* (Cwlth), section 3.

164 Harbouring etc escapee

A person who harbours, maintains or employs another person knowing that other person to have escaped from lawful custody or detention in respect of an offence against a law of the Territory, a State or another Territory commits an offence.

Maximum penalty: 100 penalty units, imprisonment for 5 years or both.

166 Failure to answer bail etc—offence

(1) If—

(a) in accordance with a law in force in the ACT (other than the *Bail Act 1992*), a person arrested in respect of, or charged with, an offence against a law in force in the ACT has been—

(i) admitted to bail on an undertaking; or

(ii) released or discharged on entering into a recognisance, with or without a surety or sureties, on condition;

that he or she will attend, or appear before, a court at a specified time and place or at a time and place to be determined and of which he or she is to be notified; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) he or she fails, without reasonable excuse, to so attend or appear;

the person commits an offence.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

(2) The reference in subsection (1) to ***an undertaking*** or ***a recognisance*** includes a reference to an undertaking given or a recognisance entered into (as the case requires) following the instituting of an appeal.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 8 Anabolic steroids

170 Meaning of *anabolic steroid*

In this part:

anabolic steroid includes—

(a) a substance mentioned in schedule 1 and any—

(i) salt, active principle or derivative of the substance; or

(ii) stereoisomer of the substance; or

(iii) preparation or admixture containing any proportion of the substance; and

(b) a salt of an active principle or derivative of a substance mentioned in schedule 1; and

(c) a salt of a stereoisomer of a substance mentioned in schedule 1.

171 Prescribing and supplying anabolic steroids

(1) A person commits an offence if the person prescribes an anabolic steroid for someone else for human use.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

(2) A person commits an offence if the person supplies an anabolic steroid for someone else for human use.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

(3) This section does not apply to an anabolic steroid if the anabolic steroid is—

(a) registered under the *Therapeutic Goods Act 1989* (Cwlth); or

(b) prescribed or supplied for the purposes of a clinical trial conducted under that Act.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(4) In this section:

prescribe—see the *Medicines, Poisons and Therapeutic Goods Act 2008*, dictionary.

supply—see the *Medicines, Poisons and Therapeutic Goods Act 2008*, section 24.

Note ***Supply*** includes sell and dispense (see *Medicines, Poisons and Therapeutic Goods Act 2008*, s 24).

172 Possessing anabolic steroids

(1) A person commits an offence if the person possesses an anabolic steroid.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(2) Subsection (1) does not apply to a person who—

(a) is authorised under the *Medicines, Poisons and Therapeutic Goods Act 2008* to manufacture, possess or supply the anabolic steroid; or

(b) obtained the anabolic steroid from someone who is authorised in accordance with paragraph (a) to supply the anabolic steroid to the person.

173 Administering anabolic steroids

(1) A person commits an offence if the person administers an anabolic steroid to himself, herself or someone else.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) This section does not apply to an anabolic steroid if the anabolic steroid is—

(a) registered under the *Therapeutic Goods Act 1989* (Cwlth); or

(b) administered for the purposes of a clinical trial conducted under that Act.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 9 Exclusion powers

174 Definitions—pt 9

In this part:

exclusion direction—see section 175 (3).

exclusion period—see section 175 (3) (b).

exclusion zone—see section 175 (3) (a).

public place means—

(a) a street, road, public park or reserve; or

(b) a building, premises or other place that the public is entitled to use or that is open to, or used by, the public, whether on payment of money or otherwise.

Example

licensed premises under the *Liquor Act 2010*

175 Exclusion direction

(1) This section applies if a police officer reasonably believes that a person (whether part of a group or not) has recently engaged in, is engaged in, or is likely in the immediate future to engage in, conduct—

(a) involving—

(i) violence towards, or intimidation of, a person; or

(ii) damage to property; or

(b) that would cause a reasonable person to fear for their safety.

(2) However, this section does not apply to a person who (whether part of a group or not) is—

(a) picketing a place of employment; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) demonstrating or protesting about a particular issue; or

(c) speaking, bearing or otherwise identifying with a banner, placard or sign or otherwise behaving in a way that is apparently intended to publicise the person's view about a particular issue.

(3) The police officer may give the person a direction (an ***exclusion direction***) to do any of the following:

(a) immediately leave an area specified by the officer (an ***exclusion zone***);

(b) remain outside the exclusion zone for a period, decided by the officer (an ***exclusion period***), of not more than 6 hours;

(c) leave the exclusion zone by a particular route, or in a particular direction, decided by the officer.

176 Exclusion zone

(1) An exclusion zone may only include the following places:

(a) a public place;

(b) a place, other than a public place, prescribed by regulation.

(2) An exclusion zone may be described by reference to landmarks or other identifiable boundaries of the zone, or distances from a fixed point.

177 Exclusion direction—information to be given

(1) A police officer who gives a person an exclusion direction must tell, or make reasonable efforts to tell, the person the following:

(a) that the person has been given an exclusion direction;

(b) the reason for the direction;

(c) the exclusion zone to which the direction applies;

(d) that the person must not remain in the zone;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(e) the exclusion period, if any;

(f) the route or direction, if any, that the person must take to leave the zone;

(g) that it is an offence to fail to comply with the direction;

(h) the time and date the direction ends.

(2) If an exclusion direction is given to 2 or more people at the same time, the police officer giving the direction—

(a) may tell, or make reasonable efforts to tell, the group generally the information mentioned in subsection (1); and

(b) in that case, need not give the information to each person individually.

178 Exclusion direction—information to be recorded

As soon as practicable after giving a person an exclusion direction, a police officer must make a record of the following:

(a) the date and time the direction was given;

(b) the name of the person, or if the name of the person is not known—

(i) a detailed description of the person; or

(ii) if it is not reasonably practicable to give a detailed description of the person because the person is part of a group of people—a detailed description of the group;

(c) the reason for giving the direction;

(d) the exclusion zone to which the direction applies;

(e) the exclusion period, if any;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(f) the route or direction, if any, that the person must to take to leave the zone;

(g) the time and date the direction ends.

179 Failing to comply with exclusion direction

(1) A person commits an offence if the person—

(a) is given an exclusion direction; and

(b) fails to comply with the direction.

Maximum penalty: 2 penalty units.

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

Note The defendant has an evidential burden in relation to the matters mentioned in s (2) (see Criminal Code, s 58).

(3) An offence against this section is a strict liability offence.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 10 Criminal investigation

Note for pt 10

The Legislation Act, s 171 deals with the application of client legal privilege.

Division 10.1 Preliminary

185 Definitions for pt 10

In this part:

assisting officer, in relation to a warrant, means—

(a) a police officer assisting in executing the warrant; or

(b) a person who is not a police officer, but who has been authorised by the relevant executing officer to assist in executing the warrant.

Commonwealth Crimes Act means the *Crimes Act 1914* (Cwlth).

conveyance includes an aircraft, vehicle or vessel.

evidential material means a thing relevant to an offence, including a thing in electronic form.

executing officer, in relation to a warrant, means—

(a) the police officer named in the warrant by the issuing officer as being responsible for executing the warrant; or

(b) if that police officer does not intend to be present at the execution of the warrant—another police officer whose name has been written in the warrant by the police officer named under paragraph (a); or

(c) another police officer whose name has been written in the warrant by the police officer named in the warrant under paragraph (b).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

frisk search means—

(a) a search of a person conducted by quickly running the hands over the person's outer garments; and

(b) an examination of anything worn or carried by the person that is conveniently and voluntarily removed by the person.

identification material, in relation to a person—

(a) means—

(i) a print of the person's hands, fingers, feet or toes; or

(ii) a recording of the person's voice; or

(iii) a sample of the person's handwriting; or

(iv) a photograph (including a video recording) of the person; but

(b) does not include a video recording for the purposes of a caution given to a person or a record of interview with the person.

Note Words in the singular number include the plural (see Legislation Act, s 145 (b)).

impaired state, for a person, includes a state in which the person has difficulty communicating, or understanding the person's immediate circumstances, or making informed decisions.

Examples

1 a person who has a physical disability that prevents the person from speaking or writing

2 a person who is sedated

3 a person who is affected by drugs or alcohol

issuing officer, in relation to a warrant to search premises or a person or a warrant for arrest under this part, means—

(a) a judge, the associate judge, the registrar or a deputy registrar of the Supreme Court; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) a magistrate; or

(c) if authorised by the Chief Magistrate to issue such search warrants or arrest warrants (as the case may be)—the registrar or a deputy registrar of the Magistrates Court.

offence means an offence against a territory law.

ordinary search means a search of a person or of articles in the possession of a person that may include—

(a) requiring the person to remove his or her overcoat, coat or jacket and any gloves, shoes, socks and hat; and

(b) an examination of those items.

police station includes—

(a) a police station of the Territory; and

(b) a building occupied by the Australian Federal Police.

premises includes a place and a conveyance.

recently used conveyance, in relation to a search of a person, means a conveyance that the person had operated or occupied at any time within 24 hours before the search commenced.

seizable item means anything that would present a danger to a person or that could be used to assist a person to escape from lawful custody.

serious offence means an offence punishable by imprisonment for longer than 12 months.

strip search means a search of a person or of articles in the possession of a person that may include—

(a) requiring the person to remove all of his or her garments; and

(b) an examination of the person's body (but not of the person's body cavities) and of those garments.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

tainted property—see the *Confiscation of Criminal Assets Act 2003*, section 10.

take, identification material, includes requesting another person to take the material.

target material—see the *Confiscation of Criminal Assets Act 2003*, section 195.

thing relevant to an offence means—

(a) anything in relation to which the offence has been committed or is suspected on reasonable grounds to have been committed; or

(b) anything suspected on reasonable grounds to provide evidence of the commission of the offence; or

(c) anything suspected on reasonable grounds to be intended to be used for the purpose of committing the offence.

warrant means a warrant under this part.

warrant premises means premises in relation to which a warrant is in force.

185A Search of transgender or intersex person

(1) If a transgender or intersex person is searched under this part, the person may require that the search be conducted by either a male or a female.

(2) If the transgender or intersex person requires that the search be conducted by a male, the person is taken, for this part, to be male.

(3) If the transgender or intersex person requires that the search be conducted by a female, the person is taken, for this part, to be female.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

186 Application of pt 10

(1) This part is not intended to limit or exclude the operation of any other territory law relating to—

(a) the search of persons or premises; or

(b) arrest and related matters; or

(c) the stopping, detaining or searching of conveyances; or

(d) the seizure of things.

(2) To avoid any doubt, it is declared that even though another territory law provides power to do 1 or more of the things referred to in subsection (1), a similar power given by this part may be used despite the existence of the power under the other law.

187 Application of Cwlth Crimes Act, pt 1C

(1) The Commonwealth Crimes Act, part 1C (Investigation of Commonwealth offences) and the schedule (Form of explanation under section 23V) apply to offences not punishable by imprisonment, or punishable by imprisonment for 12 months or less, in the same way as they apply to offences punishable by imprisonment for longer than 12 months.

Note The Cwlth Crimes Act provisions apply to offences against ACT laws that are punishable by imprisonment for longer than 12 months if the investigating officer is a police officer (see that Act, s 23A (6)).

(2) However, the provisions of the Commonwealth Crimes Act mentioned in subsection (1) do not apply to—

(a) an offence against the *Road Transport (Alcohol and Drugs) Act 1977*; or

(b) an infringement notice offence for the *Road Transport (General) Act 1999*, if the police officer concerned—

(i) intends to serve an infringement notice under that Act for the offence on the offender concerned; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(ii) intends to take no further action against the offender concerned in relation to the offence; or

(c) an offence against the *Rail Safety National Law (ACT) Act 2014*, part 3 (Alcohol and drug testing) or the *Rail Safety National Law (ACT)*, part 3, division 9 (Drug and alcohol testing by Regulator); or

(d) an infringement penalty offence for the *Rail Safety National Law (ACT)*, part 9 (Infringement notices) if a police officer—

(i) intends to serve an infringement notice under that Act for the offence on an offender; or

(ii) intends to take no further action against the offender in relation to the offence.

(3) Also, the following provisions of the Commonwealth Crimes Act only apply under subsection (1) if the person being interviewed or questioned is under arrest (within the meaning of that Act, section 23B (Definitions), as applied by subsection (1)) for an offence not punishable by imprisonment, or punishable by imprisonment for 12 months or less:

(a) section 23K (Persons under 18);

(b) section 23V (Tape recording of confessions and admissions).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Division 10.2 Preventative action

188 Police powers of entry

A police officer may enter premises, and may take the action that is necessary and reasonable to prevent the commission or repetition of an offence or of a breach of the peace or to protect life or property—

(a) when invited onto the premises by a person who is or is reasonably believed to be a resident of the premises for the purpose of giving assistance to a person on the premises who has suffered, or is in imminent danger of suffering, physical injury at the hands of some other person; or

(b) under a warrant issued under section 189; or

(c) in circumstances of seriousness and urgency, in accordance with section 190.

189 Issue of warrant

(1) If a magistrate is satisfied, by information on oath, that—

(a) there are reasonable grounds to suspect that a person on premises has suffered, or is in imminent danger of, physical injury at the hands of another person and needs assistance to prevent, or deal with, the injury; and

(b) a police officer has been refused permission to enter the premises for the purpose of giving assistance to the firstmentioned person;

the magistrate may issue a warrant in writing authorising a police officer, with the assistance that is necessary and reasonable and by the force that is necessary and reasonable—

(c) to enter the premises specified in the warrant at any time within 24 hours after the issue of the warrant; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(d) subject to any conditions specified in the warrant, to take the action that is necessary to prevent the commission or repetition of an offence or of a breach of the peace or to protect life or property.

(2) The police officer applying for a warrant shall give the further information about the grounds on which the warrant is sought, either orally on oath or by affidavit, that the magistrate requires.

190 Entry in emergencies

A police officer may enter premises where the officer believes on reasonable grounds that—

(a) an offence or a breach of the peace is being or is likely to be committed, or a person has suffered physical injury or there is imminent danger of injury to a person or damage to property; and

(b) it is necessary to enter the premises immediately for the purpose of preventing the commission or repetition of an offence or a breach of the peace or to protect life or property.

191 Seizure of firearms—warrants and emergencies

(1) If a police officer enters premises under section 188 (Police powers of entry), section 189 (Issue of warrant) or section 190 (Entry in emergencies), the police officer may seize any firearm, any ammunition for a firearm and any licence to possess or use a firearm—

(a) in or on those premises; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) in or on a motor vehicle under the control of a person who ordinarily lives on those premises or is apparently connected with the circumstances giving rise to the entry of the police officer onto the premises;

if the police officer has reasonable grounds for believing that the seizure is necessary to prevent the commission or repetition of an offence or of a breach of the peace or to protect life or property.

(2) A firearm, ammunition or licence may be seized by a police officer under subsection (1)—

(a) despite the fact that the owner of the firearm, ammunition or licence is unknown; or

(b) irrespective of whether the owner of the firearm, ammunition or licence is connected with the circumstances giving rise to the entry of the police officer onto the premises.

(3) A police officer who is authorised under subsection (1) to seize a firearm, ammunition or licence in or on premises or in or on a motor vehicle may search the premises or the motor vehicle for any firearm, ammunition or licence and use the force that is reasonably necessary for the purpose.

(4) A firearm, ammunition or licence seized under subsection (1) must be returned to the licensee at the end of 60 days after the seizure if, before the end of that period—

(a) a prosecution for an offence arising out of circumstances in which a police officer has entered premises under section 188 (Police powers of entry), section 189 (Issue of warrant) or section 190 (Entry in emergencies) has not been instituted; or

(b) an application for a protection order under the *Family Violence Act 2016* has not been made.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(5) However, a firearm, ammunition or licence seized under subsection (1) must not be returned if the registrar would otherwise be entitled under the *Firearms Act 1996* to be in possession of the firearm, ammunition or licence.

(6) A word or expression used in the *Firearms Act 1996* has the same meaning in this section.

192 Seizure of firearms—protection orders

(1) In enforcing an order under a protection order provision, a police officer may—

(a) enter premises where the respondent named in the order is reasonably believed to be living or staying; and

(b) seize any firearm, any ammunition and any licence to possess or use a firearm—

(i) in or on the premises; or

(ii) in or on a motor vehicle under the control of someone who ordinarily lives on the premises or is apparently connected with the circumstances giving rise to the entry of the police officer onto the premises.

(2) A firearm, ammunition or licence may be seized by a police officer under subsection (1)—

(a) despite the fact that the owner of the firearm, ammunition or licence is unknown; or

(b) irrespective of whether the owner of the firearm, ammunition or licence is connected with the circumstances giving rise to the entry of the police officer onto the premises.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) A police officer who is authorised under subsection (1) to seize a firearm, ammunition or licence in or on premises or in or on a motor vehicle may search the premises or the motor vehicle for any firearm, ammunition or licence and use the force that is reasonably necessary for the purpose.

(4) Subsection (3) does not authorise a search at any time during the period commencing at 9 pm on a day and ending at 6 am on the following day unless the police officer is satisfied that—

(a) it would not be practicable to conduct the search at another time; or

(b) it is necessary to do so to prevent the concealment, loss or destruction of the firearm, ammunition or licence.

(5) If—

(a) a firearm, ammunition or licence has been seized under subsection (1) for the purpose of enforcing an order mentioned in that subsection; and

(b) the licence has not been cancelled or suspended under a protection order provision;

the firearm, ammunition or licence shall be returned to the licensee if—

(c) the licensee produces to the registrar of firearms a certificate of the registrar of the Magistrates Court to the effect that the order is no longer in force; and

(d) the registrar of firearms is not aware of any other court orders in force requiring the seizure of the firearm, ammunition or licence; and

(e) the registrar of firearms is not otherwise entitled under the *Firearms Act 1996* to be in possession of the firearm, ammunition or licence.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(6) If a firearm is seized under subsection (1) and is not returned to the licensee in accordance with subsection (5), for the *Firearms Act 1996*, section 262, the firearm shall be taken to have been seized by a police officer in accordance with that Act.

(7) An expression that is used in this section and in the *Firearms Act 1996* has, in this section, the same meaning as in that Act.

(8) In this section:

protection order provision means—

(a) the *Family Violence Act 2016*, section 44 (Firearms licences); or

(b) the *Personal Violence Act 2016*, section 36 (Interim orders—respondent's firearms) or section 37 (Final orders—respondent's firearms).

193 Power to conduct search of person for knife

(1) Subject to subsection (2), if a police officer suspects on reasonable grounds that a person who is in a public place or school has a knife in his or her possession, the police officer may—

(a) conduct a frisk search or an ordinary search of the person; and

(b) seize any knife found as a result of the search.

(2) A police officer may conduct a search of a person under subsection (1) only if the police officer—

(a) provides evidence to the person that he or she is a police officer, unless the police officer is in uniform; and

(b) informs the person of the reason for the search.

(3) As soon as practicable after a search has been conducted under subsection (1), the police officer who conducted the search shall record the time, location and nature of the search.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Division 10.3 Search warrants

194 When search warrants can be issued

(1) An issuing officer may issue a warrant to search premises if the officer is satisfied by information on oath that there are reasonable grounds for suspecting that there is, or there will be within the next 72 hours, any evidential material at the premises.

(2) An issuing officer may issue a warrant authorising an ordinary search or a frisk search of a person if the officer is satisfied by information on oath that there are reasonable grounds for suspecting that the person possesses, or will within the next 72 hours possess, any evidential material.

(3) If the person applying for the warrant suspects that, in executing the warrant, it will be necessary to use firearms, the person shall state that suspicion, and the grounds for that suspicion, in the information.

(4) If the person applying for the warrant is a police officer and has, at any time previously, applied for a warrant relating to the same person or premises, the person shall state in the information particulars of those applications and their outcome.

(5) A warrant shall include statements of the following matters:

(a) the offence to which the warrant relates;

(b) a description of the warrant premises, or the name or description of the person to whom it relates;

(c) the kinds of evidential material that are to be searched for under the warrant;

(d) the name of the police officer who is to be responsible for executing the warrant (unless he or she inserts in the warrant the name of another police officer);

(e) the period, not exceeding 7 days, that the warrant remains in force;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(f) subject to subsection (9), the times when the search is authorised.

(6) For a warrant in relation to premises, the warrant shall state—

(a) that the warrant authorises the seizure of a thing (other than evidential material of the kind referred to in subsection (5) (c)) found at the premises in the course of the search that the executing officer or an assisting officer believes on reasonable grounds to be—

(i) evidential material in relation to an offence to which the warrant relates; or

(ii) a thing relevant to another offence that is a serious offence; or

(iii) target material or tainted property;

Note Target material and tainted property are relevant to the *Confiscation of Criminal Assets Act 2003*.

if the executing officer or an assisting officer believes on reasonable grounds that seizure of the thing is necessary to prevent its concealment, loss or destruction or its use in committing an offence; and

(b) whether the warrant authorises an ordinary search or a frisk search of a person who is at or near the premises when the warrant is executed if the executing officer or an assisting officer suspects on reasonable grounds that the person has any evidential material or seizable items in his or her possession.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(7) For a warrant to search a person, the warrant shall state—

(a) that the warrant authorises the seizure of a thing (other than evidential material of the kind referred to in subsection (5) (c)) found, in the course of the search, on or in the possession of the person or in a recently used conveyance, being a thing that the executing officer or an assisting officer believes on reasonable grounds to be—

(i) evidential material in relation to an offence to which the warrant relates; or

(ii) a thing relevant to another offence that is a serious offence; or

(iii) target material or tainted property;

Note Target material and tainted property are relevant to the *Confiscation of Criminal Assets Act 2003*.

if the executing officer or an assisting officer believes on reasonable grounds that seizure of the thing is necessary to prevent its concealment, loss or destruction or its use in committing an offence; and

(b) the kind of search of a person that the warrant authorises.

(8) Subsection (5) (e) does not prevent the issue of successive warrants in relation to the same premises or person.

(9) A warrant shall not be expressed to authorise a search at any time during the period commencing at 9 pm on a day and ending at 6 am on the following day unless the issuing officer is satisfied that—

(a) it would not be practicable to conduct the search at another time; or

(b) it is necessary to do so to prevent the concealment, loss or destruction of evidence relating to the offence.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(10) If the application for the warrant is made under section 205, this section applies as if—

(a) subsections (1) and (2) referred to 48 hours rather than 72 hours; and

(b) subsection (5) (e) referred to 48 hours rather than 7 days.

194A Electronic versions of affidavits and warrants

(1) For section 194 (1) and (2), an information on oath may be given by—

(a) giving the issuing officer an electronic version of an affidavit that includes the signature of the person making the affidavit and the signature of the person taking the affidavit; or

(b) giving the issuing officer—

(i) an electronic version of an affidavit that includes in any place where a signature appears in the original affidavit, the name of the person whose signature it is; and

(ii) an undertaking that the person making the affidavit has possession of the original affidavit, signed in accordance with law; or

(c) giving the issuing officer—

(i) an electronic version of an affidavit that includes the signature of the person making the affidavit; and

(ii) a statement, under oath by telephone or other electronic audiovisual means, by the person making the affidavit that every statement in the affidavit is true.

Note ***Oath*** includes affirmation (see Legislation Act, dict, pt 1).

(2) For section 194 (1) and (2), a warrant may be issued by giving the applicant for the warrant an electronic version of the warrant.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) For section 205 (Warrants by telephone or other electronic means)—

(a) an issuing officer may complete and sign an electronic version of the warrant; and

(b) if an issuing officer completes and signs an electronic version of the warrant—

(i) the applicant need not complete a form of warrant and give or transmit it to the issuing officer; but

(ii) if the information required to be provided in the application was not sworn, the applicant must give or transmit the information, duly sworn, to the issuing officer before the day after the warrant expired or was executed, whichever is the earlier.

(4) For subsection (3), a warrant is taken to be signed by the issuing officer if the issuing officer's name is written in the place where the signature is required.

195 The things that are authorised by search warrant

(1) A warrant in force for the search of premises authorises the executing officer or an assisting officer—

(a) to enter the warrant premises and, if the premises are a conveyance, to enter the conveyance, wherever it is; and

(b) to search for and record fingerprints found at the premises and to take samples of things found at the premises for forensic purposes; and

(c) to search the premises for the kinds of evidential material specified in the warrant, and to seize things of that kind found at the premises; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(d) to seize other things found at the premises in the course of the search that the executing officer or an assisting officer believes on reasonable grounds to be—

(i) evidential material in relation to an offence to which the warrant relates; or

(ii) evidential material in relation to any serious offence; or

(iii) target material or tainted property;

Note Target material and tainted property are relevant to the *Confiscation of Criminal Assets Act 2003*.

if the executing officer or an assisting officer believes on reasonable grounds that seizure of the things is necessary to prevent their concealment, loss or destruction or their use in committing an offence; and

(e) to seize other things found at the premises in the course of the search that the executing officer or an assisting officer believes on reasonable grounds to be seizable items; and

(f) if the warrant so allows—to conduct an ordinary search or a frisk search of a person at or near the premises if the executing officer or an assisting officer suspects on reasonable grounds that the person has any evidential material or seizable items in his or her possession.

(2) A warrant in force for the search of a person authorises the executing officer or an assisting officer—

(a) to search the person as specified in the warrant, things found in the possession of the person and any recently used conveyance for things of the kind specified in the warrant; and

(b) to—

(i) seize things of that kind; or

(ii) record fingerprints from things; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(iii) to take forensic samples from things;

found in the course of the search; and

(c) to seize other things found in the course of the search on, or in the possession of, the person or in the conveyance that the executing officer or an assisting officer believes on reasonable grounds to be—

(i) evidential material in relation to an offence to which the warrant relates; or

(ii) a thing relevant to any serious offence; or

(iii) target material or tainted property;

Note Target material and tainted property are relevant to the *Confiscation of Criminal Assets Act 2003*.

if the executing officer or an assisting officer believes on reasonable grounds that seizure of the things is necessary to prevent their concealment, loss or destruction or their use in committing an offence; and

(d) to seize other things found in the course of the search that the executing officer or an assisting officer believes on reasonable grounds to be seizable items.

(3) If the warrant states that it may be executed only during particular hours, the warrant shall not be executed outside those hours.

(4) If the warrant authorises an ordinary search or a frisk search of a person, a search of the person different to that so authorised shall not be done under the warrant.

(5) If things are seized under a warrant, the warrant authorises the executing officer to make the things available to officers of other agencies if it is necessary to do so for the purpose of investigating or prosecuting an offence to which the things relate.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

196 Availability of assistance and use of force in executing warrant

In executing a warrant—

(a) the executing officer may obtain the assistance that is necessary and reasonable in the circumstances; and

(b) the executing officer, or a police officer assisting in executing the warrant, may use the force against persons and things that is necessary and reasonable in the circumstances; and

(c) an assisting officer may use the force against things that is necessary and reasonable in the circumstances.

197 Details of warrant to be given to occupier etc

(1) If a warrant in relation to premises is being executed and the occupier of the premises or another person who apparently represents the occupier is present at the premises, the executing officer or an assisting officer shall make available to that person a copy of the warrant.

(2) If a warrant in relation to a person is being executed, the executing officer or an assisting officer shall make available to that person a copy of the warrant.

(3) If a person is searched under a warrant in relation to premises, the executing officer or an assisting officer shall show the person a copy of the warrant.

(4) The executing officer shall identify himself or herself to the person at the premises or the person being searched.

(5) The copy of the warrant referred to in subsections (1) and (2) need not include the signature of the issuing officer or the seal of the relevant court.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

198 Specific powers available to police officers executing warrant

(1) In executing a warrant in relation to premises, the executing officer or an assisting officer may—

(a) for a purpose incidental to the execution of the warrant; or

(b) if the occupier of the premises consents in writing;

take photographs (including video recordings) of the premises or of things at the premises.

(2) If a warrant in relation to premises is being executed, the executing officer and the assisting officers may, if the warrant is still in force, complete the execution of the warrant after all of them temporarily cease its execution and leave the premises—

(a) for not more than 1 hour; or

(b) for a longer period if the occupier of the premises consents in writing.

(3) If—

(a) the execution of a warrant is stopped by an order of a court; and

(b) the order is later revoked or reversed on appeal; and

(c) the warrant is still in force;

the execution of the warrant may be completed.

199 Use of equipment to examine or process things

(1) The executing officer or an assisting officer may bring to warrant premises any equipment reasonably necessary for the examination or processing of things found at the premises, to determine whether they are things that may be seized under the warrant.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) If—

(a) it is not practicable to examine or process them at the warrant premises; or

(b) the occupier of the premises (or his or her representative) consents in writing;

the things may be moved to another place for examination or processing to determine whether they are things that may be seized under a warrant.

(3) If things are moved to another place for the purpose of examination or processing under subsection (2), the executing officer shall, if practicable—

(a) inform the occupier of the address of the place and the time when the examination or processing will be carried out; and

(b) allow the occupier (or his or her representative) to be present during the examination or processing.

(4) The executing officer or an assisting officer may operate equipment already at warrant premises to carry out the examination or processing of a thing found at the premises to determine whether it is a thing that may be seized under the warrant if the officer believes on reasonable grounds that—

(a) the equipment is suitable for the examination or processing; and

(b) the examination or processing can be carried out without damage to the equipment or the thing.

200 Use of electronic equipment at premises

(1) The executing officer or an assisting officer may operate electronic equipment at warrant premises to see whether evidential material is accessible by doing so if the officer believes on reasonable grounds that the operation of the equipment can be carried out without damage to the equipment.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) If the executing officer or an assisting officer, after operating the equipment, finds that evidential material is accessible by doing so, the officer may—

(a) seize the equipment and any disk, tape or other associated device; or

(b) if the material can, by using facilities at the premises, be put in documentary form—operate the facilities to put the material in that form and seize the documents so produced; or

(c) if the material can be transferred to a disk, tape or other storage device that—

(i) is brought to the premises; or

(ii) is at the premises and the use of which for the purpose has been agreed to in writing by the occupier of the premises;

operate the equipment or other facilities to copy the material to the storage device and take the storage device from the premises.

(3) Equipment may only be seized under subsection (2) (a) if—

(a) it is not practicable to put the material in documentary form under subsection (2) (b) or to copy the material under subsection (2) (c); or

(b) possession by the occupier of the equipment could constitute an offence.

(4) If the executing officer or an assisting officer believes on reasonable grounds that—

(a) evidential material may be accessible by operating electronic equipment at the premises; and

(b) expert assistance is required to operate the equipment; and

(c) if he or she does not take action under this subsection, the material may be destroyed, altered or otherwise interfered with;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

he or she may do whatever is necessary to secure the equipment, whether by locking it up, placing a guard or otherwise.

(5) The executing officer or an assisting officer shall give notice to the occupier of the premises of his or her intention to secure the equipment and of the fact that the equipment may be secured for up to 24 hours.

(6) The equipment may be secured—

(a) for a period not exceeding 24 hours; or

(b) until the equipment has been operated by the expert;

whichever happens first.

(7) If the executing officer or assisting officer believes on reasonable grounds that expert assistance will not be available within 24 hours, he or she may apply to the issuing officer for an extension of that period.

(8) The executing officer or assisting officer shall give notice to the occupier of the premises—

(a) that the executing officer or assisting officer intends to apply for an extension under subsection (7); and

(b) that the occupier is entitled to be heard in relation to the application.

(9) The occupier is entitled to be heard in relation to an application under subsection (7).

(10) This division applies to the issuing of an extension on an application under subsection (7) in the same way as it applies to the issue of a warrant, with necessary changes.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

201 Compensation for damage to electronic equipment

(1) If—

(a) damage is caused to equipment as a result of it being operated under section 199 or 200; and

(b) the damage resulted from—

(i) insufficient care being exercised in selecting the person who was to operate the equipment; or

(ii) insufficient care being exercised by the person operating the equipment;

compensation for the damage is payable to the owner of the equipment.

(2) In determining the amount of compensation payable, regard is to be had to whether the occupier of the premises or the occupier's employees or agents, if they were available at the time, had provided any warning or guidance as to the appropriate operation of the equipment in the circumstances.

202 Copies of seized things to be provided

(1) If a police officer seizes from warrant premises—

(a) a document, film, computer file or other thing that can be readily copied; or

(b) a storage device the information in which can be readily copied;

the officer shall, if requested to do so by the occupier of the premises (or another person apparently representing the occupier), give a copy of the thing or the information to the occupier or that person as soon as practicable after the seizure.

(2) Subsection (1) does not apply if—

(a) the seized item was seized under section 200 (2) (b) or (c); or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) possession by the occupier of the document, film, computer file, thing or information could constitute an offence.

203 Occupier entitled to be present during search

(1) If a warrant in relation to premises is being executed and the occupier of the premises or another person who apparently represents the occupier is present at the premises, the person is, subject to the Commonwealth Crimes Act, part 1C entitled to observe the search being conducted.

(2) The right to observe the search being conducted ceases if the person impedes the search.

(3) This section does not prevent 2 or more areas of the premises being searched at the same time.

204 Receipts for things seized under warrant

(1) If a thing is seized under a warrant or moved under section 199 (2), the executing officer or an assisting officer shall provide a receipt for the thing.

(2) If 2 or more things are seized or moved, they may be covered by a single receipt.

205 Warrants by telephone or other electronic means

(1) A police officer may make an application to an issuing officer for a warrant by telephone, fax or other electronic means—

(a) in an urgent case; or

(b) if the delay that would occur if an application were made in person would frustrate the effective execution of the warrant.

(2) The issuing officer may require communication by voice to the extent that is practicable in the circumstances.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) An application under this section shall include all information required to be provided in an ordinary application for a warrant, but the application may, if necessary, be made before the information is sworn.

(4) If an application is made to an issuing officer under this section and the issuing officer, after considering the information and having received and considered the further information (if any) that the issuing officer required, is satisfied that—

(a) a warrant in the terms of the application should be issued urgently; or

(b) the delay that would occur if an application were made in person would frustrate the effective execution of the warrant;

the issuing officer may complete and sign the same form of warrant that would be issued under section 194.

(5) If the issuing officer decides to issue the warrant, the issuing officer is to inform the applicant, by telephone, fax or other electronic means, of the terms of the warrant, the day and the time when it was signed.

(6) The applicant shall then complete a form of warrant in terms substantially corresponding to those given by the issuing officer, stating on the form the name of the issuing officer, the day and the time when the warrant was signed.

(7) The applicant shall, not later than the day after the day of expiry of the warrant or the day after the day when the warrant was executed, whichever is the earlier, give or transmit to the issuing officer the form of warrant completed by the applicant and, if the information referred to in subsection (3) was not sworn, that information duly sworn.

(8) The issuing officer is to attach to the documents provided under subsection (7) the form of warrant completed by the issuing officer.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(9) If—

(a) it is material, in any proceedings, for a court to be satisfied that the exercise of a power under a warrant issued under this section was duly authorised; and

(b) the form of warrant signed by the issuing officer is not produced in evidence;

the court is to assume, unless the contrary is proved, that the exercise of the power was not duly authorised.

206 Restrictions on personal searches

A warrant may not authorise a strip search or a search of a person's body cavities.

Division 10.4 Powers to stop and search

207 Stopping, searching and detaining people

(1) This section applies if a police officer suspects, on reasonable grounds, that—

(a) a person is carrying, or otherwise has in his or her possession, a thing (the ***relevant thing***) relevant to a serious offence or a thing stolen or otherwise unlawfully obtained; and

(b) it is necessary to exercise a power under subsection (2) to prevent the thing from being concealed, lost or destroyed; and

(c) it is necessary to exercise the power without the authority of a search warrant because the circumstances are serious and urgent.

(2) If this section applies, the police officer may—

(a) stop and detain the person; and

(b) conduct a frisk search or ordinary search of the person for the relevant thing; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) seize the thing if the officer finds it.

(3) If, in the course of searching for the relevant thing, the police officer finds any evidential material, the officer may seize the material if the officer suspects, on reasonable grounds, that—

(a) it is necessary to seize it to prevent its concealment, loss or destruction; and

(b) it is necessary to seize it without the authority of a search warrant because the circumstances are serious and urgent.

(4) A frisk search under this section may only be carried out by a person of the same sex as the person being searched.

(5) As soon as possible after exercising a power under subsection (2), the police officer must make a written record of—

(a) the date, time and place of exercising the power; and

(b) details of its exercise; and

(c) any details of the person known to the police officer; and

(d) the grounds for suspecting the relevant matter mentioned in subsection (1).

(6) The police officer must exercise his or her powers under this section subject to section 208.

208 How a police officer exercises a power under s 207

In exercising a power under section 207 in relation to a person, a police officer must not detain the person for longer than is necessary and reasonable to conduct a frisk search or ordinary search of the person.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

209 Stopping, searching and detaining conveyances

(1) This section applies if a police officer suspects, on reasonable grounds, that—

(a) a thing relevant to a serious offence or a thing stolen or otherwise unlawfully obtained, is in or on a conveyance; and

(b) it is necessary to exercise a power under subsection (2) to prevent the thing from being concealed, lost or destroyed; and

(c) it is necessary to exercise the power without the authority of a search warrant because the circumstances are serious and urgent.

(2) If this section applies, the police officer may—

(a) stop and detain the conveyance; and

(b) search the conveyance and any container in or on the conveyance, for the relevant thing; and

(c) seize the thing if he or she finds it there.

(3) If, in the course of searching for the relevant thing, the police officer finds any evidential material, the police officer may seize the material if he or she suspects, on reasonable grounds, that—

(a) it is necessary to seize it to prevent its concealment, loss or destruction; and

(b) it is necessary to seize it without the authority of a search warrant because the circumstances are serious and urgent.

(4) The police officer shall exercise his or her powers under this section subject to section 210.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

210 How a police officer exercises a power under s 209

In exercising a power under section 209 in relation to a conveyance, a police officer—

(a) may use the assistance that is necessary; and

(b) shall search the conveyance in a public place or in some other place where members of the public have ready access; and

(c) shall not detain the conveyance for longer than is necessary and reasonable to search it and any container found in or on the conveyance; and

(d) may use the force that is necessary and reasonable in the circumstances, but shall not damage the conveyance or any container found in or on the conveyance by forcing open a part of the conveyance or container unless—

(i) any person apparently in charge of the conveyance has been given a reasonable opportunity to open that part or container; or

(ii) it is not possible to give any such person that opportunity.

Division 10.4A Crime scene powers

210A Definitions—div 10.4A

In this division:

crime scene means a crime scene established under section 210E.

crime scene power means a power exercisable by a police officer under section 210G.

private premises means premises other than a public place.

Note ***Premises*** includes a place or conveyance (see s 185).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

serious offence means—

(a) an offence punishable by imprisonment for 5 years or longer; or

(b) an offence arising out of the use of a motor vehicle that has resulted in the death or serious injury of a person; or

(c) a family violence offence within the meaning of the *Family Violence Act 2016*; or

(d) an offence in another jurisdiction that would be a serious offence if committed in the ACT.

210B Meaning of *public place*—div 10.4A

(1) In this division:

public place means—

(a) public unleased land; or

(b) premises to which the public, or a section of the public, has access, whether by payment or not.

Examples—public place

- public library or cultural institution
- government school or educational facility
- public hospital or medical centre
- vehicle used for public transport
- public park or nature reserve

Note ***Premises*** includes a place or conveyance (see s 185).

(2) However, ***public place*** does not include—

(a) public unleased land that a person is authorised to use under a public unleased land permit; or

(b) other premises that a person is authorised to use as a residence or for another private purpose.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Examples—premises authorised for private purpose

- retail shop
- restaurant or hotel
- private hospital or medical centre
- private school or educational institution
- place of worship

(3) In this section:

public unleased land—see the *Public Unleased Land Act 2013*, section 8.

public unleased land permit—see the *Public Unleased Land Act 2013*, section 40.

210C Establish crime scene—public place

A police officer may establish a crime scene at a public place if the police officer—

(a) reasonably suspects that an offence punishable by a term of imprisonment has been or is being committed at the place or somewhere else within or outside the ACT; and

(b) considers that it is reasonably necessary to immediately establish a crime scene at the public place to protect or preserve evidence relating to the offence.

210D Establish crime scene—private premises

(1) A police officer may establish a crime scene at private premises if—

(a) the police officer reasonably suspects that an offence punishable by a term of imprisonment has been or is being committed at the premises or somewhere else within or outside the ACT; and

(b) the police officer considers that it is reasonably necessary to immediately establish a crime scene at the premises to protect or preserve evidence relating to the offence; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) consent has been given by—

(i) if the premises are occupied—the occupier of the premises; or

(ii) if the premises are not occupied—the owner of the premises.

(2) However, a police officer may establish a crime scene at private premises without consent if—

(a) the police officer reasonably suspects that the offence is a serious offence; and

(b) the police officer—

(i) has made reasonable attempts to obtain the consent of—

(A) if the premises are occupied—the occupier of the premises; or

(B) if the premises are not occupied—the owner of the premises; or

(ii) considers that it is reasonably necessary in the circumstances to establish a crime scene without consent.

(3) In seeking the consent of the owner or occupier of the premises, the police officer must tell the owner or occupier—

(a) if reasonably appropriate in the circumstances—the offence to which the crime scene relates; and

(b) the expected duration of the crime scene.

(4) If the police officer establishes the crime scene at the premises without consent, the officer must take reasonable steps to tell the owner or occupier—

(a) that a crime scene has been established at the premises; and

(b) if reasonably appropriate in the circumstances—the offence to which the crime scene relates; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) the expected duration of the crime scene.

(5) For subsections (3) (a) and (4) (b), it is enough that the offence be described in general terms and it is not necessary to describe the offence precisely or using technical language.

210E When crime scene established

(1) A crime scene is established at a place when—

(a) if it is reasonably necessary to immediately start exercising crime scene powers at the place—a police officer starts exercising the crime scene powers; or

(b) in any other case—a police officer makes a record that a crime scene is established at the place.

(2) If a crime scene is established under subsection (1) (a), a police officer must make a record about the establishment of the crime scene as soon as practicable after it is established.

(3) The record must include—

(a) the day and time the crime scene is established; and

(b) the place where the crime scene is established; and

(c) the reason for establishing the crime scene.

210F Senior police officer to be told about crime scene

(1) As soon as practicable after a police officer establishes a crime scene, the police officer must tell a senior police officer that the crime scene has been established.

(2) In this section:

senior police officer means a police officer of or above the rank of sergeant.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

210G Crime scene powers

(1) This section applies to a place while a crime scene is in effect at the place under section 210H.

(2) A police officer may exercise any of the following powers if it is reasonably necessary to immediately exercise the power to protect or preserve evidence relating to the offence:

(a) enter the place, or any part of the place;

(b) enter any other premises to access the place;

(c) control the movement of people or things at the place;

(d) direct a person at the place to give the police officer the person's name and home address;

(e) if the police officer reasonably suspects a person possesses evidence removed from the place or has interfered with evidence at the place—detain, and conduct a frisk search or ordinary search of, the person;

(f) do any of the following in relation to all or part of a thing that might reasonably be evidence relevant to the commission of an offence:

(i) cover the thing at the place;

(ii) move the thing within the place;

(iii) photograph and in any other appropriate way record the thing before anything is done with the thing under subparagraphs (i) or (ii);

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(g) if the place is a conveyance—remove the conveyance from its original location and take it to a secure place.

Examples—par (c)

1 direct a person not to enter or to leave the place

2 remove a person or thing from the place, or direct another person to remove the person or thing

3 prevent a person from interfering with or removing evidence from, or otherwise obstructing an investigation at, the place

(3) A power under subsection (2) includes the power to use reasonable and necessary force to do those things.

210H Crime scene—duration

(1) A crime scene takes effect when it is established at a place under section 210E and continues in effect until the earliest of the following has occurred:

(a) if the crime scene is established at private premises—6 hours have elapsed;

(b) if the crime scene is established in relation to a conveyance moved under section 210G (2) (g)—48 hours have elapsed;

(c) the consent of the owner or occupier of the premises under section 210D (1) to establish the crime scene (other than in relation to a serious offence) is withdrawn;

(d) a police officer starts executing a warrant to search the place;

(e) an application for a warrant to search the place is refused;

(f) it is no longer reasonably necessary to protect or preserve evidence at the place in relation to the offence.

(2) However, a period of time mentioned in subsection (1) (a) or (b) does not apply to a crime scene if the owner or occupier of the place consents to the crime scene continuing in effect after the period of time.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

210I Crime scene—frequency

(1) A crime scene must not be established at private premises in relation to an offence more than once in a 24-hour period.

(2) However, a crime scene may be established at private premises for a second or subsequent time in a 24-hour period if the crime scene is established in relation to another offence arising out of a different course of conduct.

210J Crime scene obligations—all places

(1) This section applies if a police officer—

(a) gives a person a direction under section 210G (2) (c) or (d); or

(b) proposes to detain and search a person at a place under section 210G (2) (e).

(2) The police officer or another officer must—

(a) tell the person—

(i) that a crime scene has been established; and

(ii) if appropriate in the circumstances—the offence to which the crime scene relates; and

(b) if a direction is given to the person—give the person a reasonable opportunity to comply with the direction.

(3) For subsection (2) (a) (ii), it is enough that the offence be described in general terms and it is not necessary to describe the offence precisely or using technical language.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

210K Crime scene obligations—conveyances

(1) This section applies if a conveyance is removed from its original location and taken to a secure place under section 210G (2) (g).

(2) A police officer must take reasonable steps to tell the owner of the conveyance—

(a) that a crime scene has been established; and

(b) that the conveyance has been removed from its original location; and

(c) the secure place to which the conveyance has been taken.

210L Offence—fail to comply with direction

(1) A person commits an offence if the person—

(a) is given a direction by a police officer under this division; and

(b) fails to comply with the direction.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

(2) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant was not given a reasonable opportunity to comply with the direction.

Note The defendant has a legal burden in relation to the matters mentioned in s (2) (see Criminal Code, s 59).

Division 10.5 Arrest and related matters

211 Requirement to provide name etc

(1) If—

(a) a police officer has reason to believe that an offence has been or may have been committed; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) believes on reasonable grounds that a person may be able to assist him or her in inquiries in relation to that offence; and

(c) the name or address (or both) of that person is unknown to the officer;

the officer—

(d) may request the person to provide his or her name or address (or both) to the officer; and

(e) if making such a request—shall inform the person of the reason for the request.

(2) If a police officer—

(a) makes a request of a person under subsection (1); and

(b) informs the person of the reason for the request; and

(c) complies with subsection (3) if the person makes a request under that subsection;

the person shall not, without reasonable excuse—

(d) fail to comply with the request; or

(e) give a name or address that is false in a material particular.

(3) If a police officer who makes a request of a person under subsection (1) is requested by the person to provide to the person—

(a) his or her name or the address of his or her place of duty; or

(b) his or her name and that address; or

(c) if he or she is not in uniform and it is practicable for the police officer to provide the evidence—evidence that he or she is a police officer;

the police officer shall not—

(d) fail to comply with the request; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(e) give a name or address that is false in a material particular.

(4) As soon as possible after making such a request, the police officer shall make a written record of the grounds for his or her belief.

Maximum penalty: $500.

212 Power of arrest without warrant by police officers

(1) A police officer may, without warrant, arrest a person for an offence if the police officer suspects on reasonable grounds that—

(a) the person has committed or is committing the offence; and

(b) proceedings by summons against the person would not achieve 1 or more of the following purposes:

(i) ensuring the appearance of the person before a court in respect of the offence;

(ii) preventing a repetition or continuation of the offence or the commission of another offence;

(iii) preventing the concealment, loss or destruction of evidence relating to the offence;

(iv) preventing harassment of, or interference with, a person who may be required to give evidence in proceedings in respect of the offence;

(v) preventing the fabrication of evidence in respect of the offence;

(vi) preserving the safety or welfare of the person.

(2) A police officer may, without warrant, arrest a person for a family violence offence if the police officer suspects on reasonable grounds that the person has committed or is committing the offence.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) If—

(a) a person has been arrested under subsection (1) or (2) in connection with an offence; and

(b) before the person is charged with the offence, the police officer in charge of the investigation into the offence does not have, or ceases to have, reasonable grounds to suspect that—

(i) the person committed the offence; or

(ii) for a person arrested under subsection (1)—holding the person in custody is necessary to achieve any of the purposes referred to in subsection (1) (b);

the person shall forthwith be released from custody in respect of the offence.

(4) A police officer may, without warrant, arrest a person whom he or she suspects on reasonable grounds has escaped from lawful custody to which the person is still liable in respect of an offence.

(5) In this section:

family violence offence—see the *Family Violence Act 2016*, dictionary.

213 Arrest without warrant in possession

(1) This section applies if—

(a) a warrant has been issued for the arrest of a person; and

(b) a police officer encounters the person or is otherwise in a position to arrest the person but is not carrying the warrant at the time.

(2) If this section applies, the police officer may—

(a) arrest the person; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) for a warrant for the arrest of a person for the commission of an offence—cause the person (and any property found in the person's possession) to be brought before a magistrate to be dealt with according to law.

(3) In this section:

warrant means an arrest warrant or a warrant of commitment issued under a law of the Territory, the Commonwealth, a State or another Territory.

214 Arrest of prisoner unlawfully at large

(1) A police officer may, without warrant, arrest a person whom the police officer suspects on reasonable grounds to be a prisoner unlawfully at large.

(2) The police officer shall, as soon as practicable after the arrest, cause the person to be brought before a magistrate.

(3) If the magistrate is satisfied that the person is a prisoner unlawfully at large, the magistrate may issue a warrant—

(a) authorising a police officer or corrections officer to take the person to a correctional centre or other place of detention stated in the warrant; and

(b) directing that the person, having been conveyed to that place in accordance with the warrant, be detained there to undergo the term of imprisonment or other detention that the person is required by law to undergo.

(4) In this section:

prisoner unlawfully at large means a person who is at large (otherwise than because the person has escaped from lawful custody) at a time when the person is required by law to be detained under a law of the Territory, a State, or another Territory.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

217 Arrest without warrant for offences committed outside ACT

(1) This section applies to an offence against the law of a State or another Territory consisting of an act or omission which, if it occurred in the ACT, would constitute a serious offence.

(2) A police officer may, without warrant, at any hour of the day or night, arrest a person whom he or she suspects on reasonable grounds to have committed an offence to which this section applies.

(3) If a police officer arrests a person under subsection (2), the officer shall cause the person to be brought before a magistrate as soon as is practicable.

(4) If a person is brought before a magistrate under subsection (3), the magistrate may—

(a) discharge the person; or

(b) commit the person to custody, or admit the person to bail, pending—

(i) the execution under a law of the Commonwealth of a warrant for the person's arrest; or

(ii) the person's discharge or release under subsection (7).

(5) A police officer may exercise any power under this division in relation to a person arrested under this section as if the person had been arrested and was being held in custody in relation to the commission of an offence against a territory law.

(6) If a person is committed to custody under this section and a warrant for the person's apprehension is subsequently presented for execution, he or she shall be delivered in accordance with the terms of the warrant to the custody of the person executing it.

(7) If—

(a) a person is admitted to bail under this section; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) before the person has complied with conditions of that bail, a warrant for his or her arrest is executed under a law of the Commonwealth;

the person is to be taken, at the time the warrant is executed, to be released from that bail and to have complied with the bail conditions, other than any condition with which the person had (before that time) failed to comply without reasonable excuse.

(8) If—

(a) a person has been committed to custody or admitted to bail under this section; and

(b) a warrant for the arrest of the person is not executed within 7 days after the person is committed to custody or admitted to bail;

a magistrate may, by order, discharge the person from custody or release the person from bail.

(9) In this section:

warrant means a warrant issued under a law of the Territory, the Commonwealth, a State or another Territory, and includes a provisional warrant.

218 Power of arrest without warrant by other persons

(1) A person who is not a police officer may, without warrant, arrest another person if he or she believes on reasonable grounds that the other person is committing or has just committed an offence.

(2) A person who arrests another person under subsection (1) shall, as soon as practicable after the arrest, arrange for the other person, and any property found on the other person, to be delivered into the custody of a police officer.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

219 Warrants for arrest

(1) An issuing officer shall not issue a warrant for the arrest of a person for an offence as a result of an information laid before the officer unless—

(a) the information is on oath; and

(b) subject to subsection (3), the informant has given the issuing officer an affidavit setting out the reasons why the warrant is sought, including the following reasons:

(i) the reasons why it is believed that the person committed the offence;

(ii) the reasons why it is claimed that proceedings by summons would not achieve 1 or more of the purposes set out in section 212 (1) (b);

(c) if the issuing officer has requested further information about the reasons for which the issue of the warrant is sought—that information has been provided to the officer; and

(d) the issuing officer is satisfied that there are reasonable grounds for the issue of the warrant.

(2) If the issuing officer issues a warrant, he or she shall write on the affidavit which of the reasons specified in the affidavit, and any other reasons, the officer has relied on as justifying the issue of the warrant.

(3) Subsection (1) (b) does not apply if the issuing officer is informed that the warrant is sought for the purpose of making a request for the extradition of a person from a foreign country.

(4) This section does not apply to the issue of a warrant under the *Bail Act 1992*, section 49 (1) (Failure to answer bail).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

220 Power to enter premises to arrest offender

(1) Subject to subsection (3), if—

(a) an officer has, under a warrant, power to arrest the person for an offence; and

(b) the officer believes on reasonable grounds that the person is on any premises;

the police officer may enter the premises, using the force that is necessary and reasonable in the circumstances, at any time of the day or night for the purpose of searching the premises for the person or arresting the person.

(2) Subject to subsection (3), if—

(a) an officer has the power under section 212 to arrest the person without warrant for an offence; and

(b) the offence is a relevant offence; and

(c) the police officer believes on reasonable grounds that the person is on any premises;

the police officer may enter the premises, using the force that is necessary and reasonable in the circumstances, at any time of the day or night for the purpose of searching the premises for the person or arresting the person.

(3) A police officer shall not enter a dwelling house under subsection (1) or (2) at any time during the period commencing at 9 pm on a day and ending at 6 am on the following day unless the executing officer believes on reasonable grounds that—

(a) it would not be practicable to arrest the person, either at the dwelling house or elsewhere, at another time; or

(b) it is necessary to do so to prevent the concealment, loss or destruction of evidence relating to the offence.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(4) In this section:

dwelling house includes a conveyance, and a room in a hotel, motel, boarding house or club, where people ordinarily sleep at night.

relevant offence means—

(a) a serious offence; or

(b) an offence against any of the following:

(i) section 380 (Possession of offensive weapons and disabling substances);

(ii) section 381 (Possession of offensive weapons and disabling substances with intent);

(iii) the Criminal Code, section 321 (Minor theft).

221 Use of force in making arrest

(1) A person shall not, in the course of arresting another person for an offence, use more force, or subject the other person to greater indignity, than is necessary and reasonable to make the arrest or to prevent the escape of the other person after the arrest.

(2) Without limiting the operation of subsection (1), a police officer shall not, in the course of arresting a person for an offence do anything that is likely to cause the death of, or grievous bodily harm to, the person, unless—

(a) the officer believes on reasonable grounds that it is necessary to do so to protect life or to prevent serious injury to the officer or another person; and

(b) if the person is attempting to escape arrest by fleeing—the person has, if practicable, been called on to surrender and the officer believes on reasonable grounds that the person cannot be apprehended in any other way.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

222 Persons to be informed of grounds of arrest

(1) A person who arrests another person for an offence shall inform the other person, at the time of the arrest, of the offence for which the other person is being arrested.

(2) It is sufficient if the other person is informed of the substance of the offence, and it is not necessary that this be done in language of a precise or technical nature.

(3) Subsection (1) does not apply to the arrest of the other person if—

(a) the other person should, in the circumstances, know the substance of the offence for which he or she is being arrested; or

(b) the other person's actions make it impracticable for the person making the arrest to inform the other person of the offence for which he or she is being arrested.

223 Power to conduct frisk search of arrested person

(1) A police officer who arrests a person for an offence, or who is present at such an arrest, may, if the police officer suspects on reasonable grounds that it is prudent to do so to ascertain whether the person is carrying any seizable items—

(a) conduct a frisk search of the person at or soon after the time of arrest; and

(b) seize any seizable items found as a result of the search.

(2) The police officer may arrange for another police officer to conduct the frisk search if, having regard to section 240 (Conduct of ordinary searches and frisk searches), the officer considers that it would be more appropriate for the other officer to conduct the frisk search.

(3) The other police officer is authorised—

(a) to conduct the frisk search; and

(b) to seize any seizable items found as a result of the search.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

224 Power to conduct ordinary search of arrested person

(1) If a police officer suspects on reasonable grounds that a person who has been arrested is carrying—

(a) evidential material in relation to any offence; or

(b) a seizable item;

the police officer may conduct an ordinary search of the person at or soon after the time of arrest, and seize any such thing found as a result of the search.

(2) The police officer may arrange for another police officer to conduct the ordinary search if, having regard to section 240 (Conduct of ordinary searches and frisk searches), the officer considers that it would be more appropriate for the other officer to conduct the frisk search.

(3) The other police officer is authorised—

(a) to conduct the ordinary search; and

(b) to seize anything mentioned in subsection (1) found as a result of the search.

225 Power to conduct search of arrested person's premises

A police officer who arrests a person at premises for an offence, or who is present at such an arrest, may seize things in plain view at those premises that the police officer believes on reasonable grounds to be—

(a) evidential material in relation to any offence; or

(b) seizable items.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

226 Power to conduct search at police station

(1) If—

(a) a person has been brought to a police station following arrest for an offence; and

(b) an ordinary search of the person has not been conducted;

a police officer may conduct an ordinary search of the person.

(2) If—

(a) a person is in lawful custody in a police station; and

(b) a police officer—

(i) of the rank of sergeant or higher; or

(ii) who is for the time being in charge of the police station;

suspects on reasonable grounds that it is prudent to do so to ascertain whether the person is carrying any evidential material in relation to any offence or seizable items;

the police officer may cause a frisk search or an ordinary search of the person to be conducted.

(3) If a person is searched under this section and as a result of the search is found to be carrying—

(a) evidential material in relation to any offence; or

(b) a seizable item;

the police officer conducting the search may seize that thing.

(4) If a person is searched under this section, the police officer who conducts or causes the search to be conducted shall make a record of the reasons for the search and of the type of search.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

227 Power to conduct strip search

(1) Subject to this section, if a person arrested for an offence is brought to a police station, a police officer may conduct a strip search of the person.

(2) A strip search may be conducted if—

(a) a police officer suspects on reasonable grounds that the person has in his or her possession—

(i) evidential material in relation to that or another offence; or

(ii) a seizable item; or

(b) the police officer suspects on reasonable grounds that a visual inspection of the person's body will provide evidence of the person's involvement in an offence;

and—

(c) the police officer suspects on reasonable grounds that it is necessary to conduct a strip search of the person to recover that thing or to discover that evidence; and

(d) a police officer of the rank of superintendent or higher has approved the conduct of the search.

(3) Subject to section 228, a strip search may also be conducted if the person consents in writing.

(4) Subject to section 228, a strip search may be conducted in the presence of a medical practitioner who may assist in the search.

(5) The approval may be obtained by telephone, fax or other electronic means.

(6) A police officer who gives or refuses to give an approval under subsection (2) (d) shall make a record of the decision and of the reasons for the decision.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(7) The force that is necessary and reasonable in the circumstances may be used to conduct a strip search under subsection (2).

(8) Any item of a kind referred to in subsection (2) (a) that is found during a strip search may be seized.

228 Rules for conduct of strip search

(1) A strip search—

(a) shall be conducted in a private area; and

(b) subject to subsection (6), shall be conducted by a police officer who is of the same sex as the person being searched; and

(c) subject to subsections (3) and (4), shall not be conducted in the presence or view of a person who is of the opposite sex to the person being searched; and

(d) shall not be conducted in the presence or view of a person whose presence is not necessary for the purposes of the search; and

(e) shall not be conducted on a person who is under 10; and

(f) if the person being searched is at least 10 but under 18, or is incapable of managing his or her affairs—

(i) may only be conducted if the person has been arrested and charged or if a court orders that it be conducted; and

(ii) shall be conducted in the presence of a parent or guardian of the person being searched or, if that is not acceptable to the person, in the presence of another person (other than a police officer) who is capable of representing the interests of the person and who, as far as is practicable in the circumstances, is acceptable to the person; and

(g) shall not involve a search of a person's body cavities; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(h) shall not involve the removal of more garments than the police officer conducting the search believes on reasonable grounds to be necessary to determine whether the person has in his or her possession the item searched for or to establish the person's involvement in the offence; and

(i) shall not involve more visual inspection than the police officer believes on reasonable grounds to be necessary to establish the person's involvement in the offence.

(2) In deciding whether to make an order referred to in subsection (1) (f), the court shall have regard to—

(a) the seriousness of the offence; and

(b) the age or any disability of the person; and

(c) any other matters the court thinks fit.

(3) A strip search may be conducted in the presence of a medical practitioner of the opposite sex to the person searched if a medical practitioner of the same sex as the person being searched is not available within a reasonable time.

(4) Subsection (1) (c) does not apply to a parent, guardian or personal representative of the person being searched if the person being searched has no objection to the person being present.

(5) If any of a person's garments are seized as a result of a strip search, the person shall be provided with adequate clothing.

(6) If a strip search of a person is to be conducted and no police officer of the same sex as that person is available to conduct the search, any other person—

(a) of the same sex as the person to be searched; and

(b) who has been requested to conduct the search by a police officer;

may conduct the search.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(7) No action or proceeding, civil or criminal, lies against a person who conducts a strip search under a request under subsection (6) in respect of a strip search that would have been lawful if conducted by a police officer.

229 Safekeeping of things seized

(1) A police officer who seizes a thing as a result of searching a person in lawful custody under this division shall—

(a) make a record of the thing seized, including a description of it and the date when it was seized; and

(b) give the thing seized and the record of it to the police officer for the time being in charge of the police station where the person was searched.

(2) A police officer for the time being in charge of a police station is responsible for the safekeeping of any thing seized as a result of a search of a person in lawful custody under this part conducted at that place.

(3) A police officer who has responsibility for the safekeeping of a thing under subsection (2) shall, on release of the person from whom it was seized, take reasonable steps to return the thing to that person or to the owner of the thing if that person is not entitled to possession, unless the thing affords evidence in relation to an offence.

(4) If a thing is not returned to the person from whom it was seized or the owner under subsection (3), the police officer responsible for the safekeeping of the thing shall—

(a) make a note on the record made under subsection (1) (a) indicating the thing has been retained; and

(b) take reasonable steps to give a copy of that record to the person from whom the thing was seized.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

230 Identification material—person at least 18 years old

(1) A police officer may take identification material from a person who is at least 18 years old, not in police custody for an offence, and not in an impaired state, only if the person consents in writing.

(2) A police officer may take identification material from a person who is at least 18 years old, not in police custody for an offence, and in an impaired state, only if—

(a) a magistrate orders that the material be taken from the person; and

(b) the material is taken—

(i) with a parent or guardian, or the domestic partner, of the person present if—

(A) it is practicable for a parent or guardian, or the domestic partner, of the person to be present; and

(B) the person does not object to the parent, guardian or domestic partner being present; or

(ii) if it is not practicable for, or the person objects to, the parent, guardian or domestic partner of the person being present when the material is taken—with another person present (other than a police officer) who is capable of representing the interests of the person and who, as far as practicable in the circumstances, is acceptable to the person.

(3) A police officer may take identification material from a person who is at least 18 years old and in police custody for an offence only if—

(a) the officer is an officer of or above the rank of sergeant, or is the officer in charge of a police station at which the person is in custody; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) any of the following apply:

(i) if the person is not in an impaired state—the person consents, in writing, to the material being taken;

(ii) the material is limited to a print of the person's fingers or a photograph of the person (or both);

(iii) either—

(A) the officer believes on reasonable grounds that taking the material is necessary to identify the person, or identify the person as having committed the offence for which the person is in police custody; or

(B) the officer suspects on reasonable grounds that the person has committed another offence and that the material is likely to identify the person as having committed the other offence.

Note Words in the singular number include the plural (see Legislation Act, s 145 (b)).

(4) A police officer (the ***applicant***) may apply to a magistrate for an order allowing identification material to be taken from a person under subsection (2) if either of the following apply (the ***grounds for the application***):

(a) the applicant believes on reasonable grounds that taking the material is necessary to identify the person;

(b) the applicant suspects on reasonable grounds that taking the material is necessary to identify the person as having committed a stated offence.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(5) The application must be made—

(a) in person; or

(b) if it is not practicable for the applicant to make the application in person—by telephone, fax, email or any other means of communication.

(6) The application must—

(a) be in writing; and

(b) be sworn on oath; and

Note ***Oath*** includes affirmation and ***swear*** an oath includes make an affirmation (see Legislation Act, dict, pt 1).

(c) state—

(i) the name, age and home address of the person from whom identification material would be taken (if known); and

(ii) the material that would be taken; and

(iii) the facts in support of the application; and

(iv) the grounds for the application; and

(v) the nature of the person's impairment; and

(vi) any other information requested by the magistrate; and

(d) include any other information prescribed by regulation.

(7) A magistrate must not make an order allowing identification material to be taken from a person under this section unless the magistrate is satisfied that the information is reasonably necessary to identify the person, or identify the person as having committed the stated offence.

(8) A police officer may use force that is necessary and reasonable in the circumstances to take identification material from a person under this section.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(9) If a police officer is required to use force to take identification material from a person under this section (the ***forceful taking***), the police officer must ensure that the forceful taking is recorded by a video recording.

230A Identification material—person under 18 years old

(1) A police officer may take identification material from a person who is under 18 years old and not in police custody for an offence, or under 16 years old and in police custody for an offence, only if a magistrate orders that the material may be taken from the person.

(2) A police officer may take identification material from a person who is at least 16 years old but under 18 years old, and in police custody for an offence, only if—

(a) the officer is an officer of or above the rank of sergeant, or is the officer in charge of a police station at which the person is in custody; and

(b) the offence was allegedly committed by the person at a time when the person was at least 16 years old; and

(c) either—

(i) the officer believes on reasonable grounds that taking the material is necessary to identify the person, or identify the person as having committed the offence for which the person is in police custody; or

(ii) the officer suspects on reasonable grounds that the person has committed another offence and that the material is likely to identify the person as having committed the other offence; and

(d) either—

(i) the person is not in an impaired state; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(ii) if the person is in an impaired state—a magistrate orders that the material may be taken from the person.

(3) Before taking identification material from a person who is not in an impaired state, a police officer must tell the person—

(a) that the information is about to be taken from the person in accordance with this section; and

(b) if the material is being taken for the purpose of identifying the person—that the material is being taken to identify the person; and

(c) if the material is being taken for the purpose of identifying the person as having committed an offence—

(i) the offence allegedly committed by the person; and

(ii) that the identification material may be used in evidence in proceedings in relation to the offence; and

(d) if subsection (1) applies—whether a magistrate has ordered that the material may be taken.

(4) A police officer (the ***applicant***) may apply to a magistrate for an order allowing identification material to be taken from a person under 18 years old if any of the following apply (the ***grounds for the application***):

(a) if the person is in police custody—

(i) the applicant believes on reasonable grounds that taking the material is necessary to identify the person, or identify the person as having committed the offence for which the person is in police custody; or

(ii) the applicant suspects on reasonable grounds that the person has committed another offence and that the material is likely to identify the person as having committed the other offence;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) if the person is not in police custody—

(i) the applicant believes on reasonable grounds that taking the material is necessary to identify the person; or

(ii) the applicant suspects on reasonable grounds that taking the material is necessary to identify the person as having committed a stated offence.

(5) The application must be made—

(a) in person; or

(b) if it is not practicable for the applicant to make the application in person—by telephone, fax, email or any other means of communication.

(6) The application must—

(a) be in writing; and

(b) be sworn on oath; and

Note ***Oath*** includes affirmation and ***swear*** an oath includes make an affirmation (see Legislation Act, dict, pt 1).

(c) state—

(i) the name, age and home address of the person from whom identification material would be taken (if known); and

(ii) the material that would be taken; and

(iii) the facts in support of the application; and

(iv) the grounds for the application; and

(v) if the person is in an impaired state—the nature of the person's impairment; and

(vi) any other information requested by the magistrate; and

(d) include any other information prescribed by regulation.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(7) A magistrate must not make an order allowing identification material to be taken from a person under this section unless the magistrate is satisfied that the information is reasonably necessary to identify the person, or identify the person as having committed the offence for which the person is in custody, the other offence or the stated offence.

(8) Before giving an explanation mentioned in subsection (3) to a person, or taking identification material from a person in accordance with this section, a police officer involved with giving the explanation or taking the material must—

(a) allow someone with parental responsibility for the person to be present when the explanation is given or the material is taken if—

(i) it is practicable for a person with parental responsibility to be present; and

(ii) the person does not object to the person with parental responsibility being present; or

(b) if it is not practicable for, or the person objects to, someone with parental responsibility for the person being present when the explanation is given or the material is taken—

(i) allow an interview friend for the person to be present when the explanation is given or the material is taken; and

(ii) as soon as practicable after the explanation is given or the material is taken, take reasonable steps to tell someone with parental responsibility for the person about the action taken.

(9) A police officer may use force that is necessary and reasonable in the circumstances to take identification material from a person under this section.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(10) If a police officer is required to use force to take identification material from a person under this section (the ***forceful taking***), the police officer must ensure that the forceful taking is recorded by a video recording.

(11) In this section:

interview friend, for a person, means an adult chosen by, or acceptable to, the person, other than someone with parental responsibility for the person.

parental responsibility, for a person, means all the duties, powers, responsibilities and authority parents ordinarily have by law in relation to their children.

231 Destruction of identification material

(1) If—

(a) identification material is taken under section 230 or section 230A; and

(b) a period of 12 months has elapsed since the material was taken; and

(c) proceedings in respect of an offence to which the identification material relates have not been instituted or have been discontinued;

the material shall be destroyed as soon as practicable.

(2) If identification material has been taken from a person under section 230 or section 230A and—

(a) the person is found to have committed an offence to which the identification material relates, but no conviction is recorded; or

(b) the person is acquitted of such an offence and—

(i) no appeal is lodged against the acquittal; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(ii) an appeal is lodged against the acquittal and the acquittal is confirmed or the appeal is withdrawn;

the identification material shall be destroyed as soon as practicable, unless an investigation or proceedings in relation to another offence to which the identification material relates is pending.

(3) On application by a police officer, a magistrate may, if satisfied that there are special reasons for doing so in relation to particular identification material, extend—

(a) the period of 12 months referred to in subsection (1); or

(b) that period as previously extended under this subsection.

232 Offence—refusing to allow fingerprint or photo to be taken

(1) If a person is convicted of an offence, the judge or magistrate presiding at the proceedings where the person was convicted may order—

(a) the person to attend a police station; or

(b) that a police officer be permitted to attend on the person in a place of detention;

within 1 month after the conviction to allow impressions of the person's fingerprints or a photograph of the person to be taken in accordance with the order.

(2) A person shall not, without reasonable excuse, fail to allow impressions or a photograph to be taken under an order under subsection (1).

Maximum penalty: $10 000, imprisonment for 12 months or both.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

233 Identification parades—general

(1) This section applies to identification parades held in relation to offences.

(2) Subject to subsection (3) and to section 234, an identification parade—

(a) may be held if the suspect agrees; or

(b) shall be held if—

(i) the suspect has requested that an identification parade be held; and

(ii) it is reasonable in the circumstances to do so.

(3) An identification parade shall not be held unless the suspect has been informed that—

(a) he or she is entitled to refuse to take part in the parade; and

(b) if he or she refuses to take part in the parade without reasonable excuse, evidence of that refusal and of any identification of the suspect by a witness as a result of having seen a photograph or of having seen the suspect otherwise than during an identification parade may be given in any subsequent proceedings in relation to an offence; and

(c) in addition to any requirement under section 234, a legal representative or other person of the suspect's choice may be present while the person is deciding whether to take part in the parade, and during the holding of the parade, if arrangements for that person to be present can be made within a reasonable time.

(4) The giving of the information referred to in subsection (3) shall be recorded by a video recording or an audio recording.

(5) An identification parade shall be arranged and conducted in a way that will not unfairly prejudice the suspect.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(6) Without limiting the intent of subsection (5), an identification parade shall be arranged and conducted in accordance with the following rules:

(a) the parade shall consist of at least 9 persons;

(b) each of the persons who is not the suspect shall—

(i) resemble the suspect in age, height and general appearance; and

(ii) not have features that will be visible during the parade that are markedly different from those of the suspect as described by the witness before viewing the parade;

(c) unless it is impracticable for another police officer to arrange or conduct the parade, no police officer who has taken part in the investigation relating to the offence may take part in the arrangements for, or the conduct of, the parade;

(d) no person in the parade is to be dressed in a way that would obviously distinguish him or her from the other participants;

(e) if it is practicable to do so, numbers should be placed next to each participant to allow the witness to make an identification by indicating the number of the person identified;

(f) the parade may take place so that the witness can view the parade without being seen if the witness requests that it take place in that way and—

(i) a legal representative or other person of the suspect's choice is present with the witness; or

(ii) the parade is recorded by a video recording;

(g) nothing is to be done that suggests or is likely to suggest to a witness which member of the parade is the suspect;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(h) if the witness so requests—members of the parade may be required to speak, move or adopt a specified posture but, if this happens, the witness shall be reminded that the members of the parade have been chosen on the basis of physical appearance only;

(i) the suspect may select where he or she wishes to stand in the parade;

(j) if more than 1 witness is to view the parade—

(i) each witness shall view the parade alone; and

(ii) the witnesses are not to communicate with each other at a time after arrangements for the parade have commenced and before each of them has viewed the parade; and

(iii) the suspect may change places in the parade after each viewing;

(k) each witness shall be told that—

(i) the suspect may not be in the parade; and

(ii) if he or she is unable to identify the suspect with reasonable certainty he or she shall say so;

(l) the parade shall be recorded by a video recording if it is practicable to do so and, if that is done, a copy of the video recording shall be made available to the suspect or his or her legal representative as soon as it is practicable to do so;

(m) if the parade is not recorded by a video recording—

(i) the parade shall be photographed in colour; and

(ii) a print of a photograph of the parade that is at least 250mm x 200mm in size shall be made available to the suspect or his or her legal representative; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(iii) the police officer in charge of the parade shall take all reasonable steps to record everything said and done at the parade and shall make a copy of the record available to the suspect or his or her legal representative;

(n) the suspect may have present during the holding of the parade a legal representative or other person of his or her choice if arrangements for that person to be present can be made within a reasonable time.

(7) The following questions are to be decided according to the common law:

(a) whether or not evidence of a suspect having refused to take part in an identification parade is admissible;

(b) if evidence of the refusal is admissible—what inferences (if any) may be drawn by a court or jury from the refusal;

(c) whether, after such a refusal, evidence of alternative methods of identification is admissible.

(8) If a witness is, under the supervision of a police officer, to attempt to identify a suspect otherwise than during an identification parade, the police officer shall ensure that the attempted identification is done in a way that is fair to the suspect.

234 Identification parades for suspects under 18 etc

(1) An identification parade shall not be held for a suspect who is under 10.

(2) An identification parade must not be held for a suspect who is incapable of managing his or her affairs unless a court orders that it be held.

(3) An identification parade must not be held for a suspect who—

(a) is at least 10 but under 18; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) is capable of managing his or her affairs;

unless 1 of the following paragraphs applies:

(c) the suspect agrees to or requests in writing the holding of the parade and a parent or guardian of the suspect agrees in writing to the holding of the parade or, if the parent or guardian is not acceptable to the suspect, another person (other than a police officer) who is capable of representing the interests of the suspect and who, as far as is practicable in the circumstances, is acceptable to the suspect agrees in writing to the holding of the parade;

(d) if—

(i) 1 of those persons agrees in writing to the holding of the parade but the other does not; and

(ii) a court orders that the parade be held.

(4) In deciding whether to make an order under subsection (2) or (3), the court shall have regard to—

(a) the seriousness of the offence; and

(b) the age or any disability of the person; and

(c) any other matters as the court thinks fit.

(5) An identification parade for a suspect who is under 18 or who is incapable of managing his or her affairs shall be held in the presence of—

(a) a parent or guardian of the suspect; or

(b) if the parent or guardian is not acceptable to the suspect—another person (other than a police officer) who is capable of representing the interests of the suspect and who, as far as is practicable in the circumstances, is acceptable to the suspect.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

235 Identification by means of photographs

(1) If a suspect is in custody in respect of an offence or is otherwise available to take part in an identification parade, a police officer investigating the offence shall not show photographs, or composite pictures or pictures of a similar kind, to a witness for the purpose of establishing, or obtaining evidence of, the identity of the suspect unless—

(a) the suspect has refused to take part in an identification parade; or

(b) the holding of an identification parade would be—

(i) unfair to the suspect; or

(ii) unreasonable in the circumstances.

(2) If a police officer investigating an offence shows photographs or pictures to a witness for the purpose of establishing, or obtaining evidence of, the identity of a suspect, whether or not the suspect is in custody, the following rules apply:

(a) the police officer shall show to the witness photographs or pictures of at least 9 different persons;

(b) each photograph or picture of a person who is not the suspect shall be of a person who—

(i) resembles the suspect in age and general appearance; and

(ii) does not have features visible in the photograph or picture that are markedly different from those of the suspect as described by the witness before viewing the photographs or pictures;

(c) the police officer shall not, in doing so, act unfairly towards the suspect or suggest to the witness that a particular photograph or picture is the photograph or picture of the suspect or of a person who is being sought by the police in respect of an offence;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(d) if practicable, the photograph or picture of the suspect shall have been taken or made after he or she was arrested or was considered as a suspect;

(e) the witness shall be told that a photograph or picture of the suspect may not be amongst those being seen by the witness;

(f) the police officer shall keep, or cause to be kept, a record identifying each photograph or picture that is shown to the witness;

(g) the police officer shall notify the suspect or his or her legal representative in writing that a copy of the record is available for the suspect;

(h) the police officer shall retain the photographs or pictures shown, and shall allow the suspect or his or her legal representative, on application, an opportunity to inspect the photographs or pictures.

(3) If—

(a) a photograph or picture of a person who is suspected in relation to the commission of an offence is shown to a witness; and

(b) the photograph was taken or the picture made after the suspect was arrested or was considered to be a suspect; and

(c) proceedings in relation to the offence referred to in paragraph (a) or another offence arising out of the same course of conduct for which the photograph was taken or picture made are brought against the suspect before a jury; and

(d) the photograph or picture is admitted into evidence;

the jury shall be informed that the photograph was taken or the picture made after the suspect was arrested or was considered as a suspect.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(4) If a suspect is in custody in respect of an offence, a police officer investigating the offence shall not show a composite picture or a picture of a similar kind to a witness for the purpose of assisting the witness to describe the features of the suspect.

(5) If, after a police officer investigating an offence has shown to a witness a composite picture or a picture of a similar kind for the purpose referred to in subsection (4)—

(a) a suspect comes into custody in respect of the offence; and

(b) an identification parade is to be held in relation to the suspect;

the police officer in charge of the investigation of the offence may, unless doing so would be unfair to the suspect or be unreasonable in the circumstances, request the witness to attend the identification parade and make the necessary arrangements for the witness to attend.

(6) If, after the witness has been shown a composite picture or a picture of a similar kind for the purpose referred to in subsection (4), a person is charged with the offence, the police officer in charge of investigating the offence shall, on application by that person or his or her legal representative, provide him or her with particulars of any such picture shown to the witness and the comments (if any) of the witness about the picture.

(7) If a suspect is in custody in respect of an offence and a police officer investigating the offence wishes to investigate the possibility that a person other than the suspect committed the offence, subsection (4) does not prevent a police officer from taking action referred to in that subsection for the purpose of assisting a witness to describe the features of a person other than the suspect.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

236 Identification procedures if more than 1 suspect

A police officer shall undertake a separate identification process for each of 2 or more suspects if—

(a) the officer is attempting to ascertain—

(i) which of the suspects committed an offence; or

(ii) if the suspects may have been jointly involved in the offence—the identities of the suspects; and

(b) for that purpose, the officer intends to conduct an identification parade or to identify a person by showing a photograph or a picture of a suspect to a person.

237 Descriptions

(1) If a description of a suspect is given to a police officer in relation to an offence, the police officer shall ensure that a record of the description is made and that the record is retained until any proceedings in respect of the offence are completed.

(2) Subject to subsection (4), a police officer shall, if requested to do so by a person who has been charged with an offence, provide the person with the name of every person who, to the knowledge of the police officer, claims to have seen, at or about the time of the commission of the offence, a person who is suspected of being involved in its commission.

(3) If—

(a) a record of a description of a person is made under subsection (1); and

(b) the person is charged with an offence to which the description relates;

a police officer must notify the person or his or her legal representative in writing that a copy of the record, and of any other record of a description that the police officer knows about of a person

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

who is suspected of being involved in the commission of the offence, is available for the person.

(4) If the police officer suspects on reasonable grounds that providing the name of a person under subsection (2) could—

(a) place the person in danger; or

(b) expose the person to harassment or unreasonable interference;

the police officer is not required to provide the name of the person.

238 Examination

(1) In this section:

examination means an examination of the body of the person charged and includes the taking of samples of the person's blood, saliva or hair.

(2) An examination of a person under this section may be conducted if—

(a) the person consents; or

(b) an order is made under subsection (3).

(3) If a person (the ***person charged***) is in lawful custody on a charge of committing an offence and a magistrate is satisfied, on the balance of probabilities, that the offence—

(a) is of such a nature; and

(b) has been committed under such circumstances;

that there are reasonable grounds for believing that an examination of the person charged will afford evidence as to the commission of the offence, the magistrate may order an examination of the person.

(4) If the person charged is not present at the time that the order is made, a copy of the order shall be given to the person.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(5) If an order is made under subsection (3) or a person charged consents to an examination, a police officer may request a medical practitioner to carry out the examination and, if the medical practitioner agrees to carry it out, shall give the medical practitioner a copy of the order.

(6) A medical practitioner carrying out an examination may be assisted by 1 or more persons acting under the direction of the medical practitioner.

(7) An examination of the person charged—

(a) shall be carried out in circumstances affording reasonable privacy to the person; and

(b) for an examination which includes the external examination of the genital or anal area, the buttocks, or, for a female, the breasts—shall not be carried out in the presence or in view of a person of the opposite sex to the person being examined; and

(c) shall not be carried out in the presence or view of a person whose presence is not necessary for the purposes of the examination; and

(d) shall not involve the removal of more clothing than is necessary for carrying out the examination; and

(e) shall not involve more visual inspection than is necessary for carrying out the examination.

(8) Subsection (7) does not prevent an examination being carried out by a medical practitioner of the opposite sex to the person being examined.

(9) A medical practitioner carrying out an examination under this section, an assistant of the medical practitioner or a police officer, may use reasonable force to enable the examination to be carried out including the prevention of loss, destruction or contamination of a sample.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(10) Samples taken from a person charged with an offence shall be destroyed as soon as practicable after the conclusion of the proceedings relating to the offence and the exhaustion of any right of appeal.

(11) No action or proceeding, civil or criminal, lies against—

(a) a person who conducts, or assists in conducting, an examination under this section (including such a person who uses reasonable force as provided in subsection (9)); or

(b) a police officer who uses reasonable force as provided in that subsection.

(12) This section does not apply to a person to whom the *Children and Young People Act 1999*, section 84 (Identifying material) applies.

Division 10.6 General

239 Assisting officers—search and arrest of persons

An assisting officer who is not a police officer is not authorised by this part to assist in searching or arresting a person.

240 Conduct of ordinary searches and frisk searches

An ordinary search or a frisk search of a person under this part shall, if practicable, be conducted by a person of the same sex as the person being searched.

241 Announcement before entry

(1) Subject to subsection (3), a police officer shall, before any person enters premises under a warrant, for the purpose of executing an order mentioned in section 192 (1) or to arrest a person—

(a) announce that he or she is authorised to enter the premises; and

(b) give any person at the premises an opportunity to allow entry to the premises.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) A police officer is not required to comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the premises is required to ensure—

(a) the safety of a person (including a police officer); or

(b) that the effective execution of the warrant, order or arrest is not frustrated.

(3) This section does not apply to an entry made under section 190.

242 Offence of making false statements in warrants

A person shall not make, in an application for a warrant, a statement that the person knows to be false or misleading in a material particular.

Maximum penalty: imprisonment for 2 years.

243 Offences relating to telephone warrants

A person shall not—

(a) state in a document that purports to be a form of warrant under section 205 the name of an issuing officer unless that officer issued the warrant; or

(b) state on a form of warrant under that section a matter that, to the person's knowledge, departs in a material particular from the form authorised by the issuing officer; or

(c) purport to execute, or present to a person, a document that purports to be a form of warrant under that section that the person knows—

(i) has not been approved by an issuing officer under that section; or

(ii) to depart in a material particular from the terms authorised by an issuing officer under that section; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(d) give to an issuing officer a form of warrant under that section that is not the form of warrant that the person purported to execute.

Maximum penalty: imprisonment for 2 years.

244 Return of seized knife or thing

(1) If a knife is seized under section 193, the person from whom it was seized or, if that person is under 16 years of age, his or her parent or guardian is entitled to have the knife returned if—

(a) a prosecution for an offence against section 382 in respect of that knife has not been commenced before the end of 60 days after the seizure; or

(b) a prosecution for an offence against section 382 in respect of that knife has been commenced before the end of 60 days after the seizure and the prosecution (and any appeal to a court in relation to that prosecution) has been completed without the knife having been forfeited under section 248.

(2) Subject to any contrary order of a court, if a police officer seizes a thing under division 10.2, 10.3 or 10.4, the police officer shall return it if—

(a) the reason for its seizure no longer exists or it is decided that it is not to be used in evidence; or

(b) if the thing was seized under section 207 (Stopping, searching and detaining people) or section 209 (Stopping, searching and detaining conveyances)—

(i) the reason for its seizure no longer exists or it is decided that it is not to be used in evidence; or

(ii) the period of 60 days after its seizure ends;

whichever first occurs;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

unless the thing is forfeited or forfeitable to the Territory or is the subject of a dispute as to ownership.

(3) If a thing is seized under section 207 (Stopping, searching and detaining people) or section 209 (Stopping, searching and detaining conveyances), at the end of the 60 days specified in subsection (1) the police officer shall take reasonable steps to return the thing to the person from whom it was seized or to the owner if that person is not entitled to possess it unless—

(a) proceedings in respect of which the thing may afford evidence were instituted before the end of the 60 days and have not been completed (including an appeal to a court in relation to those proceedings); or

(b) the police officer may retain the thing because of an order under section 245; or

(c) the police officer is otherwise authorised (by a law, or an order of a court, of the Commonwealth or of the Territory) to retain, destroy or dispose of the thing.

245 Magistrates Court may permit thing to be retained

(1) If a thing is seized under section 207 (Stopping, searching and detaining people) or section 209 (Stopping, searching and detaining conveyances), and—

(a) before the end of 60 days after the seizure; or

(b) before the end of a period previously specified in an order of a court under this section;

proceedings in respect of which the thing may afford evidence have not commenced, the police officer may apply to the Magistrates Court for an order that he or she may retain the thing for a further period.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) If the court is satisfied that it is necessary for the police officer to continue to retain the thing—

(a) for the purposes of an investigation as to whether an offence has been committed; or

(b) to enable evidence of an offence to be secured for the purposes of a prosecution;

the court may order that the police officer may retain the thing for a period specified in the order.

(3) Before making the application, the police officer shall—

(a) take reasonable steps to discover who has an interest in the retention of the thing; and

(b) if it is practicable to do so, notify each person who the police officer believes to have such an interest of the proposed application.

247 Laws relating to taking forensic samples not affected

Nothing in this part is intended to limit or exclude the operation of a territory law relating to the taking of forensic samples (excluding identification material).

248 Forfeiture of knife

(1) A knife seized under section 193 (Power to conduct search of person for knife) is forfeited to the Territory if the person from whom the knife was seized is convicted or found guilty of an offence against section 382 (Possession of knife in public place or school) in relation to the knife.

(2) If there are reasonable grounds for believing that the person who was in possession of a knife forfeited under subsection (1) was the owner of the knife, it may be destroyed or disposed of in the way the commissioner of police directs.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) If there are reasonable grounds for believing that the person who was in possession of a knife forfeited under subsection (1) was not the owner of the knife, it may be destroyed or disposed of in the way the commissioner of police directs if—

(a) 6 months have elapsed since the person was found guilty of an offence against section 382 in relation to the knife; and

(b) reasonable attempts have been made to ascertain the whereabouts of the owner of the knife.

249 Seizure of forfeited articles

(1) A member of the police force may, without warrant, seize any article that is forfeited, or that he or she has reasonable grounds for believing is forfeited, under any law in force in the ACT and take that article before the Magistrates Court.

(2) If any article is brought before the court under subsection (1), the court may, subject to the giving of the notice (if any) to the person (if any) that the court directs, order that the article be condemned or delivered to the person that the court is satisfied is entitled to the article.

(3) If a prosecution is pending in relation to an article, the court shall not make an order under subsection (2) in relation to the article until the prosecution is determined.

(4) All articles condemned under subsection (2) as forfeited shall be transferred to the public trustee and guardian to be dealt with under section 250.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

250 Disposal of forfeited articles by public trustee

(1) The public trustee and guardian must sell or otherwise dispose of an article transferred to the public trustee and guardian under section 249 (4).

(2) The public trustee and guardian must—

(a) apply the proceeds of the sale or disposition in payment of the public trustee and guardian's remuneration, and other costs, charges and expenses, in relation to the sale or disposition; and

(b) pay the remainder of the proceeds to the confiscated assets trust fund under the *Confiscation of Criminal Assets Act 2003*.

(3) However, the Minister may, in a particular case, direct that the article be dealt with in accordance with the direction (including in accordance with a law stated in the direction).

(4) The public trustee and guardian must comply with the Minister's direction.

(5) The regulations may make provision in relation to public trustee and guardian's remuneration, and other costs, charges and expenses, under subsection (2) (a).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

252 When case not to be proceeded with gaoler to discharge prisoner on certificate from Attorney-General etc

The Attorney-General may, in respect of any person under committal for trial, and in all cases if any person is remanded to prison, and if he or she may in his or her discretion think fit not further to proceed, transmit at any time a certificate to the judges of the Supreme Court, any one of whom may by warrant direct the gaoler in whose custody the prisoner, or person under remand, may be to discharge him or her from custody in respect of the offence mentioned in the warrant, and, if the gaoler neglects so to do, he or she shall be liable to a fine of $100, to be recovered by action of debt in the name of the Attorney-General.

Note 1 If a form is approved under s 443 for a certificate, the form must be used.

Note 2 If a form is approved under the *Court Procedures Act 2004* for a warrant, the form must be used.

Division 10.7 Particular provisions for children

Subdivision 10.7.1 Arrest of children under 10 years old

252A Warrant for arrest of child under 10 years old

(1) An issuing officer may issue a warrant for the arrest of a child under 10 years old only if the issuing officer believes on reasonable grounds that the child has carried out, or is carrying out, conduct that—

(a) makes up the physical elements of an offence; or

(b) poses a risk to community safety or the child.

(2) However, the issuing officer must not issue a warrant unless a police officer has given the issuing officer an affidavit setting out—

(a) the reasons why the warrant is sought; and

(b) any evidence the police officer believes supports the warrant's issue.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) If the issuing officer issues a warrant, the issuing officer must write on the warrant which of the reasons stated in the affidavit, and any other reasons, the officer has relied on as justifying the issue of the warrant.

252B Arrest of child under 10 years old—without warrant

(1) A police officer may, without a warrant, arrest a child under 10 years old if the police officer believes on reasonable grounds—

(a) that—

(i) conduct that makes up the physical elements of an offence or a breach of the peace is being or is likely to be carried out by the child; or

(ii) a person has suffered physical injury because of the child's conduct; or

(iii) there is imminent danger of injury to a person or serious damage to property because of the child's conduct; and

(b) that it is necessary to arrest the child immediately—

(i) to prevent the conduct or a repetition of the conduct; or

(ii) to protect life or property.

(2) If the police officer believes on reasonable grounds that the child is on premises, the police officer may, with reasonable and necessary force, enter the premises to arrest the child.

252C Police action after arresting child under 10 years old

(1) If a police officer arrests a child under 10 years old (whether under a warrant or under section 252B), the police officer must—

(a) do the minimum necessary to prevent or stop the conduct for which the warrant was issued or the arrest was made; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) take the child to—

(i) a parent of the child; or

(ii) someone else who has daily care responsibility, or long-term care responsibility, for the child; or

(iii) if it is not practicable or appropriate to take the child to someone mentioned in subparagraph (i) or (ii)—another appropriate person or agency.

(2) Before deciding whether another person or agency is appropriate, the police officer must consult with the director-general responsible for the *Children and Young People Act 2008*.

Subdivision 10.7.2 Preliminary procedures in relation to children and young people

252D Definitions—subdiv 10.7.2

In this subdivision:

child—see the *Children and Young People Act 2008*, section 11.

committed an offence, for a child or young person, includes committed an offence with someone else or other people.

under restraint—see section 252E.

young person—see the *Children and Young People Act 2008*, section 12.

252E Meaning of *under restraint*

For this subdivision, a child or young person is ***under restraint*** if—

(a) the child or young person is under restraint as a result of having been lawfully arrested or detained; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) the child or young person is under restraint in relation to an offence and a police officer suspects on reasonable grounds that—

(i) the child or young person committed the offence; or

(ii) the police officer would be authorised under a law in force in the Territory to arrest the child or young person for the offence; or

(c) the child or young person is in the company of a police officer in connection with the investigation of an offence or possible offence.

252F Meaning of *in the company of a police officer*

(1) For section 252E (c), a child or young person is ***in the company of a police officer*** in connection with the investigation of an offence or possible offence if—

(a) the police officer would not allow the child or young person to leave if the child or young person wished to do so; or

(b) the child or young person is waiting at a place at the request of a police officer in connection with the investigation of the offence or possible offence.

(2) For subsection (1), it does not matter whether or not—

(a) the police officer believes on reasonable grounds that the child or young person has committed the offence; or

(b) the child or young person is in lawful custody in relation to the offence.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) However for section 252E (c), a child or young person is not in the company of a police officer in connection with the investigation of an offence or possible offence—

(a) if—

(i) the child or young person is with a police officer by a roadside (whether or not the child or young person is in a motor vehicle); and

(ii) the police officer is investigating an offence or possible offence, other than an indictable offence or possible indictable offence, arising out of the use of a motor vehicle; or

(b) if the child or young person is with a police officer for a drug screening test, or breath or oral fluid analysis, under the *Road Transport (Alcohol and Drugs) Act 1977*; or

(c) for a person aged 16 years old or older, but not yet an adult—if—

(i) the person is with a police officer in relation to the investigation of an infringement notice offence or possible infringement notice offence; and

(ii) the police officer either intends to serve an infringement notice for the offence on the person, or intends to take no action against the person for the offence.

(4) In this section:

infringement notice—see the *Magistrates Court Act 1930*, section 117.

infringement notice offence—see the *Magistrates Court Act 1930*, section 117.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

252G Interviewing children and young people about offences

(1) This section applies if a police officer—

(a) suspects on reasonable grounds that a child or young person may have committed, or be implicated in the commission of, an offence; or

(b) is holding a child or young person under restraint.

(2) A police officer must not interview the child or young person about an offence, or cause the child or young person to do anything in relation to the investigation of an offence, unless—

(a) one of the following people (who is an adult and who the police officer does not believe on reasonable grounds to be an accomplice of the child or young person in relation to the offence) is present:

(i) a parent of the child or young person;

(ii) someone else who has daily care responsibility, or long-term care responsibility, for the child or young person;

(iii) a family member of the child or young person who is acceptable to the child or young person;

(iv) a lawyer acting for the child or young person;

(v) another suitable person who is acceptable to the child or young person; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) if the police officer has taken reasonable steps to have a person mentioned in paragraph (a) present but it was not practicable for such a person to be present within 2 hours after being asked to be present—someone else who is not a police officer and has not been involved with the investigation of the offence.

Example—suitable person—par (a) (v)

a person trained by the public advocate to attend interviews of children and young people

(3) In this section:

accomplice, in relation to an offence, includes a person who a police officer believes on reasonable grounds to be likely to secrete, lose, destroy or fabricate evidence relating to the offence.

family member—see the *Family Violence Act 2016*, section 9.

252H Interviewing children and young people about offences—urgent circumstances

A police officer may interview a child or young person if—

(a) the police officer—

(i) suspects on reasonable grounds that the child or young person may have committed, or be implicated in the commission of, an offence; or

(ii) is holding the child or young person under restraint; and

(b) the police officer believes on reasonable grounds that it is necessary to interview the child or young person without delay to avoid—

(i) a risk of death or serious injury of a person; or

(ii) serious damage to property.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

252I Parents etc to be told if children and young people under restraint

(1) If a police officer takes a child or young person under restraint, the police officer must promptly take all reasonable steps to tell a responsible person about the restraint (whether or not the person lives in the ACT).

(2) In this section:

responsible person means—

(a) a parent of the child or young person; or

(b) if no parent of the child or young person has parental responsibility for the child or young person—someone else who has daily care responsibility, or long-term care responsibility, for the child or young person.

252J Police to summons children and young people unless ineffective

A police officer must not charge a child or young person with an offence at a police station unless satisfied that proceeding by summons would not achieve 1 or more of the purposes mentioned in section 212 (1) (b) (Power of arrest without warrant by police officers).

252K Parents etc to be told if children and young people charged

(1) If a child or young person is charged with an offence at a police station, the person who charged the child or young person must promptly take all reasonable steps to tell 1 of the following people the relevant information in relation to the charge (whether or not the person lives in the ACT):

(a) a parent of the child or young person;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) if no parent of the child or young person has parental responsibility for the child or young person—someone else who has daily care responsibility, or long-term care responsibility, for the child or young person.

(2) In this section:

relevant information, for a charge, means—

(a) the terms of the charge; and

(b) where the child or young person is; and

(c) when the child or young person will be brought before the Childrens Court.

Division 10.8 Investigations relating to acquittals

252L Authorisation of police investigations—acquitted person

(1) This section applies to a proposed police investigation of an offence for which, under the *Supreme Court Act 1933*, part 8AA, an acquitted person may be retried or tried.

Note The *Supreme Court Act 1933*, pt 8AA, allows the Supreme Court to order the retrial of a person acquitted of an offence, or the trial of the person for another offence, despite the rule against double jeopardy.

(2) The chief police officer, or a deputy chief police officer, may apply to the director of public prosecutions for the director's agreement to the police investigation only if satisfied that relevant evidence for an application for a retrial or trial under the *Supreme Court Act 1933*, part 8AA—

(a) has been obtained; or

(b) is reasonably likely to be obtained if the investigation is carried out.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) A police officer may carry out, or authorise another police officer to carry out, an investigation of the offence only if the director of public prosecutions—

(a) has advised that, in the director's opinion, the acquitted person's acquittal would not be a bar to the retrial of the acquitted person in the ACT for the offence or the trial of the acquitted person for another offence; and

(b) agrees, by written notice, to the conduct of the investigation.

(4) The director of public prosecutions may agree to the investigation only if satisfied that—

(a) there is, or there is likely as a result of the investigation to be, sufficient new evidence to warrant the conduct of the investigation; and

(b) it is in the public interest for the investigation to be carried out.

(5) However, a police officer may carry out, or authorise the carrying out of, a police investigation to which this section applies, without the advice and written agreement of the director of public prosecutions if the police officer reasonably believes that—

(a) urgent investigative action is needed to prevent substantial and irrevocable prejudice to the investigation; and

(b) it is not reasonably practicable in the circumstances to obtain the advice and agreement of the director of public prosecutions before taking the action.

(6) The chief police officer, or a deputy chief police officer, must tell the director of public prosecutions, in writing, as soon as practicable, about action taken under subsection (5) and the investigation must not proceed further without the advice and written agreement of the director of public prosecutions.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(7) Despite any other territory law, the functions of the chief police officer or a deputy chief police officer under this section must not be delegated to any other police officer or an AFP employee.

(8) In this section:

AFP employee—see the *Australian Federal Police Act 1979* (Cwlth), section 4.

police investigation means an investigation that involves, whether with or without the consent of the acquitted person—

(a) any arrest, questioning or search of the acquitted person; or

(b) the issue of a warrant for the arrest of the person; or

(c) any forensic procedure carried out on the person; or

(d) any search or seizure of premises or property of or occupied by the person.

Division 10.9 Fortification of premises

252M Definitions—div 10.9

In this division:

compliance period means the period under section 252Q for compliance with a fortification removal order.

fortification, of premises, means a structure, device or other thing, or a combination of structures, devices or other things, that form part of, or are attached to, the premises if the thing or combination of things—

(a) exceeds what is reasonably necessary to provide security for the ordinary lawful use of the premises; and

(b) either—

(i) prevents uninvited entry to the premises or part of the premises; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(ii) would be considered by a reasonable person to be intended or designed to prevent uninvited entry to the premises or part of the premises.

Examples—devices

- closed-circuit television equipment
- electronic surveillance device
- motion sensor
- night-vision camera

fortification inspection order—see section 252U.

fortification offence—

(a) means an offence punishable by imprisonment for 5 years or longer; and

(b) includes an offence in another jurisdiction that would be punishable by imprisonment for 5 years or longer if committed in the ACT.

fortification removal order—see section 252N.

occupier, of premises, includes—

(a) a person believed on reasonable grounds to be an occupier of the premises; and

(b) a person apparently in charge of the premises.

252N Fortification removal order—application for order or variation

(1) The chief police officer may apply to the Magistrates Court for an order directing an occupier of premises to remove a fortification of the premises (a ***fortification removal order***).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) If a fortification removal order is already in effect for premises—

(a) the chief police officer may make an application to vary the fortification removal order to direct the occupier of the premises to—

(i) remove a fortification of the premises in a different way or within a different compliance period; or

(ii) remove a different fortification of the premises; and

(b) the occupier of the premises may make an application to vary the fortification removal order to—

(i) describe the fortification in a different way; or

(ii) direct the occupier of the premises to remove a fortification of the premises in a different way.

(3) An application must—

(a) be in writing; and

(b) be supported by evidence by affidavit dealing with the matters mentioned in—

(i) for a fortification removal order—section 252O (1); or

(ii) for variation of a fortification removal order—section 252O (2).

252O Fortification removal order

(1) On application under section 252N (1), the Magistrates Court may make a fortification removal order in relation to premises if satisfied that—

(a) the premises are fortified; and

(b) there are reasonable grounds to believe the premises are, have been or will be used in relation to a fortification offence; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) it is necessary for the chief police officer to have uninvited access to the premises in relation to the offence.

(2) On application under section 252N (2), the Magistrates Court may vary a fortification removal order if satisfied that the variation sought is necessary or otherwise appropriate.

(3) A fortification removal order, including an order as varied, must—

(a) identify the premises; and

(b) describe the fortification; and

(c) set out whether the fortification is to be removed by 1 or both of the following:

(i) removing a structure or device that forms all or part of the fortification;

(ii) modifying a structure or device that forms all or part of the fortification; and

(d) state the compliance period for removal of the fortification; and

(e) state that the fortification must not be replaced or restored; and

(f) set out the powers of the police to—

(i) inspect a fortification under section 252R; and

(ii) remove a fortification under section 252S.

252P Fortification removal order—length

(1) A fortification removal order in relation to premises takes effect on—

(a) if the occupier of the premises is before the Magistrates Court when the order is made—the day the order is made; or

(b) if the occupier of the premises is not before the Magistrates Court when the order is made—the day the order is served on the occupier.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) A fortification removal order remains in force for 12 months.

(3) However, if the chief police officer gives the Magistrates Court written notice that the fortification removal order is no longer required, the fortification removal order ceases to have effect.

252Q Fortification removal order—compliance period

An occupier must comply with a fortification removal order—

(a) within 3 months after the day the order takes effect; or

(b) if the order states another day—by the stated day.

252R Fortification removal order—inspection

(1) This section applies if—

(a) the compliance period for a fortification removal order has ended; and

(b) the fortification removal order is still in force; and

(c) the chief police officer believes on reasonable grounds—

(i) the fortification has not been removed in accordance with the order; or

(ii) a fortification that has been removed in accordance with the order has been restored or replaced.

(2) A police officer may, at any time and without a warrant, enter the premises to inspect the premises for compliance with the fortification removal order.

252S Fortification removal order—removal by police

(1) This section applies if—

(a) the compliance period for a fortification removal order has ended; and

(b) the fortification removal order is still in force; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) the chief police officer believes on reasonable grounds that the fortification has not been removed in accordance with the fortification removal order.

(2) A police officer may, at any time and without a warrant, enter the premises for the purpose of—

(a) removing the fortification in accordance with the fortification removal order; or

(b) doing something reasonably necessary to remove the fortification in accordance with the fortification removal order.

Examples—par (b)

1 bringing equipment that will be used for carrying out fortification removal to the premises

2 escorting a person who has been engaged to assist with fortification removal to the premises

(3) The Territory may recover from the person required to remove the fortification under the fortification removal order any costs reasonably incurred by the Territory for removing the fortification.

Note An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

252T Fortification inspection order—application for order or variation

(1) This section applies if a fortification removal order in relation to premises has ended within the previous 3 years.

(2) The chief police officer may apply to the Magistrates Court for an order to inspect the premises (a ***fortification inspection order***).

(3) If a fortification inspection order is already in effect for premises, the chief police officer or the occupier of the premises may make an application to vary the length of the order.

(4) An application must be—

(a) in writing; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) supported by evidence by affidavit dealing with the matters mentioned in section 252U.

252U Fortification inspection order

(1) On application, the Magistrates Court may make a fortification inspection order if satisfied that—

(a) a fortification removal order was in effect for the premises within the previous 3 years; and

(b) the chief police officer has reasonable grounds to believe the premises are fortified.

(2) A fortification inspection order must—

(a) identify the premises; and

(b) set out the powers of the police to inspect a fortification under section 252W.

252V Fortification inspection order—length

(1) A fortification inspection order in relation to premises takes effect on—

(a) if the occupier of the premises is before the Magistrates Court when the order is made—the day the order is made; or

(b) if the occupier of the premises is not before the Magistrates Court when the order is made—the day the order is served on the occupier.

(2) A fortification inspection order remains in force until the earlier of the following:

(a) the day stated in the order;

(b) the day 3 years after the day the fortification removal order in relation to the premises ended.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) However, if the chief police officer gives the Magistrates Court written notice that the fortification inspection order is no longer required the fortification inspection order ceases to have effect.

252W Fortification inspection order—inspection

(1) If a fortification inspection order in relation to premises is in force, a police officer may, at any time and without a warrant, enter the premises to inspect the premises to assess whether the premises are fortified.

Note If a law gives a function to an entity (including a person), the function may be exercised from time to time (see Legislation Act, s 196 and dict, pt 1, def ***entity***).

(2) However, the police officer must not enter the premises unless the chief police officer has reasonable grounds to believe the premises are fortified.

252X Exercising powers—announce entry and explain purpose

(1) Before anyone enters premises under an order under this division, a police officer must—

(a) announce that the police officer is authorised to enter the premises; and

(b) give anyone at the premises the opportunity to allow entry to the premises; and

(c) if the occupier of the premises, or someone else who apparently represents the occupier, is present at the premises—identify themself to the person.

(2) If the occupier of the premises, or someone who apparently represents the occupier, is present at the premises while a police officer is on the premises under an order, the police officer must—

(a) tell the person the purpose of the entry; and

(b) make available to the person a copy of the order.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

252Y Exercising powers—occupier entitled to be present during inspection

(1) If the occupier of premises, or someone else who apparently represents the occupier, is present at the premises while an inspection is conducted, the person is entitled to observe the inspection being conducted.

(2) However, the person is not entitled to observe the inspection if—

(a) to do so would impede the inspection; or

(b) the person is under arrest, and allowing the person to observe the inspection being conducted would interfere with the objectives of the inspection.

252Z Exercising powers—use reasonable force

If a police officer believes that a person who is present at the premises is hindering or obstructing the officer from entering the premises or removing the fortification, the officer may—

(a) give a reasonable direction that the person must leave the premises; and

(b) if the person refuses to leave the premises in accordance with the direction—use reasonable force to remove the person from the premises; and

(c) do anything that is reasonably necessary to enter the premises and remove the fortification.

Note It is an offence to obstruct a territory public official, including a police officer or a contractor performing work for the Territory (see Criminal Code, s 361).

252ZA Premises must not be fortified

A person commits an offence if—

(a) the person fortifies premises; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) the person—

(i) knows the premises are, have been or will be used in relation to a fortification offence; or

(ii) is reckless about whether the premises are, have been or will be used in relation to a fortification offence; and

(c) the person intends that the fortification will prevent the uninvited entry to the premises or part of the premises.

Examples—par (b)

1 a fortification offence has been carried out on the premises

2 evidence of a fortification offence is being concealed on the premises

3 proceeds of a fortification offence are likely to be kept on the premises

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

252ZB Fortification must not be replaced or restored

A person commits an offence if—

(a) the person fortifies premises; and

(b) the premises have previously been the subject of a fortification removal order; and

(c) the person—

(i) knows the premises have previously been the subject of a fortification removal order; or

(ii) is reckless about whether the premises have previously been the subject of a fortification removal order; and

(d) the person—

(i) knows the premises are, have been or will be used in relation to a fortification offence; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(ii) is reckless about whether the premises are, have been or will be used in relation to a fortification offence; and

(e) the person intends that the fortification will prevent the uninvited entry to the premises or part of the premises.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

252ZC Protection from liability

(1) A protected person is not civilly liable for conduct engaged in honestly and without recklessness—

(a) in the exercise of a function under this division; or

(b) in the reasonable belief that the conduct was in the exercise of a function under this division.

(2) Any civil liability that would, apart from this section, attach to the protected person attaches instead to the Territory.

(3) In this section:

conduct means an act or omission to do an act.

protected person means—

(a) a police officer or other official exercising a function under this division; or

(b) a person accompanying a police officer exercising a function under this division.

252ZD Chief police officer delegations

The chief police officer may delegate any of the chief police officer's functions under this division to a police officer at or above the level of superintendent.

Note For the making of delegations and the exercise of delegated functions, see the Legislation Act, pt 19.4.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 11 Investigation of extraterritorial offences

253 Interpretation for pt 11

(1) In this part:

appropriate authority, in relation to a State or another Territory, means an authority exercising in relation to the police force of that State or Territory functions corresponding to those of the commissioner of police in relation to the Australian Federal Police.

corresponding law means a law of a State or another Territory declared under section 254 to be a corresponding law.

night means the period commencing at 7 pm in each evening and ending at 7 am in the following morning.

offence to which this Act applies means an offence punishable by imprisonment for longer than 12 months against the law of a reciprocating State (being an offence arising from an act, omission or state of affairs that, if done or occurring in the ACT would attract criminal liability under the law of the ACT).

owner, in relation to an object, includes a person entitled to possession of the object.

premises means a building, structure or place (whether or not built on and whether enclosed or unenclosed), and includes an aircraft, vessel or vehicle.

reciprocating State means a State or another Territory—

(a) where a corresponding law is in force; and

(b) in relation to which arrangements are in force under section 258.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

search warrant means a warrant under this part authorising a search of premises.

telephone includes any telecommunication device.

(2) For this part—

(a) anything obtained by the commission of an offence, used for the purpose of committing an offence, or in respect of which an offence has been committed; or

(b) anything that may afford evidence of the commission of an offence; or

(c) anything intended to be used for the purpose of committing an offence;

is an object relevant to the investigation of the offence.

254 Declaration of corresponding law

(1) The Executive may declare a law of a State or another Territory to be a corresponding law.

(2) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

255 Issue of search warrants

(1) If, on the application of a police officer, a magistrate is satisfied that there are reasonable grounds to believe—

(a) that an offence to which this Act applies has been, or is intended to be, committed; and

(b) that there is in any premises an object relevant to the investigation of that offence;

the magistrate may issue a search warrant in respect of those premises.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) An application for the issue of a search warrant may be made either personally or by telephone.

(3) The grounds of an application for a search warrant shall be verified by affidavit.

(4) An application for the issue of a search warrant shall not be made by telephone unless in the opinion of the applicant a search warrant is urgently required and there is insufficient time to make the application personally.

(5) If an application for the issue of a search warrant is made by telephone—

(a) the applicant shall inform the magistrate of his or her name and of his or her rank and number in the police force, and the magistrate, on receiving that information, is entitled to assume, without further inquiry, that the applicant is a police officer; and

(b) the applicant shall inform the magistrate of the grounds on which he or she seeks the issue of the search warrant; and

(c) if it appears to the magistrate from the information given by the applicant that there are proper grounds for the issue of a search warrant—he or she shall inform the applicant of the facts on which he or she relies as grounds for the issue of the warrant, and shall not proceed to issue the warrant unless the applicant undertakes to make an affidavit verifying those facts; and

(d) if the applicant gives the undertaking—the magistrate may then make out, and sign, a search warrant, noting on the warrant the facts on which he or she relies as grounds for the issue of the warrant; and

(e) the search warrant shall be deemed to have been issued, and shall come into force, when signed by the magistrate; and

(f) the magistrate shall inform the applicant of the terms of the warrant; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(g) the applicant shall, as soon as practicable after the issue of the warrant, forward to the magistrate an affidavit verifying the facts referred to in paragraph (c).

(6) A magistrate by whom a search warrant is issued shall file the warrant, or a copy of the warrant, and the affidavit verifying the grounds on which the application for the warrant was made, in the Magistrates Court.

256 Authority given by search warrant

(1) A search warrant authorises any police officer, with the assistants that he or she thinks necessary, to enter and search the premises in respect of which the warrant was issued and anything in those premises.

(2) Subject to any direction by a magistrate authorising execution of a search warrant at night, or during specified hours of the night, it shall not be executed at night.

(3) A police officer, or a person assisting him or her, may use the force that is reasonably necessary for the execution of a search warrant.

(4) A police officer executing a search warrant may seize and remove any object that he or she believes on reasonable grounds to be relevant to the investigation of the offence in relation to which the warrant was issued.

(5) An object seized and removed under subsection (4) shall be dealt with in accordance with arrangements in force under section 258.

(6) A police officer who executes a search warrant—

(a) shall prepare a notice containing—

(i) his or her own name and rank; and

(ii) the name of the magistrate who issued the warrant and the date and time of its issue; and

(iii) a description of any objects seized and removed under the warrant; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) shall, as soon as practicable after execution of the warrant, give the notice to the occupier of the premises in respect of which the warrant was issued or leave it for him or her in a prominent position on those premises.

(7) A search warrant, if not executed at the end of 1 month from the date of its issue, shall then expire.

257 Offence of hindering execution of search warrant

A person who, without lawful excuse, hinders a police officer, or a person assisting him or her, in the execution of a search warrant shall be guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 6 months, a fine not exceeding $2 000 or both.

258 Ministerial arrangements for transmission and return of objects seized under pt 11 or corresponding law

(1) The Attorney-General may enter into arrangements with a Minister of State of a State or another Territory to whom the administration of a corresponding law is committed under which—

(a) objects seized under this part that may be relevant to the investigation of an offence against the law of the State or Territory in which the corresponding law is in force—

(i) are to be transmitted to the appropriate authority of that State or Territory for the purposes of investigation of, or proceedings in respect of, that offence; and

(ii) when no longer required for the purposes of any such investigation or proceedings, are (unless disposed of by order or direction of a court) to be returned to the commissioner of police; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) objects seized under the corresponding law that may be relevant to the investigation of an offence against the territory law—

(i) are to be transmitted to the commissioner of police; and

(ii) when no longer required for the purposes of investigation of an offence or proceedings in respect of an offence, are (unless disposed of by order or direction of a court) to be returned to the appropriate authority of the State or Territory where they were seized.

(2) The owner of an object returned to the commissioner of police under arrangements under subsection (1) is entitled to the return of the object.

(3) The right given by subsection (2) is enforceable by action in detinue in any court of competent jurisdiction.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 12 Procedure, evidence, verdict etc

260 What defects do not vitiate indictment

No indictment shall be held bad or insufficient for want of an averment of any matter unnecessary to be proved, or necessarily implied, nor for the omission of the words ‘as appears by the record’, or ‘with force and arms’, or ‘against the peace’, nor for the insertion or omission of the words ‘against the form of the statute’, nor for designating any person by a name of office, or other descriptive appellation, instead of his or her proper name, nor for omitting to state the time when the offence was committed, nor for stating the time wrongly, if time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the finding of the indictment, or on an impossible day, or a day that never happened, nor for want of a proper or perfect venue, or a proper or formal conclusion, nor for want of or imperfection in any addition of the accused, nor for want of any statement of the value or price of any matter or thing, or the amount of damage, or injury, in any case if such value, or price, or amount, is not of the essence of the offence.

261 Formal objections—when to be taken

Every objection to an indictment, for any formal defect apparent on the face of it, shall be taken by demurrer or motion to quash the indictment before the jury are sworn, and every court before which any such objection is taken may thereupon cause the indictment to be forthwith amended, and afterwards the trial shall proceed as if no such defect had appeared.

262 Judgment on demurrer to indictment

In all cases the judgment against the accused on demurrer shall be that he or she ‘answer over’ to the charge.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

263 Traversing indictment

(1) No traverse shall in any case be allowed, or trial postponed, or time to plead to the indictment given, unless the court shall so order.

(2) If the judge is of opinion that the accused ought to be allowed time, either to prepare for his or her defence, or otherwise, the judge shall postpone the trial on the terms that the judge considers appropriate, and may respite the recognisances of the prosecutor and witnesses accordingly.

264 Orders for amendment of indictment, separate trial and postponement of trial

(1) If, before trial, or at any stage of a trial, it appears to the court that the indictment is defective, the court shall make the order for the amendment of the indictment that the court thinks necessary to meet the circumstances of the case, unless, having regard to the merits of the case, the required amendments cannot be made without injustice.

(2) If, before trial, or at any stage of a trial, the court is of opinion that a person accused may be prejudiced or embarrassed in his or her defence because of being charged with more than 1 offence in the same indictment, or that for any other reason it is desirable to direct that the person should be tried separately for 1 or more offences charged in an indictment, the court may order a separate trial of a count or counts of the indictment.

(3) If, before trial, or at any stage of a trial, the court is of opinion that the postponement of the trial of a person accused is expedient as a consequence of the exercise of a power of the court under this Act to amend an indictment or to order a separate trial of a count, the court shall make any order that appears necessary.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(4) If an order of the court is made under this section for a separate trial, or for the postponement of a trial—

(a) if the order is made during a trial—the court may order that the jury are to be discharged from giving a verdict on the count or counts the trial of which is postponed, or on the indictment, as the case may be; and

(b) the procedure on the separate trial of a count and the procedure on the postponed trial shall be the same in all respects (if the jury has been discharged), as if the trial had not commenced; and

(c) the court may make the order as to admitting the accused person to bail and as to the variation of bail arrangements and otherwise that the court thinks fit.

(5) A power of the court under this section shall be in addition to and not in derogation of any other power of the court for the same or similar purposes.

265 Amended indictment

If an indictment is amended, a note of the order for amendment shall be endorsed on the indictment, and the indictment in its amended form shall be treated as the indictment for the purposes of the trial and for the purposes of all proceedings in relation to, or consequent on, the trial.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

266 Verdict and judgment valid after amendment

Every verdict, and judgment, given after the making of any amendment under this Act, shall be of the same force and effect, as if the indictment had originally been in the words, and form, in which it is after the amendment.

267 Form of record after amendment

If it is necessary at any time to draw up a formal record, in any case where an amendment has been made, the record may be drawn up in the words and form of the amended indictment, without noticing the fact of amendment.

268 Respiting undertakings on postponement

If the trial is postponed the court may respite the undertakings of the prosecutor and witnesses requiring them severally to appear and prosecute, or give evidence, at the time and place to which the trial is so postponed.

269 Separate offences—when can be joined

In every case counts may be inserted in the same indictment, against the same person, for any number of distinct offences of the same kind, not exceeding 3, committed against the same person if no more than 6 months have elapsed between the first and last of those offences.

270 Accessories may be charged together in 1 indictment

For any offence, any number of accessories to the offence, whether before or after the fact, may be charged with substantive offences in the same indictment, and be tried together, although the principal offender is not included in the indictment, or is not in custody or amenable to justice.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

271 Indictment charging previous offence also

In an indictment for an offence committed after a previous conviction for an offence, whether indictable or punishable on summary conviction, it shall be sufficient, after charging the subsequent offence, to state that the accused was at a certain time and place convicted of an indictable offence, or an offence punishable on summary conviction, as the case may be, without particularly describing the previous offence.

272 Property of partners or joint owners

(1) If, in any indictment, it is necessary to mention, for any purpose, any partners, joint tenants or tenants in common, it shall be sufficient to describe them by naming 1 of them, and referring to the rest as ‘another’, or ‘others’, as the case may be.

(2) This section shall extend to all joint-stock companies, executors, administrators, and trustees.

273 Description of written instruments

If a written, or printed, instrument, or instrument partly written and partly printed, is the subject of an indictment, or it is necessary to make an averment in an indictment respecting such instrument, it shall be sufficient to describe the instrument by any name or designation by which the instrument is usually known, or by the purport of it, without setting out any copy of it, or otherwise describing it, and without stating its value.

274 General averment of intent to defraud or injure

(1) If it is necessary to allege an intent to defraud, or injure, it shall be sufficient to allege that the accused did the act with the intent, without alleging an intent to defraud, or injure, any particular person.

(2) In an indictment for doing an act fraudulently, or for a fraudulent purpose, it shall not be necessary to state what was the fraudulent intent, or purpose.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

275 Indictment for murder or manslaughter

In an indictment for murder, or manslaughter, it shall not be necessary to set out the way in which, or the means by which, the death alleged was caused, but it shall be sufficient in an indictment for murder to charge that the accused did murder the deceased, and in an indictment for manslaughter to charge that the accused did kill the deceased.

276 Form of indictment against accessories to murder

In an indictment against an accessory to murder, or manslaughter, it shall be sufficient to charge the offence of the principal in the way specified, and then to charge the accused as an accessory.

277 Addition of count for assault

In an indictment for an offence against the person, if the offence includes an assault, a count may be added for the assault.

279 Indictments for conspiracy

(1) In an indictment for conspiracy it shall not be necessary to state any overt act, and each defendant in any case of conspiracy, whether or not 2 or more defendants are included in the same indictment, may be charged separately, in any count, as having conspired with divers persons, of whom it shall be sufficient to name 1 only, or as having conspired with 1 other named person only, and may be convicted on such count on proof of his or her having unlawfully conspired for the purpose alleged with any 1 such person.

(2) No more than 3 counts against the same defendant shall be inserted in any such indictment, and that the court may, in any case before plea pleaded, order the particulars to be given, that to the court shall seem meet, and that if conspiracies substantially different are charged in the same indictment, the prosecutor may be put to his or her election as to the one on which he or she will proceed.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

280 Arraignment etc on charge of previous conviction

(1) No person shall be arraigned, in respect of any previous conviction charged in any indictment, unless he or she is convicted of the subsequent offence charged in the indictment.

(2) On conviction he or she shall forthwith be arraigned, and the jury shall be charged as to the previous conviction, or convictions, and the trial shall proceed in relation to them.

280A Treason trials

A person charged with treason shall be arraigned and tried in like manner, and according to the like course and order of trial, in every respect as if the person were charged with murder.

281 Plea of not guilty

If any person arraigned on an indictment pleads not guilty, he or she shall, without further form, be deemed to have put himself or herself on the country for trial, and the court shall, in the usual way, order a jury for his or her trial accordingly.

282 Refusal to plead

If any person being so arraigned stands mute, or will not answer directly to the indictment, the court may order a plea of not guilty to be entered on behalf of the person, and the plea so entered shall have the same effect as if he or she had actually pleaded not guilty.

283 Plea of autrefois convict etc

In any plea of autrefois convict, or of autrefois acquit, it shall be sufficient for the accused to allege that he or she has been lawfully convicted, or acquitted, as the case may be, of the offence charged in the indictment, without specifying the time or place of the previous conviction or acquittal.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

284 Practice as to entering the dock

In every case the presiding judge shall have power to order the accused to enter the dock, or usual place of arraignment, or to allow him or her to remain on the floor of the court, and in either case to sit down, as the judge shall see fit.

285 Accused may be defended by lawyer

(1) An accused person has the right in any court to—

(a) make a full answer and defence to a charge by a lawyer; and

(b) reserve the person's address until after the close of the evidence for the defence.

(2) If the accused person reserves the person's address until after the close of the evidence for the defence, all evidence in reply for the prosecution must be given before the person's address.

286 Right to inspect depositions on trial

Every accused person shall be entitled on his or her trial to inspect, without fee or reward, all depositions taken against him or her and returned into, or that shall be in, the court before which he or she is under trial.

287 Power of judge to record verdict of acquittal

(1) If, on the trial of a person for an offence against this Act or any other territory law, the judge would have power to direct the jury to return a verdict of acquittal in respect of that offence, the judge may, instead of giving such a direction, make an order—

(a) discharging the jury from returning a verdict in respect of that offence; and

(b) recording a verdict of acquittal in respect of that offence.

(2) An order under subsection (1) shall, for all purposes, have the same effect as a verdict of acquittal returned by a jury.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

288 Notice of alibi

(1) If a defendant is committed for trial for an indictable offence, the committing magistrate shall—

(a) inform the defendant of the requirements of subsections (2), (3), (4) and (6); and

(b) cause a copy of this section to be given to the defendant.

(2) On a trial on indictment the defendant must not, without the court's leave, present evidence in support of an alibi unless, within 14 days after the day the defendant is committed for trial, the defendant gives notice of particulars of the alibi.

(3) On a trial on indictment the defendant shall not, without the leave of the court, call any other person to give evidence in support of an alibi unless—

(a) the notice given under subsection (2) includes the name and address of the person or, if the name or address is not known to the defendant at the time he or she gives the notice, any information in his or her possession that might be of material assistance in finding the person; and

(b) if the name or the address is not included in the notice—the court is satisfied that the defendant before giving the notice took, and after giving the notice continued to take, all reasonable steps to ascertain the name or address; and

(c) if the name or the address is not included in the notice, but the defendant subsequently ascertains the name or address or receives information that might be of material assistance in finding the person—the defendant forthwith gives notice of the name, address or other information, as the case may be; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(d) if the defendant is told by or on behalf of the prosecution that the person has not been found by the name, or at the address, given by the defendant—

(i) the defendant immediately gives notice of any information in the defendant's possession that might be of material assistance in finding the person; or

(ii) if the defendant later receives any such information—the defendant immediately gives the prosecution notice of the information.

(4) A notice purporting to be given under this section on behalf of the defendant by his or her legal practitioner shall, unless the contrary is proved, be deemed to be given with the authority of the defendant.

(5) Any evidence tendered to disprove an alibi may, subject to any direction by the court, be given before or after evidence is given in support of the alibi.

(6) A notice under this section shall be given in writing addressed to the director of public prosecutions.

(7) In this section:

evidence in support of an alibi means evidence tending to show that by reason only of the presence of the defendant at a particular place or in a particular area at a particular time he or she was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission.

289 Abolition of presumption of marital coercion

Any presumption of law that an offence committed by a wife in the presence of her husband is committed under the coercion of the husband is abolished.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

290 Incriminating statements admissible though on oath

No incriminating statement by the accused, offered in evidence in any case, if the statement was made voluntarily, and before any charge preferred against him or her, shall be rejected, because of the statement having been on oath.

291 Evidence of previous conviction charged in indictment

No evidence of any previous conviction, charged in an indictment, shall be offered, except in reply to evidence of character, unless the accused is convicted of the subsequent offence charged in the indictment.

292 Proof of lawful authority or excuse

If, by this Act, doing a particular act or having a specified article or thing in possession without lawful authority or excuse, is made or expressed to be an offence, the proof of lawful authority or excuse shall lie on the accused.

294 Order of closing addresses

(1) In a trial on indictment, the closing address for the defence may be given after the closing address for the prosecution.

(2) If, in the closing address for the defence in a trial on indictment, relevant facts are asserted that are not supported by any evidence that is before the jury, the prosecution may, with the leave of the court, address the jury further in reply to any such assertion.

295 Witnesses in mitigation

(1) This section applies before a court passes sentence on a convicted person.

(2) The court may, at its own initiative or at the request of the prosecution or the convicted person, summon witnesses and examine them on oath in relation to any matter in extenuation of the person's offence.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

296 Conviction for alternative offence

If, on the trial of a person for an offence, it appears that the facts in evidence amount in law to another offence, he or she may notwithstanding be found guilty of and sentenced for the firstmentioned offence, and in that case shall not be liable to be prosecuted for the secondmentioned offence on the same facts but the court may discharge the jury from giving any verdict on the trial, and direct the person to be indicted for the secondmentioned offence.

297 After trial for offence, if alternative verdict possible, no further prosecution

No person tried for an offence, in any case where under this Act he or she may be acquitted of the offence but be found guilty of some other offence, shall be liable to prosecution on the same facts for the other offence.

298 On trial for any offence—verdict of attempt

If on the trial of a person for any offence the jury are not satisfied that he or she is guilty, but are satisfied that he or she is guilty of an attempt to commit, or of an assault with intent to commit, the same, they may acquit him or her of the offence charged, and find him or her guilty of the attempt, or assault, and he or she shall be liable to punishment accordingly.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

299 Multiple alternative verdicts

If—

(a) a person is on trial for an offence against this Act; and

(b) under this Act, the jury may find the accused not guilty of the offence charged but guilty of another offence against this Act; and

(c) there is more than 1 other offence of which the accused may be found guilty;

then, notwithstanding any other provision of this Act, the accused is not liable to be convicted of more than 1 such other offence.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 13 Unfitness to plead and mental impairment

Division 13.1 Preliminary

300 Definitions for pt 13

(1) In this part:

ACAT means the ACAT exercising its jurisdiction under the *Mental Health Act 2015*.

accused, for a person before the Magistrates Court, means the defendant.

alternative offence, for an offence, means an offence available as an alternative to the offence.

conduct—see the Criminal Code, section 13.

defendant—see the *Magistrates Court Act 1930*, section 18A.

engage in conduct—see the Criminal Code, section 13.

forensic mental health order—see the *Mental Health Act 2015*, dictionary.

mental health order—see the *Mental Health Act 2015*, dictionary.

serious offence means—

(a) an offence involving actual or threatened violence and punishable by imprisonment for longer than 12 months; or

(b) an offence against section 27 (3) or (4).

special hearing means a hearing conducted in accordance with section 316.

(2) To remove any doubt, a reference in this part to the Magistrates Court includes a reference to the Childrens Court.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

301 Limitation on orders and detention—non-acquittals

(1) If, under section 318 (2) or 319 (2), the Supreme Court makes an order that the accused be detained in custody for immediate review by the ACAT, the court must indicate whether, if the special hearing had been normal criminal proceedings against a person who was fit to be tried for and convicted of the offence with which the accused is charged, it would have imposed a sentence of imprisonment.

(2) If, under subsection (1), the Supreme Court indicates that it would have imposed a sentence of imprisonment, it must nominate a term (a ***nominated term***) in respect of that offence, that is the best estimate of the sentence it would have considered appropriate if the special hearing had been normal criminal proceedings against a person who was fit to be tried for that offence and the person had been found guilty of that offence.

(3) In nominating a term in relation to an offence, the Supreme Court may, as it considers appropriate, take into account the periods (if any) for which the person has been detained in relation to the offence, before or after the special hearing.

(4) A nominated term in relation to an offence takes effect on the day the Supreme Court nominates the term unless the court—

(a) after taking into account any periods mentioned in subsection (3), nominates an earlier day; or

(b) orders that the term take effect on a later day so as to be served consecutively with (or partly concurrently and partly consecutively with) another term nominated for the person under this part or a sentence of imprisonment imposed on the person.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

302 Limitation on orders and detention—acquittals

(1) If, under section 323 or 324, the Supreme Court makes an order that the accused be detained in custody for immediate review by the ACAT, the court must indicate whether, if the accused had not been acquitted, it would have imposed a sentence of imprisonment.

(2) If, under subsection (1), the Supreme Court indicates that it would have imposed a sentence of imprisonment, it must nominate a term (a ***nominated term***) in respect of that offence, that is the best estimate of the sentence it would have considered appropriate if the accused were a person who had been found guilty of that offence.

(3) In nominating a term in relation to an offence, the Supreme Court may, as it considers appropriate, take into account the periods (if any) for which the person has been detained in relation to the offence, before or after the special hearing.

(4) A nominated term in relation to an offence takes effect on the day the Supreme Court nominates the term unless the court—

(a) after taking into account any periods mentioned in subsection (3), nominates an earlier day; or

(b) orders that the term take effect on a later day so as to be served consecutively with (or partly concurrently and partly consecutively with) another term nominated for the person under this part or a sentence of imprisonment imposed on the person.

303 Limitation on Supreme Court orders

The Supreme Court must not order that an accused be detained for a period greater than the nominated term under section 301 or 302.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

304 Limitation on orders and detention—dismissal of charge

(1) If under section 328 or 329, the Magistrates Court makes an order that the accused be detained in custody for immediate review by the ACAT, the court must indicate whether, if the charges against the accused had not been dismissed and the accused were a person who had been found guilty of the offence, it would have imposed a sentence of imprisonment.

(2) If, under subsection (1), the Magistrates Court indicates that it would have imposed a sentence of imprisonment, it must nominate a term (a ***nominated term***) in respect of that offence, that is the best estimate of the sentence it would have considered appropriate if the accused were a person who had been found guilty of that offence.

(3) In nominating a term in relation to an offence, the Magistrates Court may, as it considers appropriate, take into account the periods (if any) for which the person has been detained in relation to the offence, before or after the special hearing.

(4) A nominated term in relation to an offence takes effect on the day the Magistrates Court nominates the term unless the court—

(a) after taking into account any periods mentioned in subsection (3), nominates an earlier day; or

(b) orders that the term take effect on a later day so as to be served consecutively with (or partly concurrently and partly consecutively with) another term nominated for the person under this part or a sentence of imprisonment imposed on the person.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

305 Limitation on orders and detention—Magistrates Court

(1) If under section 335, the Magistrates Court makes an order that the accused be detained in custody for immediate review by the ACAT, the Magistrates Court must indicate whether, if the hearing had been a normal criminal hearing against a person who was fit to be tried for and convicted of the offence with which the accused is charged, it would have imposed a sentence of imprisonment.

(2) If, under subsection (1), the Magistrates Court indicates that it would have imposed a sentence of imprisonment, it must nominate a term (a ***nominated term***) in respect of that offence, that is the best estimate of the sentence it would have considered appropriate if the hearing had been a normal criminal hearing against a person who was fit to be tried for that offence and the person had been found guilty of that offence.

(3) In nominating a term in relation to an offence, the Magistrates Court may, as it considers appropriate, take into account the periods (if any) for which the person has been detained in relation to the offence, before or after the special hearing.

(4) A nominated term in relation to an offence takes effect on the day the Magistrates Court nominates the term unless the court—

(a) after taking into account any periods mentioned in subsection (3), nominates an earlier day; or

(b) orders that the term take effect on a later day so as to be served consecutively with (or partly concurrently and partly consecutively with) another term nominated for the person under this part or a sentence of imprisonment imposed on the person.

306 Limitation on Magistrates Court orders

The Magistrates Court must not order that an accused be detained for a period greater than the nominated term under section 304 (2) or 305 (2).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

307 How relevant court may inform itself

For sections 301, 302, 304 and 305, in determining the sentence it would have imposed, the relevant court may inform itself and consider the evidence and submissions that it would were the court determining the sentence to be imposed in normal criminal proceedings.

308 Criteria for detention

For this part, other than division 13.5 (except section 335), in making a decision which could include an order for detention, the Supreme Court or Magistrates Court shall consider the following criteria:

(a) the nature and extent of the accused's mental impairment, including the effect it is likely to have on the person's behaviour in the future;

(b) whether or not, if released—

(i) the accused's health and safety is likely to be substantially impaired; or

(ii) the accused is likely to be a danger to the community;

(c) the nature and circumstances of the offence with which the accused is charged;

(d) the principle that a person should not be detained in a correctional centre unless no other reasonable option is available;

(e) any recommendation made by the ACAT about how the accused should be dealt with.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

309 Assessment whether emergency detention required

(1) If, in a proceeding in the Magistrates Court, the court has reasonable grounds for believing that an accused needs immediate treatment or care because of mental impairment, the court may, without requiring the accused to submit to the jurisdiction of the ACAT, order that—

(a) the accused be taken by a police officer or corrections officer to an approved mental health facility for clinical examination for the purpose of deciding whether the accused needs immediate treatment or care because of mental impairment; and

(b) the accused may only be released into the custody of a police officer—

(i) by the person in charge of the approved mental health facility; or

(ii) if the accused is found to need detention and care because of mental impairment—by the person who is in charge of an approved mental health facility where the accused is detained for care; and

(c) on being so released, the accused be dealt with in 1 of the following ways:

(i) subject to subsection (2) and despite the Bail Act, be admitted to bail by an authorised officer;

(ii) despite the Bail Act, be held in the custody of a police officer who shall cause the accused to be brought before a court as soon as practicable for the purpose of the court determining whether or not to grant bail;

(iii) be dealt with by an authorised officer in accordance with the Bail Act.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) If, when making an order under subsection (1) (c) (i), the Magistrates Court specifies terms and conditions on which bail is to be granted, an authorised officer may only grant bail subject to those terms and conditions.

(3) If, under this section, an accused who is taken to an approved mental health facility—

(a) is released or discharged from the facility, otherwise than into the custody of a police officer; or

(b) leaves the facility, otherwise than in the custody of a police officer;

a police officer may arrest the accused without warrant for the purposes of the terms of the order being satisfied.

(4) In this section:

approved mental health facility—see the *Mental Health Act 2015*, dictionary.

authorised officer—see the Bail Act, dictionary.

Bail Act means the *Bail Act 1992*.

Division 13.2 Unfitness to plead

310 Application of div 13.2

This division applies to a criminal proceeding in the Supreme Court or the Magistrates Court.

311 When a person is unfit to plead

(1) A person is unfit to plead to a charge if the person's mental processes are disordered or impaired to the extent that the person cannot—

(a) understand the nature of the charge; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) enter a plea to the charge and exercise the right to challenge jurors or the jury; or

(c) understand that the proceeding is an inquiry about whether the person committed the offence; or

(d) follow the course of the proceeding; or

(e) understand the substantial effect of any evidence that may be given in support of the prosecution; or

(f) give instructions to the person's lawyer.

(2) A person is not unfit to plead only because the person is suffering from memory loss.

312 Presumption of fitness to plead, standard of proof etc

(1) A person is presumed to be fit to plead.

(2) The presumption is rebutted only if it is established, on an investigation under this division, that the person is unfit to plead.

(3) The question of a person's fitness to plead—

(a) is a question of fact; and

(b) is to be decided on the balance of probabilities.

(4) No party bears a burden of proof in relation to the question.

313 Who can raise question of unfitness to plead

The question of a defendant's fitness to plead to a charge may be raised by a party to a proceeding in relation to the charge or by the court.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

314 Procedure if question raised

(1) If the question is raised in the Magistrates Court (other than at a committal hearing) and the court is satisfied that there is a real and substantial question about the defendant's fitness to plead, the court must reserve the question for investigation under this division.

(2) If the question is raised at a committal hearing—

(a) the committal hearing must be completed; and

(b) the defendant must not be discharged only because the question has been raised; and

(c) if the person is committed for trial—the question must be reserved for consideration by the Supreme Court.

(3) If the question has been reserved under subsection (2) (c) or is otherwise raised in the Supreme Court and the court is satisfied that there is a real and substantial question about the defendant's fitness to plead, the court must reserve the question for investigation under this division.

315 Procedure if question reserved for investigation

(1) If a court reserves the question for investigation, the court must adjourn the hearing or trial in which the question was raised and proceed with an investigation under this division.

(2) The court may make 1 or more of the following orders:

(a) an order granting bail;

(b) an order remanding the defendant in custody in an appropriate place for a stated period;

(c) an order requiring the defendant to be examined by a psychiatrist or other health practitioner;

(d) if the question arose in a trial for which a jury had been empanelled—an order discharging the jury;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(e) any other order the court considers appropriate.

(3) The court must not make an order under subsection (2) (b) remanding the defendant in custody at a place other than a correctional centre unless satisfied that the facilities or services necessary for the order are available at the place.

(4) If the court considers that, because of the trivial nature of the charge or the nature of the defendant's mental impairment, it would be inappropriate to inflict any punishment on the defendant in relation to the offence, the court may decide not to carry out or continue the investigation and may dismiss the charge and order that the person be released.

315A Investigation into fitness to plead

(1) On an investigation into a defendant's fitness to plead—

(a) the court must hear any relevant evidence and submissions put to the court by the prosecution or the defence; and

(b) if the court considers that it is in the interests of justice to do so, the court may—

(i) call evidence on its own initiative; or

(ii) require the defendant to be examined by a psychiatrist or other health practitioner; or

(iii) require the results of the examination to be put before the court.

(2) Before hearing any evidence or submissions, the court must consider whether, for the protection of the defendant's privacy, the court should be closed to the public while all or part of the evidence or submissions are heard.

(3) The court must decide whether the defendant is unfit to plead.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(4) If the court finds that the defendant is unfit to plead, the court must also decide whether the defendant is likely to become fit to plead within the next 12 months.

315B Person found fit to plead

If the court decides that the defendant is fit to plead, the proceeding brought against the defendant must be continued in accordance with ordinary criminal procedure.

315C Person found unfit to plead and unlikely to become fit to plead

If the court decides that the defendant is unfit to plead and is unlikely to become fit to plead within the next 12 months, the court must—

(a) for a proceeding in the Supreme Court—

(i) discharge any jury empanelled for the proceeding; and

(ii) hold a special hearing under section 316; and

(b) for a proceeding in the Magistrates Court—conduct a hearing under section 335.

315D Person found temporarily unfit to plead

(1) If the court decides that the defendant is unfit to plead but is likely to become fit to plead within the next 12 months, the court must adjourn the proceeding and—

(a) if the defendant is charged with a serious offence—remand the defendant in custody or release the defendant on bail; and

(b) if the defendant is charged with an offence other than a serious offence—make the orders it considers appropriate.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) The orders the court may make under subsection (1) (b) include—

(a) an order remanding the defendant in custody; and

(b) an order requiring the defendant to submit to the jurisdiction of the ACAT to allow the ACAT to make a mental health order or forensic mental health order.

(3) The court may (on application or its own initiative) reinvestigate the defendant's fitness to plead at any time before the end of the 12-month period.

(4) However, if the court has not reinvestigated the defendant's fitness to plead within 6 months after the day the initial decision was made, the court must reinvestigate it as soon as practicable (but within 30 days) after the end of that period.

(5) If, before the end of the 12-month period, the defendant has not been found fit to plead, the court must reinvestigate the defendant's fitness to plead as soon as practicable (but within 3 months) after the end of that period.

(6) On a reinvestigation—

(a) the court must hear any relevant evidence and submissions put to the court by the prosecution or the defence; and

(b) if the court considers that it is in the interests of justice to do so, the court may—

(i) call evidence on its own initiative; or

(ii) require the defendant to be examined by a psychiatrist or other health practitioner; or

(iii) require the results of the examination to be put before the court.

(7) The court must decide whether the defendant is unfit to plead.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(8) If the court decides that the defendant is fit to plead, the proceeding brought against the defendant must be continued in accordance with ordinary criminal procedure.

(9) If, on a reinvestigation mentioned in subsection (5), the court decides that the defendant is unfit to plead, the court must—

(a) for a proceeding in the Supreme Court—

(i) discharge any jury empanelled for the proceeding; and

(ii) hold a special hearing under section 316; and

(b) for a proceeding in the Magistrates Court—conduct a hearing under section 335.

316 Special hearing

(1) Subject to this section, the Supreme Court shall conduct a special hearing as nearly as possible as if it were an ordinary criminal proceeding.

(2) A special hearing shall be a trial by jury—

(a) unless—

(i) the Supreme Court is satisfied that the accused is capable of making an election to have a special hearing to be a trial by a single judge without a jury before the court first fixes a date for the hearing; and

(ii) the accused makes the election before that date; or

(b) unless—

(i) the Supreme Court is satisfied that the accused is incapable of making the election mentioned in paragraph (a) (i); and

(ii) before the court first fixes a date for the hearing, any guardian of the accused notifies the court that, in his or her opinion, it is in the best interests of the accused for the special hearing to be a trial by a single judge without a jury.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) The Supreme Court must direct the ACAT to appoint a guardian with power to notify the court under subsection (2) (b) (ii) if the court is satisfied that—

(a) there is no guardian who has power to do so; and

(b) the accused is incapable of making the election mentioned in subsection (2) (a) (i).

(4) If—

(a) the accused makes an election under subsection (2) (a) (ii); or

(b) a guardian notifies the Supreme Court under subsection (2) (b) (ii);

the special hearing shall be by single judge without a jury.

(5) Despite subsection (2) (b), if before the date fixed by the Supreme Court for the hearing—

(a) the court is satisfied that the accused is capable of making the election mentioned in subsection (2) (a) (i); and

(b) the accused notifies the court that he or she objects to the special hearing being a trial by a single judge without a jury;

the special hearing shall be a trial by jury.

(6) Unless the Supreme Court otherwise orders, the accused shall have legal representation at a special hearing.

(7) A decision that the accused is unfit to plead to the charge is not to be taken to be an impediment to his or her being represented at a special hearing.

(8) At a special hearing, the accused is to be taken to have pleaded not guilty in respect of the offence charged.

(9) If a special hearing is a trial by jury, the Supreme Court shall, at the commencement of the hearing, explain to the jury—

(a) the meaning of unfitness to plead; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) that the accused is unfit to plead to the charge in accordance with ordinary criminal procedures; and

(c) that the purpose of the special hearing is to ensure that, despite the unfitness of the accused to plead in accordance with ordinary criminal procedures, the accused should be acquitted unless it can be proved beyond reasonable doubt that, on the evidence available, the accused engaged in the conduct required for the offence charged (or an alternative offence); and

(d) the actions that are available to the jury under section 317; and

(e) the legal and practical consequences of those actions.

317 Verdicts available at special hearing

(1) At a special hearing that is a trial by jury, the jury shall, if satisfied beyond reasonable doubt that the accused engaged in the conduct required for the offence charged (or an alternative offence, if not satisfied in relation to the offence charged), advise the court accordingly.

(2) If the jury is not satisfied in accordance with subsection (1)—

(a) the jury shall return a verdict of not guilty in respect of the offence charged; and

(b) the accused shall be dealt with as though the jury had returned that verdict at an ordinary trial.

(3) If, at a special hearing by a single judge without a jury, the judge is not satisfied beyond reasonable doubt that the accused engaged in the conduct required for the offence charged (or an alternative offence, if not satisfied in relation to the offence charged)—

(a) the judge shall find the accused not guilty of the offence charged; and

(b) the accused shall be dealt with as if the accused had been found not guilty at an ordinary trial.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(4) If, at a special hearing, the jury (or, if the special hearing is by a single judge without a jury, the judge) is satisfied beyond reasonable doubt that the accused engaged in the conduct required for the offence charged (or an alternative offence, if not satisfied in relation to the offence charged), the finding—

(a) is not a basis in law for recording a conviction for the offence charged (or an alternative offence); and

(b) except as provided in section 319A (Action if accused becomes fit to plead after special hearing), bars further prosecution of the accused for any offence in relation to the conduct.

318 Non-acquittal at special hearing—non-serious offence

(1) This section applies if—

(a) an accused is charged with an offence other than a serious offence; and

(b) at a special hearing that is a trial—

(i) by a single judge without a jury—the judge is satisfied beyond reasonable doubt that the accused engaged in the conduct required for the offence charged (or an alternative offence, if not satisfied in relation to the offence charged); or

(ii) by jury—the jury advises the court under section 317 (1).

(2) The Supreme Court may make the orders that it considers appropriate, including—

(a) that the accused be detained in custody for immediate review by the ACAT under the *Mental Health Act 2015*, section 180; or

(b) that the accused submit to the jurisdiction of the ACAT to allow the ACAT to make a mental health order or a forensic mental health order under the *Mental Health Act 2015*.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

319 Non-acquittal at special hearing—serious offence

(1) This section applies if—

(a) an accused is charged with a serious offence; and

(b) at a special hearing that is a trial—

(i) by a single judge without a jury—the judge is satisfied beyond reasonable doubt that the accused engaged in the conduct required for the offence charged (or an alternative offence, if not satisfied in relation to the offence charged); or

(ii) by jury—the jury advises the court under section 317 (1).

(2) The Supreme Court must—

(a) order that the accused be detained in custody for immediate review by the ACAT under the *Mental Health Act 2015*, section 180; or

(b) if, taking into account the criteria for detention in section 308, it is more appropriate—order that the accused submit to the jurisdiction of the ACAT to allow the ACAT to make a mental health order or a forensic mental health order under the *Mental Health Act 2015*.

319A Action if accused becomes fit to plead after special hearing

(1) This section applies if—

(a) the Supreme Court makes an order under section 318 or section 319 in relation to an accused; and

(b) the offence in relation to which the order is made is punishable by imprisonment for 5 years or longer; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) the ACAT later decides the accused is fit to plead in relation to the offence.

Note For the relevant review of fitness to plead provisions, see the *Mental Health Act 2015*, s 176.

(2) The director of public prosecutions must consider whether to take further proceedings against the accused in relation to the offence.

(3) If further proceedings are taken and the accused is found guilty of the offence charged (or an alternative offence), the court must, in deciding the sentence for the offence, take into account any time the accused has spent in custody or detention in relation to the offence.

Division 13.3 Supreme Court—special verdict of not guilty because of mental impairment

321 Supreme Court—plea of not guilty because of mental impairment

(1) This section applies if an accused pleads not guilty because of mental impairment to an indictable offence before the Supreme Court.

(2) The Supreme Court must enter a special verdict that the person is not guilty of the offence because of mental impairment if—

(a) the court considers the verdict appropriate; and

(b) the prosecution agrees to the entering of the verdict.

322 Explanation to jury

If, on the trial by jury of an accused charged with an indictable offence, evidence is adduced that tends to establish that the accused is entitled to a special verdict of not guilty because of mental impairment, the court shall explain to the jury the verdicts that may be returned at the trial and the legal and practical consequences of those verdicts.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

323 Supreme Court orders following special verdict of not guilty because of mental impairment—non-serious offence

(1) If an accused has been charged with an indictable offence other than a serious offence and a special verdict of not guilty because of mental impairment is returned or entered, the Supreme Court may—

(a) make an order requiring the accused to submit to the jurisdiction of the ACAT to enable the ACAT to make recommendations as to how he or she should be dealt with; or

(b) make any other orders it considers appropriate.

(2) If—

(a) the Supreme Court makes an order under subsection (1) (a); and

(b) the ACAT notifies the court of its recommendations;

the court shall, in consideration of the ACAT's recommendations, make any further orders it considers appropriate.

(3) The Supreme Court may make the orders that it considers appropriate, including—

(a) that the accused be detained in custody for immediate review by the ACAT under the *Mental Health Act 2015*, section 180; or

(b) that the accused submit to the jurisdiction of the ACAT to allow the ACAT to make a mental health order or a forensic mental health order under the *Mental Health Act 2015*.

324 Supreme Court orders following special verdict of not guilty because of mental impairment—serious offence

(1) This section applies if an accused is charged with a serious offence and a special verdict of not guilty because of mental impairment is returned or entered by the Supreme Court.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) The Supreme Court must—

(a) order that the accused be detained in custody for immediate review by the ACAT under the *Mental Health Act 2015*, section 180; or

(b) if, taking into account the criteria for detention in section 308, it is more appropriate—order that the accused submit to the jurisdiction of the ACAT to allow the ACAT to make a mental health order or a forensic mental health order under the *Mental Health Act 2015*.

Division 13.4 Magistrates Court—finding of not guilty because of mental impairment

325 Meaning of *serious offence* in div 13.4

In this division:

serious offence means—

(a) an offence involving actual or threatened violence; or

(b) an offence against section 27 (3) or (4).

327 Magistrates Court—plea of not guilty because of mental impairment

(1) This section applies if an accused pleads not guilty because of mental impairment to a charge before the Magistrates Court.

(2) The Magistrates Court must find that the person is not guilty because of mental impairment if—

(a) the court considers the finding appropriate; and

(b) the prosecution agrees to the finding.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

328 Magistrates Court orders following finding of not guilty because of mental impairment—non-serious offence

(1) If an accused has been charged with an offence other than a serious offence and is found not guilty because of mental impairment, the Magistrates Court may—

(a) make an order requiring the accused to submit to the jurisdiction of the ACAT to enable the ACAT to make recommendations as to how he or she should be dealt with; or

(b) make any other orders it considers appropriate.

(2) If—

(a) the Magistrates Court makes an order under subsection (1) (a); and

(b) the ACAT notifies the Magistrates Court of its recommendations;

the Magistrates Court shall, in consideration of the ACAT's recommendations, make any further orders it considers appropriate.

(3) The orders that the Magistrates Court may make under subsections (1) and (2) include—

(a) that the accused be detained in custody for immediate review by the ACAT under the *Mental Health Act 2015*, section 180; or

(b) that the accused submit to the jurisdiction of the ACAT to allow the ACAT to make a mental health order or a forensic mental health order under the *Mental Health Act 2015*.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

329 Magistrates Court orders following finding of not guilty because of mental impairment—serious offence

(1) This section applies if an accused is charged and the Magistrates Court makes a finding of not guilty because of mental impairment.

(2) The Magistrates Court must—

(a) order that the accused be detained in custody for immediate review by the ACAT under the *Mental Health Act 2015*, section 180; or

(b) if, taking into account the criteria for detention in section 308, it is more appropriate—order that the accused submit to the jurisdiction of the ACAT to allow the ACAT to make a mental health order or a forensic mental health order under the *Mental Health Act 2015*.

Division 13.5 Referring people with mental impairment to ACAT after conviction

330 Application of div 13.5

This division applies if—

(a) a person has been convicted of an offence in the Supreme Court or Magistrates Court; and

(b) that court is satisfied that the convicted person has a mental impairment.

331 Referral to ACAT

(1) If this division applies, the relevant court may, before sentencing the convicted person, order him or her to submit to the jurisdiction of the ACAT to enable the ACAT—

(a) to determine whether or not the person has a mental impairment; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) if the ACAT determines that the person has a mental impairment —to make recommendations as to how the person should be dealt with.

(2) If the ACAT notifies the relevant court that a convicted person has a mental impairment, the court shall, in consideration of the ACAT's recommendations, make any order it considers appropriate.

(3) The orders that the court may make under subsection (2) include an order that the person submit to the jurisdiction of the ACAT to enable the ACAT to make a mental health order or forensic mental health order.

(4) If the relevant court orders a person who is found by the ACAT to have a mental impairment to be sentenced to a period of imprisonment, the court shall not order the person to be imprisoned for a period greater than any period of imprisonment to which the person could have been sentenced, apart from that finding.

Division 13.6 Summary proceedings against mentally impaired people

332 Application of div 13.6

This division applies to criminal proceedings (not including committal proceedings) with respect to—

(a) summary offences; and

(b) indictable offences that may be heard and determined summarily.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

333 Indictable offences heard and determined summarily

Proceedings to which this division applies with respect to an indictable offence shall be heard and determined summarily if—

(a) the Magistrates Court is satisfied that the accused is unable, because of mental impairment, to elect to have the case heard summarily; and

(b) the prosecution agrees to the offence being heard and determined summarily.

334 Powers of Magistrates Court

(1) This section applies where, in proceedings to which this division applies before the Magistrates Court, that court is satisfied that—

(a) the accused is mentally impaired; and

(b) on an outline of the facts to be alleged in the proceedings, or any other evidence the Magistrates Court considers relevant, it would be appropriate to deal with the person under this division.

(2) If this section applies, the Magistrates Court may by order—

(a) dismiss the charge and require the accused to submit to the jurisdiction of the ACAT to enable the ACAT to make a mental health order or forensic mental health order; or

(b) dismiss the charge unconditionally.

(3) In determining whether to make an order under subsection (2) (a) or (b), the Magistrates Court shall have regard to—

(a) the nature and seriousness of the mental impairment; and

(b) the period for which the mental impairment is likely to continue; and

(c) the extent to which by reason of the accused's mental impairment the accused is likely to do serious harm to himself or herself or others; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(d) whether the ACAT could make an order under the *Mental Health Act 2015*, section 101 (Forensic psychiatric treatment order) or section 108 (Forensic community care order); and

(e) the seriousness of the alleged offence; and

(f) the antecedents of the accused; and

(g) the effectiveness of any order previously made under subsection (2) (a) or (b), including to the extent to which—

(i) the order assisted the accused to obtain appropriate treatment and care for his or her mental impairment; and

(ii) access to that treatment and care has enabled the accused to modify his or her behaviour, being behaviour of a kind that has previously resulted in the accused having been charged with an offence.

(4) Despite subsection (2), the Magistrates Court may only make an order under that subsection in relation to proceedings with respect to an indictable offence that may be heard and determined summarily with the consent of the director of public prosecutions.

(5) If the Magistrates Court makes an order under subsection (2) (a), the order operates as a stay of proceedings, or of further proceedings, against the accused in relation to the offence.

(6) If the Magistrates Court makes an order under subsection (2), it must not make an order under any of the following provisions of the *Crimes (Sentencing) Act 2005* for the offence:

(a) section 13 (Good behaviour orders);

(b) section 17 (Non-conviction orders—general);

(c) section 19 (Reparation orders—losses and expenses generally);

(d) section 20 (Reparation orders—stolen property).

(7) An order under subsection (2) does not constitute a finding that an offence has or has not been committed.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(8) In proceedings to which this section applies, to determine whether an accused has a mental impairment, the Magistrates Court may make any orders it considers appropriate, including the following:

(a) that the accused submit to the jurisdiction of the ACAT;

(b) that the proceedings be adjourned;

(c) that the person be released on bail.

(9) If the Magistrates Court makes an order under subsection (8) (a), the ACAT shall notify the Magistrates Court about each of the matters referred to in subsection (3) (a) to (d).

335 Fitness to plead—Magistrates Court

(1) This section applies to an indictable offence that can be heard and determined summarily if the Magistrates Court is of the opinion that the case can properly be disposed of summarily having regard to—

(a) any relevant representations made by the accused; and

(b) any relevant representations made by the prosecutor in the presence of the accused; and

(c) the circumstances and, in particular, the degree of seriousness of the case; and

(d) any other circumstances that appear to the Magistrates Court to make it more appropriate for the case to be dealt with on indictment rather than summarily.

(2) If this section applies and—

(a) the Magistrates Court decides as mentioned in section 315C or section 315D (9) that the accused charged with a serious offence is unfit to plead; and

(b) after hearing the charge, the Magistrates Court is satisfied beyond reasonable doubt that the accused engaged in the conduct required for the offence charged;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

the Magistrates Court shall order that the accused be detained in custody until the ACAT orders otherwise unless, in consideration of the criteria for detention in section 308, it is satisfied that it is more appropriate to order that the accused submit to the jurisdiction of the ACAT to enable the ACAT to make a mental health order or forensic mental health order.

(3) If, under subsection (2), the Magistrates Court is satisfied that it is more appropriate to order that the accused submit to the jurisdiction of the ACAT to enable the ACAT to make a mental health order or forensic mental health order, it shall make an order to that effect.

(4) If this section applies and—

(a) the Magistrates Court decides as mentioned in section 315C or section 315D (9) that the accused charged with an offence other than a serious offence is unfit to plead; and

(b) after hearing the charge, the Magistrates Court is satisfied beyond reasonable doubt that the accused engaged in the conduct required for the offence charged;

the Magistrates Court may make any orders it considers appropriate, including the following:

(c) that the accused be detained in custody until the ACAT orders otherwise;

(d) that the accused submit to the jurisdiction of the ACAT to enable the ACAT to make a mental health order or forensic mental health order.

(5) The Magistrates Court shall conduct a hearing under this section as nearly as possible as if it were a normal criminal proceeding.

(6) In a hearing under this section—

(a) if legal representation is available to the accused—the accused shall have legal representation unless the Magistrates Court otherwise orders; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) the accused is to be taken to have pleaded not guilty in respect of the offence charged.

(7) If the Magistrates Court is satisfied beyond reasonable doubt that the accused engaged in the conduct required for the offence charged, the finding—

(a) is not a basis in law for recording a conviction for the offence charged; and

(b) except as provided in section 335A, bars further prosecution of the accused for any offence in relation to the conduct.

(8) In this section:

serious offence means—

(a) an offence involving actual or threatened violence; or

(b) an offence against section 27 (3) or (4).

335A Action if accused becomes fit to plead after hearing

(1) This section applies if—

(a) the Magistrates Court makes an order under section 335 (2), (3) or (4) in relation to an accused; and

(b) the offence in relation to which the order is made is punishable by imprisonment for 5 years or longer; and

(c) the ACAT later decides the accused is fit to plead in relation to the offence.

Note For the relevant review of fitness to plead provisions, see the *Mental Health Act 2015*, s 176.

(2) The director of public prosecutions must consider whether to take further proceedings against the accused in relation to the offence.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) If further proceedings are taken and the accused is found guilty of the offence charged, the court must, in deciding the sentence for the offence, take into account any time the accused has spent in custody or detention in relation to the offence.

336 How Magistrates Court may be informed

For this division, the Magistrates Court may inform itself as it considers appropriate.

Note The Legislation Act, s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 16 Proceedings after sentence

367 Procedure on forfeiture

(1) If, under a provision of this Act or the Criminal Code, a court may order the forfeiture of an article, the court shall—

(a) if the court is of the view that it is desirable to make further inquiries with respect to the article—order that notice of the proposed forfeiture be given to the persons that the court directs; or

(b) in any other case—order that the article be forfeited to the Territory.

(2) After hearing such of the persons to whom notice under subsection (1) was given as appear, the court shall—

(a) if it is satisfied that the article should be forfeited—order that the article be forfeited to the Territory; or

(b) in any other case—order that the article be delivered to the person that the court is satisfied is entitled to the article.

(3) If a prosecution is pending in relation to an article, the court shall not make an order under subsection (2) in relation to the article until the prosecution is determined.

(4) All articles forfeited under subsection (2) shall be dealt with as directed by the Attorney-General, and pending his or her direction, may be detained in the custody that the court directs.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

371 What not sufficient to stay or reverse judgment

(1) No judgment after verdict, in any case, shall be stayed or reversed for want of a similiter, nor because the jury process was awarded to a wrong officer, nor for any misnomer, or misdescription, of the officer returning such process, or of any juror, nor because any person served on the jury who was not returned as a juror.

(2) Nor shall any verdict be affected, because of the jury not having been instructed that the accused might, on the evidence, be convicted of a less offence than the offence charged.

(3) If the offence charged is created by statute, or subjected to a greater degree of punishment by any statute, the indictment shall after verdict be sufficient, if it described the offence in the words of the statute.

372 Pronouncing proper judgment

No judgment shall be reversed, or avoided, for any error in law in the sentence imposed, but it shall be competent for the judges of the Supreme Court, in case of any such error, either to pronounce the judgment and sentence that is authorised by law, or to remit the record to the other court, in order that the court may pronounce the judgment and sentence that is authorised by law.

373 New trials regulated

A new trial may be granted for any offence, for any cause for which a new trial may now be granted, in respect of all, or some, or 1 only, of the defendants if 2 or more are included in the same indictment, although all are not present, nor are parties to the motion, nor have been tried.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 17 Offences punishable summarily and summary procedure generally

374 Summary disposal of certain cases at prosecutor's election

(1) This section applies if a person (the ***defendant***) is before the Magistrates Court charged with—

(a) an offence punishable by imprisonment for longer than 2 years but not longer than 5 years; or

(b) an offence against the *Work Health and Safety Act 2011*, section 31 (1).

(2) For subsection (1) (a), the penalty of imprisonment for an offence charged as an aggravated offence because it involves family violence is the penalty for the simple offence.

(3) The prosecutor must elect whether to have the case disposed of summarily.

(4) The defendant must not be required to plead guilty or not guilty to the charge if the prosecutor has not made an election under subsection (3).

(5) The prosecutor must make the election before the later of—

(a) the 2nd time the proceeding for the offence is before the court; and

(b) 21 days after the 1st time the proceeding for the offence is before the court.

(6) If the prosecutor does not elect to have the case disposed of summarily within the time required under subsection (5), the court must deal with the charge in accordance with section 375 (6) to (16).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(7) If the prosecutor elects to have the case disposed of summarily, the court must hear and determine the charge summarily and sentence or otherwise deal with the defendant according to law.

(8) In sentencing or otherwise dealing with a defendant in relation to an offence that is an aggravated offence because it involves family violence, the court must treat the family violence as an aggravating factor for the offence, subject to the limitation on the penalty under subsection (9).

Example

A defendant is charged with aggravated assault occasioning actual bodily harm under s 24 because the offence involves family violence. The prosecutor makes an election to have the case disposed of summarily, based on the maximum penalty of 5 years imprisonment for the simple offence. The court convicts the defendant and must impose a sentence or otherwise deal with the defendant in a way that, subject to the limitation on penalty in s (9), acknowledges the objective seriousness of family violence.

(9) If the court disposes of a case summarily under this section and convicts the defendant of the offence, the court must not impose a penalty that exceeds—

(a) a fine of $5 000, imprisonment for 2 years or both; or

(b) if the maximum penalty provided for the offence by the law creating it is a fine of less than $5 000—the maximum penalty.

(10) In this section:

Magistrates Court includes the Childrens Court.

375 Summary disposal of certain cases

(1) This section applies if a person is before the Magistrates Court charged with—

(a) a common law offence; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) an offence punishable by imprisonment for a term not exceeding—

(i) if the offence relates to money or other property—14 years; or

(ii) in any other case—10 years; or

(c) if the person is a body corporate—an offence against the *Work Health and Safety Act 2011*, section 31 (1); or

(d) an offence against the Criminal Code, section 310 (Aggravated robbery), section 311 (1) (b) (Burglary) or section 312 (Aggravated burglary).

Note Under the Criminal Code, s 311 (1) (b), a person commits an offence if the person enters or remains in a building as a trespasser with intent to commit an offence that involves causing harm, or threatening to cause harm, to anyone in the building.

(2) This section also applies if a person is before the Childrens Court charged with any offence (other than an offence punishable by imprisonment for life).

(3) However, this section applies to a case to which section 374 applies only as mentioned in section 374 (6).

(4) The court may proceed in accordance with subsections (6) to (16) if—

(a) the court considers that it has no jurisdiction, apart from this section, to hear and determine the charge summarily; and

(b) for a charge that relates to money, or to property other than a motor vehicle, and is being heard in the Magistrates Court—the court considers that the amount of the money or the value of the property does not exceed $30 000.

(5) To remove any doubt, for subsection (4) (b), property does not include real property or any building at which the offence charged was allegedly committed.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(6) The court may invite the person (the ***defendant***) to plead guilty or not guilty to the charge.

(7) If the defendant pleads guilty to the charge, the court may accept or reject the plea.

(8) The defendant is taken to have pleaded not guilty to the charge if—

(a) the defendant does not plead to the charge when invited to do so under subsection (6); or

(b) the court rejects a plea of guilty to the charge under subsection (7);

(9) When the court is satisfied the case is ready to be listed for hearing, the court must ask the defendant whether the defendant consents to the case being disposed of summarily.

(10) The court may hear and determine the charge summarily, and may sentence or otherwise deal with the defendant according to law, if—

(a) the defendant pleads or is to be taken to have pleaded not guilty to the charge; and

(b) the court considers that the case can properly be disposed of summarily; and

(c) the defendant consented to the case being disposed of summarily and the consent has not been withdrawn under section 375A; and

(d) if the charge is for an offence against the Criminal Code, section 310 or section 312—the prosecutor also consents to the case being disposed of summarily.

(11) The court may sentence or otherwise deal with the defendant if—

(a) the court accepts a plea of guilty to a charge; and

(b) the court considers that the case can properly be disposed of summarily; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(c) the defendant consents to the case being disposed of summarily and the consent is not withdrawn under section 375A; and

(d) if the charge is for an offence against the Criminal Code, section 310 or section 312—the prosecutor also consents to the case being disposed of summarily.

(12) Before the Magistrates Court decides whether a case can properly be disposed of summarily, the court must consider the following:

(a) any relevant representations made by the defendant;

(b) any relevant representations made by the prosecutor in the defendant's presence;

(c) whether, if the defendant were found guilty or the defendant's plea of guilty has been accepted by the court, the court is, under this section, empowered to impose an adequate penalty, having regard to the circumstances and the degree of seriousness of the case;

(d) any other circumstances that appear to the court to make it more appropriate for the case to be dealt with on indictment rather than summarily.

(13) Before the Childrens Court decides whether a case can properly be disposed of summarily, the court must consider the following:

(a) relevant representations made by the defendant;

(b) relevant representations made by the prosecutor in the defendant's presence;

(c) the facts of the case;

(d) the seriousness of the alleged offence;

(e) the circumstances in which the offence is alleged to have been committed;

(f) the defendant's age;

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(g) the defendant's apparent maturity;

(h) the defendant's apparent mental capacity;

(i) the suitability of the penalties that the court is empowered to impose;

(j) the difficulty of any question of law that is likely to arise.

(14) If the court accepts a plea of guilty to a charge under this section, and—

(a) the court considers that the case cannot properly be disposed of summarily; or

(b) the defendant's consent to the case being disposed of summarily has been withdrawn under section 375A;

the *Magistrates Court Act 1930*, section 90A (7) to (13) applies in relation to the defendant as if the court had accepted a plea of guilty to the charge under that section.

(15) If the Magistrates Court disposes of a case summarily under this section and convicts the defendant of the offence, the court must not impose a penalty that exceeds—

(a) a fine of $15 000, imprisonment for 5 years or both; or

(b) if the maximum penalty provided for the offence by the law creating it is less than the penalty mentioned in paragraph (a)—the maximum penalty.

(16) If the Childrens Court disposes of a case summarily under this section and convicts the defendant of the offence, the court must not impose a penalty that exceeds—

(a) a fine of $5 000, imprisonment for 2 years or both; or

(b) if the maximum penalty provided for the offence by the law creating it is less than the penalty mentioned in paragraph (a)—the maximum penalty.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(17) In this section:

Magistrates Court does not include the Childrens Court.

375A Withdrawal of consent to summary disposal of case

(1) A consent given by a defendant under section 375 (9) to summary disposal of a case can be withdrawn only if the court grants leave under this section.

(2) The defendant may apply to the court for leave to withdraw the consent.

(3) However, an application may not be made if a prosecution witness has given evidence in person at the hearing.

(4) The court may grant leave only if satisfied on reasonable grounds that—

(a) a significant change in relation to the defendant or the case happened after the consent was given; and

(b) granting the leave is justified in all the circumstances.

376 Saving of other summary jurisdiction

Nothing in this part affects the operation of any other law in force in the ACT by which jurisdiction is given to the Magistrates Court.

377 Certificate of dismissal

If the Magistrates Court has heard and determined a charge under section 374 or section 375 and has dismissed the charge, the magistrate constituting the court or the registrar of the court shall, if so requested by the person charged, give that person a certificate signed by the magistrate or registrar stating the fact of the dismissal.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

378 Summary conviction or dismissal bar to indictment

(1) A conviction on a charge disposed of summarily under section 374 or section 375 has the same effect as a conviction on indictment for the offence would have had and a person who is so convicted is not afterwards liable to prosecution for the same cause.

(2) The dismissal by the Magistrates Court of an information heard and determined by the court under section 374 or section 375 has the same effect as an acquittal of the person charged in a trial on indictment.

379 Misbehaviour at public meetings

(1) A person shall not, in any premises where a public meeting is being held, behave in a manner that disrupts, or is likely to disrupt, the meeting.

Maximum penalty: $1 000, imprisonment for 6 months or both.

(2) If a person presiding at any public meeting reasonably believes that another person in the premises where the meeting is being held is behaving in a manner that is disrupting, or is likely to disrupt, the meeting, the person so presiding may request any police officer who is present to remove the other person and the police officer may remove that other person accordingly.

380 Possession of offensive weapons and disabling substances

(1) A person who, without reasonable excuse, has in his or her possession, in a public place, in circumstances likely to cause alarm, an offensive weapon or a disabling substance is guilty of an offence punishable, on conviction, by a fine of $1 000, imprisonment for 6 months or both.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) In subsection (1):

disabling substance means any anaesthetising or other substance made for use for disabling a person, or intended for that use by the person who has it in his or her possession.

381 Possession of offensive weapons and disabling substances with intent

(1) A person who has on his or her person an offensive weapon or a disabling substance, in circumstances indicating intent to use the weapon or substance to commit an offence involving actual or threatened violence, is guilty of an offence punishable, on conviction, by a fine of $2 000, imprisonment for 1 year or both.

(2) In subsection (1):

disabling substance means any anaesthetising or other substance made for use for disabling a person, or intended for that use by the person who has it in his or her possession.

382 Possession of knife in public place or school

(1) A person shall not, without reasonable excuse, have a knife in his or her possession in a public place or school.

Maximum penalty: 10 penalty units, imprisonment for 6 months or both.

(2) Without limiting what may constitute a reasonable excuse, it is a reasonable excuse for a person to have a knife in his or her possession in a public place or school if—

(a) the possession is necessary or reasonable for, or for a purpose incidental to—

(i) the lawful pursuit of the person's occupation; or

(ii) the preparation or consumption of food; or

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(iii) participation in a lawful entertainment, recreation or sport; or

(iv) the exhibition of knives for retail or other trade purposes; or

(v) an organised exhibition by knife collectors; or

(vi) the wearing of an official uniform; or

(vii) religious purposes; or

(b) the possession is of a prescribed kind.

(3) It is not a reasonable excuse for a person to have a knife in his or her possession in a public place or school solely for the purpose of self-defence or the defence of another person.

383 Sale of knife to person under 16

(1) A person shall not sell a knife to a person under 16 years old.

Maximum penalty: 10 penalty units, imprisonment for 6 months or both.

(2) In this section:

sell includes—

(a) barter or exchange; and

(b) offer or expose for sale, barter or exchange; and

(c) supply, or offer to supply, in circumstances in which the supplier derives, or would derive, a direct or indirect pecuniary benefit; and

(d) supply, or offer to supply, gratuitously but with a view to gaining or maintaining custom, or otherwise with a view to commercial gain.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

384 Retail supplier of knives to display sign

(1) A person who sells knives by retail must ensure that a sign complying with subsections (2), (3) and (4) is clearly visible to a person at the place, or each place, where such a sale is made.

Maximum penalty: 5 penalty units.

(2) The sign must display at least the following words in the following sequence:

'It is an offence to sell a knife to a person under the age of 16.

Proof of age may be required.'.

(3) The lettering of the words stated in subsection (2) must be at least 8mm in height.

(4) The dimensions of the sign must not be less than 210mm x 145mm.

(5) Subsection (1) does not apply to a person, or a knife, of a kind specified in, or ascertained in accordance with, the regulations.

385 Laying of poison

A person shall not lay any poison that endangers, or is likely to endanger, the life of any domestic animal or bird.

Maximum penalty: $1 000, imprisonment for 6 months or both.

387 Making false invoice

A person who fraudulently prepares, causes to be prepared or produces an invoice, receipt or document containing a false statement, with intent to induce the belief that anything was not stolen or otherwise unlawfully obtained or to prevent anything from being seized on suspicion of being stolen or otherwise unlawfully obtained or from being produced in evidence concerning an alleged offence, is guilty of an offence punishable, on conviction, by a fine not exceeding $200, imprisonment for 3 months or both.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

388 Application of compensation

For private property, the compensation for the damage or injury done shall be paid to the party aggrieved, and for property of a public nature, or if any public right is concerned, shall be applied as the magistrate thinks fit.

389 Obstruction of stream etc

A person shall not place any obstruction in any stream, river or lake, being an obstruction that is likely to endanger the safety of any person.

Maximum penalty: $1 000, imprisonment for 6 months or both.

390 Entrance to cellars etc

The owner or occupier of any premises in or on which there is any cellar, manhole or other similar place having an entrance that opens into, on or near a public place shall have and maintain in good repair a rail, gate, fence or cover effectively enclosing that entrance and shall not permit that entrance to remain open for longer than is reasonably necessary.

Maximum penalty: $1 000, imprisonment for 6 months or both.

391 Fighting

A person shall not fight with another person in a public place.

Maximum penalty: 20 penalty units.

392 Offensive behaviour

A person shall not in, near, or within the view or hearing of a person in, a public place behave in a riotous, indecent, offensive or insulting manner.

Maximum penalty: 20 penalty units.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

393 Indecent exposure

A person who offends against decency by the exposure of his or her person in a public place, or in any place within the view of a person who is in a public place, commits an offence.

Maximum penalty: 20 penalty units, imprisonment for 1 year or both.

393A Urinating in public place

(1) A person commits an offence if the person urinates in a public place (other than in a toilet).

Maximum penalty: 10 penalty units.

(2) An offence against this section is a strict liability offence.

Note Circumstances of sudden and extraordinary emergency is a defence in relation to the offence. See the *Criminal Code 2002*, s 41.

394 Noise abatement directions

(1) If it appears to a police officer that offensive noise is being, or has at any time during the previous 30 minutes been, emitted from any premises, he or she may—

(a) direct the person whom he or she believes to be the occupier of those premises to cause the emission of the noise to cease; or

(b) direct any person whom he or she believes to be making, or contributing to the making of, the noise to cease making, or contributing to the making of, the noise;

or he or she may give directions under both paragraphs (a) and (b).

(2) A person commits an offence if the person—

(a) is given a direction under subsection (1) (a); and

(b) fails to comply with the direction.

Maximum penalty: 10 penalty units.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) An offence against subsection (2) is a strict liability offence.

(4) A person commits an offence if the person—

(a) is given a direction under subsection (1) (a); and

(b) causes or allows any offensive noise to be emitted from the premises within the 6-hour period after the direction was given.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(5) A person commits an offence if the person—

(a) is given a direction under subsection (1) (b); and

(b) the person—

(i) fails to comply with the direction; or

(ii) makes, or contributes to the making of, any offensive noise emitted from the premises within the 6-hour period after the direction was given.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(6) A person shall not be convicted of an offence against this section unless the prosecution establishes that the noise to which the alleged offence relates was an offensive noise.

(7) If a police officer believes on reasonable grounds that a person has committed an offence against subsection (2), (4) or (5), the officer may seize anything (other than an animal) that the officer suspects on reasonable grounds was used in, or in connection with, committing the offence.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(8) However, the police officer may seize the thing under subsection (7) only if the police officer has told the person, before the offence against subsection (2), (4) or (5) was committed, that failure to comply with the direction, or resumption of conduct contrary to the direction within 6 hours after the direction was given, may lead to the thing being seized.

(9) If a police officer seizes anything under subsection (7), the officer must give the occupier of the premises, or the person from whom the thing was seized, a written notice that—

(a) describes the thing seized; and

(b) states the police station where the thing will be taken; and

(c) states that the thing may be claimed from that police station not earlier than 48 hours after the seizure.

(10) If a police officer seizes anything under subsection (7), then, not earlier than 48 hours after the seizure, the occupier of the premises from which the thing was seized, or the owner of the thing, is entitled to its return from the police station where the thing has been taken if the person produces the notice under subsection (9) or anything else that provides satisfactory proof that the person is entitled to its possession.

(11) However, if—

(a) a person is charged with an offence against this section; and

(b) the chief police officer or director of public prosecutions believes, on reasonable grounds, that something seized by a police officer under subsection (7) may provide evidence of the offence;

no-one is entitled to its return until the prosecution for the offence has been finally decided.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(12) In this section:

offensive noise means noise that, because of its level or nature, or the time when it is made, or any other circumstances, is likely to be harmful or offensive to, or to interfere unreasonably with the comfort or repose of, persons who are—

(a) if the noise is made in premises other than a public place—outside the premises; or

(b) if the noise is made in premises that are a public place—within or outside the premises.

premises include any place, vehicle or vessel.

395 Bogus advertisements

(1) A person shall not publish nor cause to be published a bogus advertisement, knowing the advertisement to be bogus.

Maximum penalty: $1 000, imprisonment for 6 months or both.

(2) In subsection (1):

bogus advertisement means an advertisement or notice containing any statement or representation that is false or misleading in a material particular with respect to—

(a) any matter related to birth, death, engagement to be married, marriage, civil union, civil partnership or employment; or

(b) any matter concerning a person or the property of a person, other than the person who published the advertisement or caused it to be published.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

396 Public mischief

(1) A person who, by any means, makes any representation, creates any circumstance or does any other act intended to make it appear falsely that a situation exists, or an event has occurred, that calls for investigation or action by a police officer or member of the emergency services is, if the representation, circumstance or act comes to the knowledge of a police officer or member of the emergency services, guilty of an offence punishable, on conviction, by a fine of $2 000, imprisonment for 1 year or both.

(2) In this section:

member of the emergency services means a member of—

(a) the ambulance service; or

(b) the fire and rescue service; or

(c) the rural fire service; or

(d) the SES.

397 Apprehended violence or injury—recognisance to keep the peace etc

(1) In every case of apprehended violence by any person to the person of another, or of his or her domestic partner or child, or of apprehended injury to his or her property, a magistrate may on the complaint of the person apprehending the violence or injury, issue a summons or warrant as in any case of apprehended violence to the person, if at present security is required to keep the peace, and a magistrate may examine the complainant, and defendant, and their witnesses, as to the truth of the matter alleged, and, if it appears that the apprehension alleged is reasonable, but not otherwise, the magistrate may require the defendant to enter into a recognisance to keep the peace, with or without sureties, as in any case of a like nature.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) If in any such case the defendant has spoken any offensive or defamatory words to or of the complainant, on an occasion when a breach of the peace might have been induced thereby, he or she may be required by the magistrate to enter into a recognisance, with or without sureties, to be of good behaviour for a term not exceeding 6 months, and, in default of its being entered into forthwith, the magistrate may order that the defendant be imprisoned for 3 months, unless such recognisance is sooner entered into.

(3) The magistrate, in every such case, may award costs to either complainant or defendant, to be recovered as costs in summary jurisdiction cases are recoverable.

398 Alternative methods of proceeding before magistrate

If by this Act a person is made liable to imprisonment, or to pay a sum of money, on conviction before a magistrate, the person may be proceeded against and convicted in a summary way under this Act, so far as it is applicable, or under any law in force in the ACT regulating proceedings on summary convictions, and every provision contained in any such law shall be applicable to the proceedings as if it were incorporated in this Act.

399 General averment of intent to defraud or injure

In any proceeding before a magistrate if it is necessary to allege an intent to defraud, or to injure, it shall be sufficient to allege that the accused did the act with such intent, without alleging an intent to defraud or to injure any particular person.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 20 Inquiries into convictions

Division 20.1 Preliminary

421 Definitions for pt 20

In this part:

Full Court means the Supreme Court constituted by a Full Court.

inquiry means an inquiry under this part into a person's conviction for an offence (whether summarily or on indictment).

registrar means the registrar of the Supreme Court.

relevant proceeding, in relation to an offence, means a prosecution or other proceeding in relation to the offence, including an appeal in relation to the finding of a court in relation to the offence.

Division 20.2 How to start inquiry

422 Grounds for ordering inquiry

(1) An inquiry may be ordered under this part into the conviction of a person for an offence only if—

(a) there is a doubt or question about whether the person is guilty of the offence; and

(b) the doubt or question relates to—

(i) any evidence admitted in a relevant proceeding; or

(ii) any material fact that was not admitted in evidence in a relevant proceeding; and

(c) the doubt or question could not have been properly addressed in a relevant proceeding; and

(d) there is a significant risk that the conviction is unsafe because of the doubt or question; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(e) the doubt or question cannot now be properly addressed in an appeal against the conviction; and

(f) if an application is made to the Supreme Court for an inquiry in relation to the conviction—an application has not previously been made to the court for an inquiry in relation to the doubt or question; and

(g) it is in the interests of justice for the doubt or question to be considered at an inquiry.

Example for par (a) to (e)

John has been convicted of murder. Expert evidence that blood found on John's jacket shortly after the murder was almost certain to be the victim's blood was the main evidence connecting John with the murder.

Later DNA testing, by a method developed after all proceedings in relation to the conviction had been finalised (and the time for making any appeal had lapsed), shows that the blood is almost certainly *not* the victim's blood. This gives rise to a doubt or question about the blood evidence that could not have been (and cannot now be) properly addressed in any relevant proceeding in relation to the murder, and a significant risk that the conviction is unsafe.

(2) The inquiry is limited to matters stated in the order for the inquiry.

(3) If the inquiry is ordered by the Supreme Court, the court may set limits on the inquiry under subsection (2) despite anything in the application for the inquiry.

423 Executive order for inquiry

The Executive may order an inquiry on its own initiative.

424 Supreme Court order for inquiry

(1) The Supreme Court may order an inquiry on application by the convicted person, or by someone else on the convicted person's behalf.

(2) The registrar must give a copy of an application for an inquiry to the Attorney-General.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) The Supreme Court may consider a written submission by the Attorney-General or the director of public prosecutions (or both) in relation to the application.

(4) Proceedings on an application are not judicial proceedings.

(5) If the Supreme Court orders an inquiry, the registrar must give a copy of the order to the Attorney-General.

425 Rights and duties in relation to orders for inquiry

(1) This division does not create a right to the order of an inquiry, and does not create a duty to order an inquiry.

(2) Without limiting subsection (1), there is no right of appeal in relation to a decision whether to order an inquiry.

Division 20.3 Inquiry procedure

426 Application of Inquiries Act

The *Inquiries Act 1991* applies to an inquiry, subject to this division.

427 Appointment of board of inquiry

(1) If an inquiry is ordered, the Executive must appoint a board of inquiry under the *Inquiries Act 1991*.

(2) The inquiry must be stated in the appointment to be in relation to the matter stated in the order, and in relation to no other matter.

(3) The board of inquiry must be constituted by a judge of the Supreme Court or a magistrate.

(4) A judge or magistrate who has been involved in any way (whether as judge or magistrate, or in another capacity) in a relevant proceeding in relation to the offence, or in any investigation in relation to the acts or omissions alleged to constitute the offence, must not be appointed to constitute the board of inquiry.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

428 Report by board

(1) After finishing an inquiry, the board must give a copy of a written report of the inquiry to the registrar.

(2) Together with the report, the board must give to the registrar, for safe-keeping, any documents or things held by the board for the purpose of the inquiry.

(3) Even if the board does not comply with subsection (2), the Supreme Court may exercise its powers under division 20.4 in relation to the report.

(4) The *Inquiries Act 1991*, sections 14 (Reports of boards) and 14A (Presenting reports) do not apply to the inquiry.

Division 20.4 Supreme Court orders following inquiry report

429 Publication of report

(1) The registrar must give a copy of the report of a board of inquiry appointed under division 20.3 to the Attorney-General and the convicted person, together with a copy of any order under this section.

(2) The Supreme Court may make an order that the report, or particular parts of the report—

(a) must not be disclosed to anyone else by—

(i) the Territory; or

(ii) the convicted person (except to obtain legal advice or representation); or

(iii) someone else who obtains a copy of the report; or

(b) may be disclosed only to particular people or on stated conditions (for example, a condition requiring the consent of the court).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) The Supreme Court may make an order under this section only if it considers that it is in the interests of justice, having regard to the public interest and the interests of the convicted person.

(4) An order under this section may be enforced in the same way as any other order of the Supreme Court.

430 Action on report by Supreme Court

(1) The Full Court must consider the report of a board into an inquiry.

(2) Having regard to the report, the Full Court must, by order—

(a) confirm the conviction; or

(b) confirm the conviction and recommend that the Executive act under either of the following sections of the *Crimes (Sentence Administration) Act 2005* in relation to the convicted person:

(i) section 313 (Remission of penalties);

(ii) section 314 (Grant of pardons); or

(c) quash the conviction; or

(d) quash the conviction and order a new trial.

(3) The registrar must give a copy of the order, together with any reasons given for the order, to the Attorney-General and the convicted person.

(4) This section does not give the convicted person a right to an order of the Full Court mentioned in subsection (2) (b), (c) or (d), or to an Executive pardon or remission.

Division 20.5 Application to earlier convictions

432 Inquiries about earlier convictions

This part applies in relation to a conviction for an offence even if the conviction happened before the commencement of this part.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 22 Miscellaneous

434A Application of certain sections of Commonwealth Crimes Act to territory laws

The provisions of the *Crimes Act 1914* (Cwlth), sections 13, 15, 17, 19A, 21B and 21C, so far as they are applicable, apply in relation to all territory laws as if a territory law were a law of the Commonwealth.

434B Joinder of charges

(1) Charges against the same person for any number of offences against the same provision of a territory law may be joined in the same information or summons if the charges are founded on the same facts or form, or are part of, a series of offences of the same or a similar character.

(2) If a person is convicted of 2 or more offences mentioned in subsection (1), and the offences relate to doing or failing to do the same act, the court may impose 1 penalty in relation to both or all the offences, but the penalty must not exceed the total of the maximum penalties that could be imposed if a separate penalty were imposed in relation to each offence.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

434C Aggravated offence may allege more than 1 factor of aggravation

(1) A charge for an offence against this Act that the prosecution intends to prove is an aggravated offence may state more than 1 relevant factor of aggravation for the offence

Example

A defendant is charged with 1 count of assault occasioning actual bodily harm under s 24. The complainant is a pregnant woman and also a family member of the offender. The prosecution intends to prove the offence is an aggravated offence, relying on s 48A and s 72AA. The charge under s 24 may state the relevant factors of aggravation as an assault against a pregnant woman and an assault involving family violence.

(2) In this section:

relevant factor of aggravation—

(a) for an offence mentioned in section 48A (1) (Aggravated offences—pt 2 offences against pregnant women)—see section 48A (6); and

(b) for an offence mentioned in section 48C (1) (Aggravated offences—pt 2 offences involving family violence)—see section 48C (5); and

(c) for an offence mentioned in section 72AA (1) (Aggravated offences—pt 3 offences involving family violence)—see section 72AA (5); and

(d) for an offence mentioned in section 72EA (1) (Aggravated offences—pt 3A offences involving family violence)—see section 72EA (5); and

(e) for an offence against section 116 (Destroying or damaging property)—see section 116 (7).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

435 Protection of persons acting under Act

(1) All actions against any person, for anything done, or reasonably supposed to have been done under this Act, shall be commenced within 6 months after the fact committed, and written notice of any such action, and of the cause of it, shall be given to the defendant 1 month at least before commencement of the action, and in any such action the defendant may plead the general issue, and give the special matter in evidence.

(2) No plaintiff shall recover in any such action, if a tender of sufficient amends was made before action brought, or if a sufficient sum is paid into court, on behalf of the defendant, after action brought.

(3) If a verdict passes for the defendant, or the plaintiff becomes nonsuit, or discontinues his or her action after issue joined, or if on demurrer, or otherwise, judgment is given against the plaintiff, the defendant shall recover costs as between solicitor and client.

437 Power of courts to bring detainees before them

For a trial or prosecution, a court may order the person in charge of a correctional centre or other place where a person is detained in lawful custody to bring the person before the court and to return the person to the centre or other place in accordance with the order.

438 Witnesses neglecting to attend trial and captured under warrant may be admitted to bail

If a person bound by recognisance, or served with a subpoena, to attend as a witness in any court at a trial, who has failed to appear when called in open court, either at the trial, or on the day appointed for the trial, has been captured under a warrant issued by the court, bail may be taken before any magistrate for his or her appearance at the trial.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

439 Offence of criminal defamation

(1) A person must not publish matter defamatory of another living person (the ***victim***)—

(a) knowing the matter to be false; and

(b) with intent to cause serious harm to the victim or any other person or being reckless as to whether such harm is caused.

Maximum penalty: 300 penalty units, imprisonment for 3 years or both.

(2) Subsection (1) does not apply to the publication of defamatory matter about the victim if, and only if, the defendant would, having regard only to the circumstances happening before or at the time of the publication, have had a defence for the publication if the victim had brought civil proceedings for defamation against the defendant.

Note Under the Criminal Code, s 58 (3) a defendant who wishes to rely on this exception has an evidential burden in relation to the matter.

(3) On a trial before a jury for an offence against this section—

(a) the question of whether the matter complained of is capable of bearing a defamatory meaning is a question for determination by the judicial officer presiding; and

(b) the question of whether the matter complained of does bear a defamatory meaning is a question for the jury; and

(c) the jury may give a general verdict of guilty or not guilty on the issues as a whole.

(4) A proceeding for an offence against this section must not be begun without the written consent of the director of public prosecutions.

(5) However, a person may be arrested for, charged with, or remanded in custody or on bail in relation to, an offence against this section before the consent has been given.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(6) The commencement of criminal proceedings for an offence against this section does not prevent—

(a) the commencement of civil proceedings for defamation against the defendant in the criminal proceedings; or

(b) the determination of the civil proceedings pending the determination of the criminal proceedings.

(7) In this section, ***publish*** and ***defamatory*** have the meanings that they have in the law of tort (as modified by the *Civil Law (Wrongs) Act 2002*) relating to defamation.

(8) In this section:

harm—see the *Civil Law (Wrongs) Act 2002*, section 40.

440 Prosecutions for blasphemy

No person shall be liable to prosecution in respect of any publication by him or her, orally or otherwise, of words or matter charged as blasphemous, if the publication is by way of argument, or statement, and not for the purpose of scoffing or reviling, nor of violating public decency, nor in any way tending to a breach of the peace.

441 Retrospective repeal of limitation period on criminal proceeding for particular sexual offences

(1) Despite any law previously in force in the Territory that limited the time in which a criminal proceeding could be begun (a ***limitation law***) for an offence against a repealed sexual offence provision, a criminal proceeding for the offence may be begun as though the limitation law had never been in force.

(2) To remove any doubt, any right acquired by a person because of the commencement of the 1951 Act, or the 1976 Ordinance, not to be prosecuted for an offence against a repealed sexual offence provision is abrogated.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) In this section:

1951 Act means the *Crimes Act 1951* (repealed).

Note The 1951 Act—

(a) commenced on 14 December 1951 (as the *Crimes Ordinance 1951*) and was repealed on 21 December 2000; and

(b) created new offences under the 1951 repealed provisions, and limited the time in which a person could be prosecuted for the offences (see the 1951 Act, s 78).

1951 repealed provision means any of the following provisions of this Act, as in force on the commencement of the 1951 Act:

(a) section 71 (Carnally knowing a girl between ten and sixteen);

(b) section 72 (Attempts);

(c) section 76 (Indecent assault).

1976 Ordinance means the *Law Reform (Sexual Behaviour) Ordinance 1976* (repealed).

Note The 1976 Ordinance—

(a) commenced on 8 November 1976 and was repealed on 28 November 1985; and

(b) created burdens of proof for the prosecution of offences under the 1976 repealed provisions, and limited the time in which a person could be prosecuted for the offences (see the 1976 Ordinance, s 6).

1976 repealed provision means any of the following provisions of this Act, as in force on the commencement of the 1976 Ordinance:

(a) section 79 (Buggery and bestiality);

(b) section 80 (Attempt, &c., to commit buggery);

(c) section 81 (Indecent assault on male).

repealed sexual offence provision means—

(a) a 1951 repealed provision; or

(b) a 1976 repealed provision.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

441A Criminal proceedings not allowed by section 441

(1) Section 441 does not allow a criminal proceeding to begin—

(a) for an offence against a 1951 repealed provision—if the defendant alleged to have committed the offence is not more than 2 years older than the complainant for the offence; or

(b) for an offence against a 1976 repealed provision—if the prosecution does not allege the offence was committed in circumstances mentioned in repealed section 5 (a) or (b); or

(c) for an offence against a 1976 repealed provision (other than section 81 (Indecent assault on male))—if the prosecution does not allege that the offence was committed against a person.

(2) In this section:

1951 Act—see section 441 (3).

1976 Ordinance—see section 441 (3).

1951 repealed provision—see section 441 (3).

1976 repealed provision—see section 441 (3).

repealed section 5 (a) or (b) means this Act, section 5 (a) or (b) as in force on the commencement of the 1976 Ordinance.

441B Retrospective application of repealed alternative verdict provision for carnal knowledge

(1) This section applies to section 70 (the ***repealed provision***) as in force at any time before the commencement of the *Crimes (Amendment) Ordinance (No 2) 1984*.

Note The ordinance became an ACT Act (the *Crimes (Amendment) Ordinance (No 2) 1984*) on 11 May 1989 (see *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) s 34 (4)).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(2) The repealed provision is taken to have been amended by omitting paragraph (a) and substituting it with the following:

"(a) she was of or above that age but under the age of sixteen years; and".

442 Change of venue

In any criminal proceeding, if it is made to appear to the court—

(a) that a fair or unprejudiced trial cannot otherwise be had; or

(b) that for any other reason, it is expedient so to do;

the Supreme Court may change the venue, and direct the trial to be had in the other district, or at the particular place, that the court thinks fit, and may for that purpose make all the orders that justice appears to require.

442B Review of operation of offences against frontline community service providers

(1) The Minister must review the operation of the following provisions no later than 2 years after the day they commence:

(a) section 26A (Assault of frontline community service provider);

(b) section 26B (Assault of frontline community service provider—alternative verdict);

(c) section 29A (Driving motor vehicle at police);

(d) section 29B (Damaging police vehicle).

(2) The Minister must present a report of the review to the Legislative Assembly within 12 months after the day the review is started.

(3) This section expires 3 years after the day it commences.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

442C Review of operation of offences of abuse of vulnerable people

(1) The Minister must review the operation of the following provisions as soon as practicable after the end of their first 12 months of operation:

(a) section 36A (Abuse of vulnerable person);

(b) section 36B (Failure to protect vulnerable person from criminal offence);

(c) section 36C (Neglect of vulnerable person).

(2) The Minister must present a report of the review to the Legislative Assembly within 12 months after the day the review is started.

(3) This section expires 3 years after the day it commences.

442D Review—pt 3

(1) The Minister must review the operation of this Act, as amended by the *Crimes (Consent) Amendment Act 2022*, in relation to part 3 (Sexual offences).

(2) The review must be started as soon as practicable after the end of 2 years after this section commences.

(3) The Minister must present a report of the review to the Legislative Assembly within 12 months after the day the review is started.

(4) This section expires 3 years after the day it commences.

443 Approved forms

(1) The Minister may approve forms for this Act.

(2) If the Minister approves a form for a particular purpose, the approved form must be used for that purpose.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

444 Regulation-making power

The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Schedule 1 Anabolic steroids

(see s 170)

column 1 item	column 2 substance
1	Androisoxazole
2	Androsterone
3	Atamestane
4	Bolandiol
5	Bolasterone
6	Bolazine
7	Boldenone
8	Bolenol
9	Bolmantalate
10	Calusterone
11	Chlorandrostenolone
12	4-Chloromethandienone
13	Chloroxydienone
14	Chloroxymesterone (dehydrochloromethyltestosterone)
15	Clostebol
16	Danazol
17	Dihydrolone
18	Dimethandrostanolone
19	Dimethazine
20	Drostanolone
21	Enestebol
22	Epitiostanol

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

column 1 item	column 2 substance
23	Ethisterone
24	Ethyldienolone
25	Ethyloestrenol
26	Fluoxymesterone
27	Formebolone
28	Furazabol
29	Gestrinone
30	Hydroxystenozol
31	Mebolazine
32	Mepitiostane
33	Mesabolone
34	Mestanolone (androstanolone)
35	Mesterolone
36	Methandienone
37	Methandriol
38	Methandrostenolone
39	Methenolone
40	Methylclostebol
41	Methyltestosterone
42	Methyltrienolone
43	Metribolone
44	Mibolerone
45	Nandrolone
46	Norandrostenolone
47	Norbolethone

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

column 1 item	column 2 substance
48	Norclostebol
49	Norethandrolone
50	Normethandrone
51	Ovandrotone
52	Oxabolone
53	Oxandrolone
54	Oxymesterone
55	Oxymetholone
56	Prasterone
57	Propetandrol
58	Quinbolone
59	Roxibolone
60	Silandrone
61	Stanolone
62	Stanozolol
63	Stenbolone
64	Testolactone
65	Testosterone
66	Thiomesterone
67	Trenbolone
68	Trestolone
69	Anabolic and androgenic steroidal agents not mentioned elsewhere in this schedule

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Dictionary

(see s 4)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

- ACAT
- Act
- adult
- ambulance service
- chief police officer
- civil partnership
- civil union
- commissioner of police
- contravene
- correctional centre
- corrections officer
- director-general (see s 163)
- director of public prosecutions
- doctor
- domestic partner (see s 169)
- fail
- fire and rescue service
- function
- head of service
- health practitioner
- indictable offence (see also s 190)
- intersex person (see s 169B)
- judge
- lawyer
- magistrate
- medical practitioner
- midwife

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

- penalty unit (see also s 133)
- police officer
- rural fire service
- SES
- summary offence (see also s 190)
- the Territory
- transgender person (see s169A).

ACAT, for part 13 (Unfitness to plead and mental impairment)—see section 300 (1).

accused, for a person before the Magistrates Court, for part 13 (Unfitness to plead and mental impairment)—see section 300 (1).

actual bodily harm to a pregnant woman includes harm to the pregnancy other than in the course of a medical procedure (whether or not the woman suffers any other harm).

aggravated offence—

(a) for part 2 (Offences against the person)—

(i) for an offence committed against a pregnant woman—see section 48A (2); and

(ii) for an offence involving family violence—see section 48C (2); and

(b) for part 3 (Sexual offences)—see section 72AA (2); and

(c) for part 3A (Intimate image abuse)—see section 72EA (2).

alternative offence, for part 13 (Unfitness to plead and mental impairment)—see section 300 (1).

anabolic steroid, for part 8 (Anabolic steroids)—see section 170.

applied provisions—see the Criminal Code, section 10 (1).

appropriate authority, in relation to a State or another Territory, for part 11 (Investigation of extraterritorial offences)—see section 253 (1).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

assisting officer, in relation to a warrant, for part 10 (Criminal investigation)—see section 185.

breasts, for part 3A (Intimate image abuse)—see section 72A.

child—

(a) for the Act generally—

(i) means a person who has not attained the age of 18 years; and

(ii) in relation to a person, includes a child—

(A) who normally or regularly resides with the person; or

(B) of whom the person is a guardian; and

(b) for subdivision 10.7.2 (Preliminary procedures in relation to children and young people)—see section 252D.

committed an offence, for subdivision 10.7.2 (Preliminary procedures in relation to children and young people)—see section 252D.

Commonwealth Crimes Act, for part 10 (Criminal investigation)—see section 185.

compliance period, for division 10.9 (Fortification of premises)—see section 252M.

conduct, for part 13 (Unfitness to plead and mental impairment)—see the Criminal Code, section 13.

consent, for part 3 (Sexual offences)—see section 50B.

contaminate, for goods, for division 6.6 (Contamination of goods and related offences)—see section 135.

conveyance, for part 10 (Criminal investigation)—see section 185.

corresponding law, for part 11 (Investigation of extraterritorial offences)—see section 253 (1).

crime scene, for division 10.4A (Crime scene powers)—see section 210A.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

crime scene power, for division 10.4A (Crime scene powers)—see section 210A.

daily care responsibility—see the *Children and Young People Act 2008*, section 19.

deal, with money or other property, for division 6.2A (Money laundering and organised fraud)—see section 114A.

defendant, for part 13 (Unfitness to plead and mental impairment)—see the *Magistrates Court Act 1930*, section 18A.

detention during pleasure, for part 7 (Escape provisions)—see section 158.

director of public prosecutions means—

(a) the director of public prosecutions appointed under the *Director of Public Prosecutions Act 1990*; or

(b) the director of public prosecutions appointed under the *Director of Public Prosecutions Act 1983* (Cwlth);

as the case requires.

distribute, for part 3A (Intimate image abuse)—see section 72B.

domestic partner includes former domestic partner.

economic loss, caused through public awareness of the contamination of goods, or the possibility of contamination, for part 6 (Offences relating to property)—see section 136.

engage in conduct, for part 13 (Unfitness to plead and mental impairment)—see the Criminal Code, section 13.

engaged in a private act, for part 3A (Intimate image abuse)—see section 72A.

evidential material, for part 10 (Criminal investigation)—see section 185.

exclusion direction, for part 9 (Exclusion powers)—see section 175 (3).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

exclusion period, for part 9 (Exclusion powers)—see section 175 (3) (b).

exclusion zone, for part 9 (Exclusion powers)—see section 175 (3) (a).

executing officer, in relation to a warrant, for part 10 (Criminal investigation)—see section 185.

family violence—see the *Family Violence Act 2016*, section 8.

fault element—see the Criminal Code, section 17.

female genital mutilation, for part 4 (Female genital mutilation)—see section 73.

fortification, of premises, for division 10.9 (Fortification of premises)—see section 252M.

fortification inspection order, for division 10.9 (Fortification of premises)—see section 252U.

fortification offence, for division 10.9 (Fortification of premises)—see section 252M.

fortification removal order, for division 10.9 (Fortification of premises)—see section 252N.

frisk search, for part 10 (Criminal investigation)—see section 185.

Full Court, for part 20 (Inquiries into convictions)—see section 421.

genital or anal region, for part 3A (Intimate image abuse)—see section 72A.

goods, for division 6.6 (Contamination of goods and related offences)—see section 135.

government or non-government school—see the *Education Act 2004*, dictionary.

grievous bodily harm to a person includes—

(a) any permanent or serious disfiguring of the person; and

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

(b) for a pregnant woman—loss of or serious harm to the pregnancy other than in the course of a medical procedure (whether or not the woman suffers any other harm).

identification material, in relation to a person, for part 10 (Criminal investigation)—see section 185.

impaired state, for a person, for part 10 (Criminal investigation)—see section 185.

indictment includes any information presented or filed as provided by law for the prosecution of offences.

inquiry, for part 20 (Inquiries into convictions)—see section 421.

intimate image, for part 3A (Intimate image abuse)—see section 72A.

issuing officer, in relation to a warrant to search premises or a person or a warrant for arrest, for part 10 (Criminal investigation)—see section 185.

knife includes—

(a) a knife blade; and

(b) a razor blade; and

(c) any other blade; but

(d) does not include a knife of a class or description excluded from this definition by regulation.

light rail—see the *Road Transport (General) Act 1999*, dictionary.

light rail vehicle—see the *Road Transport (General) Act 1999*, dictionary.

loaded arms means any firearm, airgun or air pistol that is loaded with any projectile or missile, whether or not the firearm, airgun or air pistol is capable of being discharged.

long-term care responsibility—see the *Children and Young People Act 2008*, section 20.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Magistrates Court, for part 13—see section 300 (2).

mental health order, for part 13 (Unfitness to plead and mental impairment)—see the *Mental Health Act 2015*, dictionary.

mental impairment—see the Criminal Code, section 27.

motor vehicle—see the *Road Transport (General) Act 1999*, dictionary.

night, for part 11 (Investigation of extraterritorial offences)—see section 253 (1).

occupier, of premises, for division 10.9 (Fortification of premises)—see section 252M.

offence, for part 10 (Criminal investigation)—see section 185.

offence to which this Act applies, for part 11 (Investigation of extraterritorial offences)—see section 253 (1).

offensive weapon means—

(a) anything made or adapted for use, or capable of being used, for causing injury to or incapacitating a person; or

(b) anything intended for that use by the person who is carrying it or otherwise has it in his or her possession;

and includes an imitation or replica of an offensive weapon.

officer, in relation to a body corporate or public company, includes a person who has been appointed or who acts as an auditor of the body corporate or public company.

ordinary search, for part 10 (Criminal investigation)—see section 185.

owner, in relation to an object, for part 11 (Investigation of extraterritorial offences)—see section 253 (1).

police station, for part 10 (Criminal investigation)—see section 185.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

premises—

(a) for part 10 (Criminal investigation)—see section 185; and

(b) for part 11 (Investigation of extraterritorial offences)—see section 253 (1).

private premises, for division 10.4A (Crime scene powers)—see section 210A.

proceeds of crime, for division 6.2A (Money laundering and organised fraud)—see section 114A.

property—

(a) for division 6.2A (Money laundering and organised fraud)—see section 114A; and

(b) for division 6.3 (Criminal damage to property)—see section 115.

public place—

(a) for part 9 (Exclusion powers)—see section 174; or

(b) for division 10.4A (Crime scene powers)—see section 210B.

railway includes light rail.

recently used conveyance, in relation to a search of a person, for part 10 (Criminal investigation)—see section 185.

reciprocating State, for part 11 (Investigation of extraterritorial offences)—see section 253 (1).

registrar, for part 20 (Inquiries into convictions)—see section 421.

relevant proceeding, in relation to an offence, for part 20 (Inquiries into convictions)—see section 421.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

school—

(a) means—

(i) a government or non-government school under the *Education Act 2004*; or

(ii) an educational institution conducted by the Canberra Institute of Technology; and

(b) includes any land or premises that belong to, are occupied by, or are used in relation to, a school.

search warrant, for part 11 (Investigation of extraterritorial offences)—see section 253 (1).

seizable item, for part 10 (Criminal investigation)—see section 185.

serious offence—

(a) for part 10 (Criminal investigation)—see section 185; and

(b) for division 10.4A (Crime scene powers)—see section 210A; and

(c) for part 13 (Unfitness to plead and mental health impairment)—see section 300 (1); and

(d) for division 13.4 (Magistrates Court—finding of not guilty because of mental impairment)—see section 325.

sexual act, for part 3 (Sexual offences)—see section 50C.

sexual intercourse, for part 3 (Sexual offences)—see section 50 (1).

sexual services, for part 5 (Sexual servitude)—see section 78.

sexual servitude, for part 5 (Sexual servitude)—see section 78.

simple offence, in relation to a provision, means an offence against the provision that is not an aggravated offence against the provision.

special hearing, for part 13 (Unfitness to plead and mental health impairment)—see section 300 (1).

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

strip search, for part 10 (Criminal investigation)—see section 185.

tainted property, for part 10 (Criminal investigation)—see the *Confiscation of Criminal Assets Act 2003*, section 10.

take, identification material, for part 10 (Criminal investigation)—see section 185.

target material, for part 10 (Criminal investigation)—see the *Confiscation of Criminal Assets Act 2003*, section 195.

telephone, for part 11 (Investigation of extraterritorial offences)—see section 253 (1).

thing relevant to an offence, for part 10 (Criminal investigation)—see section 185.

trustee means a trustee on some express trust howsoever created, and includes the heir or personal representative of such trustee, and every other person on whom the duty of such trust shall have devolved, and also any official manager, assignee, liquidator, or other like officer, acting under any Act relating to joint-stock companies or to bankruptcy or insolvency.

under restraint, for subdivision 10.7.2 (Preliminary procedures in relation to children and young people)—see section 252D.

unlawful activity, for division 6.2A (Money laundering and organised fraud)—see section 114A.

vessel means any ship or vessel used in or intended for navigation, other than an undecked boat.

warrant, for part 10 (Criminal investigation)—see section 185.

warrant premises, for part 10 (Criminal investigation)—see section 185.

young person, for subdivision 10.7.2 (Preliminary procedures in relation to children and young people)—see section 252D.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act
AF = Approved form
am = amended
amdt = amendment
AR = Assembly resolution
ch = chapter
CN = Commencement notice
def = definition
DI = Disallowable instrument
dict = dictionary
disallowed = disallowed by the Legislative Assembly
div = division
exp = expires/expired
Gaz = gazette
hdg = heading
IA = Interpretation Act 1967
ins = inserted/added
LA = Legislation Act 2001
LR = legislation register
LRA = Legislation (Republication) Act 1996
mod = modified/modification
NI = Notifiable instrument
o = order
om = omitted/repealed
ord = ordinance
orig = original
par = paragraph/subparagraph
pres = present
prev = previous
(prev...) = previously
pt = part
r = rule/subrule
reloc = relocated
renum = renumbered
R[X] = Republication No
RI = reissue
s = section/subsection
sch = schedule
sdiv = subdivision
SL = Subordinate law
sub = substituted
<u>underlining</u> = whole or part not commenced or to be expired

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

3 Legislation history

This Act was originally a NSW Act—the *Crimes Act 1900* A1900-40 (NSW).

The Act was in force in NSW immediately before 1 January 1911 (the date of establishment of the ACT) and was continued in force by the *Seat of Government Acceptance Act 1909* (Cwlth), s 6.

Under the *Seat of Government (Administration) Act 1910* (Cwlth), s 4, the Act had effect in the ACT as if it were an ACT law (subject to ordinances made under the *Seat of Government (Administration) Act 1910*).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) converted certain former NSW laws in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on self-government (11 May 1989).

Under the *Crimes Legislation (Status and Citation) Act 1992*, this Act became, for all purposes, a law made by the ACT Legislative Assembly. This completed the process of making the former NSW law fully into an ACT law.

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

After 11 May 1989 and before 10 November 1999, Acts commenced on their notification day unless otherwise stated (see *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 25).

NSW legislation

Crimes Act 1900 A1900-40
notified 31 October 1900
commenced 31 October 1900

as amended by

Commonwealth legislation

Crimes Ordinance 1942 Ord1942-12
notified 28 May 1942 (Cwlth Gaz 1942 No 153)
commenced 28 May 1942

Crimes Ordinance 1944 Ord1944-1
notified 20 January 1944 (Cwlth Gaz 1944 No 13)
commenced 20 January 1944

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Crimes Ordinance 1951 Ord1951-14
notified 14 December 1951 (Cwlth Gaz 1951 No 93)
commenced 14 December 1951

Crimes Ordinance 1963 Ord1963-11
notified 23 May 1963 (Cwlth Gaz 1963 No 45)
commenced 23 May 1963

Crimes Ordinance 1968 Ord1968-4
notified 14 March 1968 (Cwlth Gaz 1968 No 23)
commenced 15 March 1968 (s 2)

Crimes Ordinance 1970 Ord1970-40
notified 22 October 1970 (Cwlth Gaz 1970 No 91)
commenced 22 October 1970

Crimes Ordinance 1971 Ord1971-2
notified 25 February 1971 (Cwlth Gaz 1971 No 21)
s 8 commenced 29 March 1971 (s 2 (2))
remainder commenced 1 March 1971 (s 2 (1))

Public Order (Protection of Persons and Property) Act 1971 (Cwlth) 1971 No 26 sch
assented to 13 May 1971
sch commenced 13 May 1971 (s 2)

Crimes Ordinance 1974 Ord1974-17
notified 17 April 1974 (Cwlth Gaz 1974 No 31E)
commenced 17 April 1974

Crimes (Amendment) Ordinance 1978 Ord1978-45
notified 21 December 1978 (Cwlth Gaz 1978 No S289)
commenced 21 December 1978

Crimes (Amendment) Ordinance 1979 Ord1979-1
notified 31 January 1979 (Cwlth Gaz 1979 No S13)
commenced 31 January 1979

Crimes (Amendment) Ordinance 1983 Ord1983-27 (as am by Ord1983-45 s 3; Ord1985-16 s 6)
notified 22 September 1983 (Cwlth Gaz 1983 No S214)
commenced 22 September 1983

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Crimes (Amendment) Ordinance (No 2) 1983 Ord1983-45
notified 29 September 1983 (Cwlth Gaz 1983 No S226)
commenced 22 September 1983 (s 2)

Note This Ordinance only amends the Crimes (Amendment) Ordinance 1983 Ord1983-27.

Crimes (Amendment) Ordinance (No 3) 1983 Ord1983-55
notified 18 November 1983 (Cwlth Gaz 1983 No S284)
commenced 18 November 1983

Crimes (Amendment) Ordinance 1984 Ord1984-32
notified 29 June 1984 (Cwlth Gaz 1984 No S244)
commenced 29 June 1984

Crimes (Amendment) Ordinance (No 2) 1984 Ord1984-78
notified 19 December 1984 (Cwlth Gaz 1984 No S530)
commenced 19 December 1984

Crimes (Amendment) Ordinance 1985 Ord1985-11
notified 8 March 1985 (Cwlth Gaz 1985 No S69)
commenced 12 August 1985 (s 3 and Cwlth Gaz 1985 No S313)

Crimes (Amendment) Ordinance (No 2) 1985 Ord1985-16
notified 17 April 1985 (Cwlth Gaz 1985 No S131)
s 6 taken to have commenced 22 September 1983 (s 6 (2))
remainder commenced 17 April 1985

Crimes (Amendment) Ordinance (No 3) 1985 Ord1985-40
notified 5 September 1985 (Cwlth Gaz 1985 No S359)
commenced 5 September 1985

Crimes (Amendment) Ordinance (No 4) 1985 Ord1985-44
notified 13 September 1985 (Cwlth Gaz 1985 No S367)
ss 1-4, s 5 (2), s 12 (1) commenced 13 September 1985 (s 2 (1))
remainder commenced 1 January 1986 (s 2 (2))

Crimes (Amendment) Ordinance (No 5) 1985 Ord1985-62
notified 28 November 1985 (Cwlth Gaz 1985 No S501)
commenced 28 November 1985

Magistrates Court Ordinance 1985 Ord1985-67 sch pt 1
notified 19 December 1985 (Cwlth Gaz 1985 No S542)
commenced 1 February 1986 (s 2 and Cwlth Gaz 1986 No G3)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Crimes (Amendment) Ordinance (No 6) 1985 Ord1985-75
notified 20 December 1985 (Cwlth Gaz 1985 No S557)
commenced 20 December 1985

Children's Services (Miscellaneous Amendments) Ordinance 1986 Ord1986-14 s 3
notified 4 June 1986 (Cwlth Gaz 1986 No S261)
s 3 commenced 26 Apr 1988 (Cwlth Gaz 1988 No S116)

Crimes (Amendment) Ordinance 1986 Ord1986-15
notified 6 June 1986 (Cwlth Gaz 1986 No S263)
commenced 1 July 1986 (s 2)

Crimes (Amendment) Ordinance (No 2) 1986 Ord1986-27 (as am by Ord1986-37)
notified 31 July 1986 (Cwlth Gaz 1986 No S375)
commenced 31 July 1986

Crimes (Amendment) Ordinance (No 3) 1986 Ord1986-37
notified 15 August 1986 (Cwlth 1986 Gaz S399)
commenced 31 July 1986 (s 2)

Note This Ordinance only amends the Crimes (Amendment) Ordinance (No 2) 1986 Ord1986-27.

Domestic Violence (Miscellaneous Amendments) Ordinance 1986 Ord1986-53 s 3
notified 4 September 1986 (Cwlth Gaz 1986 No S446)
commenced 1 October 1986 (s 2 and Cwlth Gaz 1986 No S484)

Crimes (Amendment) Ordinance (No 4) 1986 Ord1986-57 (as am by Ord1987-3 s 11)
notified 3 October 1986 (Cwlth Gaz 1986 No S507)
commenced 3 October 1986

Magistrates Court (Amendment) Ordinance (No 3) 1986 Ord1986-74 s 88
notified 14 November 1986 (Cwlth Gaz 1986 No S592)
commenced 14 November 1986

Crimes (Amendment) Ordinance 1987 Ord1987-3
notified 11 February 1987 (Cwlth Gaz 1987 No S27)
s 11 taken to have commenced 3 October 1986 (s 11 (2))
remainder commenced 11 February 1987

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Crimes (Amendment) Ordinance 1988 Ord1988-44
notified 27 July 1988 (Cwlth Gaz 1988 No S218)
commenced 27 July 1988

Crimes (Amendment) Ordinance (No 2) 1988 Ord1988-75
notified 19 October 1988 (Cwlth Gaz 1988 No GN 39)
ss 1-3, ss 7-9 commenced 19 October 1988 (s 2 (1))
remainder commenced 19 December 1988 (s 2 (2) and Gaz 1988 No S384)

Crimes (Amendment) Ordinance 1990 Ord1990-1
notified 23 May 1990 (Cwlth Gaz 1990 No GN 20)
commenced 23 May 1990

Crimes (Amendment) Ordinance (No 2) 1990 Ord1990-2
notified 23 May 1990 (Cwlth Gaz 1990 No GN 20)
commenced 15 June 1990 (s 2)

Evidence (Amendment) Ordinance 1990 Ord1990-4 s 5
notified 27 June 1990 (Cwlth Gaz 1990 No GN 25)
s 5 commenced 27 June 1990 (s 2)

Self-Government (Consequential Amendments) Ordinance 1990 Ord1990-5 sch 2
notified 27 June 1990 (Cwlth Gaz 1990 No GN 25)
s 1, s 2 commenced 27 June 1990 (s 2 (1))
sch 2 remainder commenced 1 July 1990 (s 2 (2))

Legislation after becoming Territory enactment

Crimes (Amendment) Act (No 3) 1990 A1990-66
notified 24 December 1990 (Gaz 1990 No S98)
s 1, s 3 commenced 24 December 1990 (s 3 (1))
remainder commenced 6 February 1991 (s 3 (2) and Gaz 1991 No S5)

Weapons (Consequential Amendments) Act 1991 A1991-9 sch
notified 3 April 1991 (Gaz 1991 No S19)
s 1, s 2 commenced 3 April 1991 (s 2 (1))
sch commenced 3 October 1991 (s 2 (2))

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Crimes (Amendment) Act 1991 A1991-18
notified 10 May 1991 (Gaz 1991 No S36)
commenced 10 May 1991

Magistrates and Coroner's Courts (Registrar) Act 1991 A1991-44 s 9
notified 20 September 1991 (Gaz 1991 No S95)
s 1, s 2 commenced 20 September 1991 (s 2 (1))
s 9 commenced 25 September 1991 (s 2 (2) and Gaz 1991 No S103)

Crimes (Amendment) Act (No 2) 1991 A1991-78
notified 11 December 1991 (Gaz 1991 No S139)
ss 1-3 commenced 11 December 1991 (s 2 (1))
remainder commenced 11 June 1992 (s 2 (3))

Crimes (Amendment) Act (No 3) 1991 A1991-90
notified 24 December 1991(Gaz 1991 No S155)
commenced 24 December 1991

Proceeds of Crime (Consequential Amendments) Act 1991 A1991-104
notified 10 January 1992 (Gaz 1992 No S162)
s 1, s 2 commenced 10 January 1992 (s 2 (1))
remainder commenced 10 February 1992 (s 2 (2) and see Gaz 1992 No S21)

Crimes (Amendment) Act (No 4) 1991 A1991-120
notified 10 January 1992 (Gaz 1992 No S162)
commenced 10 January 1992

Crimes (Amendment) Act (No 5) 1991 A1991-122
notified 10 January 1992 (Gaz 1992 No S162)
commenced 10 January 1992

Crimes Legislation (Status and Citation) Act 1992 A1992-6
notified 28 May 1992 (Gaz 1992 No S59)
commenced 28 May 1992

Bail (Consequential Amendments) Act 1992 A1992-9 pt 2
notified 28 May 1992 (Gaz 1992 No S59)
s 1, s 2 commenced 28 May 1992 (s 2 (1))
pt 2 commenced 28 November 1992 (s 2 (3))

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Statute Law Revision (Miscellaneous Provisions) Act 1992 A1992-23 sch 1
notified 4 June 1992 (Gaz 1992 No S71)
commenced 4 June 1992

Crimes (Amendment) Act 1992 A1992-35
notified 8 July 1992 (Gaz 1992 No S103)
commenced 8 July 1992

Prostitution (Consequential Amendments) Act 1992 A1992-65 s 4
notified 1 December 1992 (Gaz 1992 No S208)
s 1, s 2 commenced 1 December 1992 (s 2 (1))
s 4 commenced 1 June 1993 (s 2 (3))

Crimes (Amendment) Act (No 2) 1992 A1992-76
notified 24 December 1992 (Gaz 1992 No S236)
commenced 24 December 1992

Crimes (Amendment) Act 1993 A1993-3
notified 1 March 1993 (Gaz 1993 No S23)
commenced 1 March 1993

Crimes (Amendment) Act (No 2) 1993 A1993-73
notified 22 October 1993 (Gaz 1993 No S215)
ss 1-3 commenced 22 October 1993 (s 3 (1))
remainder commenced 15 November 1993 (s 3 (2) and Gaz 1993 No S230)

Supreme Court (Amendment) Act (No 2) 1993 A1993-91 sch 3
notified 17 December 1993 (Gaz 1993 No S258)
commenced 17 December 1993 (s 2)

Public Sector Management (Consequential and Transitional Provisions) Act 1994 A1994-38 sch 1 pt 21
notified 30 June 1994 (Gaz 1994 No S121)
s 1, s 2 commenced 30 June 1994 (s 2 (1))
sch 1 pt 21 commenced 1 July 1994 (s 2 (2) and Gaz 1994 No S142)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Crimes (Amendment) Act 1994 A1994-46
notified 7 September 1994 (Gaz 1994 No S177)
ss 1-3 commenced 7 September 1994 (s 2 (1))
remainder commenced 6 February 1995 (s 2 (2) and Gaz 1995 No S33)

Crimes (Amendment) Act (No 2) 1994 A1994-75
notified 23 November 1994 (Gaz 1994 No S247)
ss 1-3 commenced 23 November 1994 (s 2 (1))
remainder commenced 1 December 1994 (s 2 (2) and Gaz 1994 No S270)

Acts Revision (Victims of Crime) Act 1994 A1994-84 pt 3
notified 15 December 1994 (Gaz 1994 No S280)
s 1, s 2 commenced 15 December 1994 (s 2 (1))
pt 3 commenced 15 June 1995 (s 2 (3))

Intoxicated Persons (Consequential Amendments) Act 1994 A1994-86 s 4
notified 15 December 1994 (Gaz 1994 No S280)
s 1, s 2 commenced 15 December 1994 (s 2 (1))
s 4 commenced 15 June 1995 (s 2 (2))

Statutory Offices (Miscellaneous Provisions) Act 1994 A1994-97 sch pt 1
notified 15 December 1994 (Gaz 1994 No S280)
s 1, s 2 commenced 15 December 1994 (s 2 (1))
sch pt 1 commenced 15 December 1994 (s 2 (2) and Gaz 1994 No S293)

Evidence (Amendment) Act 1994 A1994-98 s 7
notified 15 December 1994 (Gaz 1994 No S280)
commenced 15 December 1994 (s 2)

Crimes (Amendment) Act 1995 A1995-2
notified 19 June 1995 (Gaz 1995 No S115)
commenced 19 June 1995 (s 2)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Periodic Detention Act 1995 A1995-3 pt 5 div 2
notified 19 June 1995 (Gaz 1995 No S115)
s 1, s 2 commenced 19 June 1995 (s 2 (1))
pt 5 div 2 commenced 1 September 1995 (s 2 (2) and Gaz 1995 No S222)

Crimes (Amendment) Act (No 2) 1995 A1995-49
notified 18 December 1995 (Gaz 1995 No S306)
ss 1-3 commenced 18 December 1995 (s 2 (1))
remainder commenced 18 June 1996 (s 2 (3))

Crimes (Amendment) Act (No 3) 1995 A1995-50
notified 18 December 1995 (Gaz 1995 No S306)
ss 1-3 commenced 18 December 1995 (s 2 (1))
remainder commenced 1 December 1997 (s 2 (2) and Gaz 1997 No S385)

Crimes (Amendment) Act 1996 A1996-31
notified 1 July 1996 (Gaz 1996 No S130)
commenced 1 July 1996 (s 2)

Crimes (Amendment) Act (No 2) 1996 A1996-36
notified 10 July 1996 (Gaz 1996 No S160)
commenced 10 July 1996 (s 2)

Firearms Act 1996 A1996-74 sch 3
notified 20 December 1996 (Gaz 1996 No S328)
s 1, s 2 commenced 20 December 1996 (s 2 (1))
sch 3 commenced 17 May 1997 (s 2 (2) and Gaz 1997 No S135)

Crimes (Amendment) Act 1997 A1997-10
notified 16 May 1997 (Gaz 1997 No S131)
commenced 16 May 1997 (s 2)

Crimes (Amendment) Act (No 2) 1997 A1997-23
notified 29 May 1997 (Gaz 1997 No S136)
ss 1-3 commenced 29 May 1997 (s 2 (1))
remainder commenced 30 May 1997 (s 2 (2) and Gaz 1997 No S149)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Motor Traffic (Amendment) Act (No 2) 1997 A1997-52 pt 4
notified 19 September 1997 (Gaz 1997 No S264)
ss 1-3 commenced 19 September 1997 (s 2 (1))
pt 4 commenced 2 March 1998 (s 2 (2) and see Gaz 1997 No S427)

Crimes (Amendment) Act (No 3) 1997 A1997-86
notified 21 November 1997 (Gaz 1997 No S359)
ss 1-3 commenced 21 November 1997 (s 2 (1))
remainder commenced 11 December 1997 (s 2 (2) and Gaz 1997 No S410)

Legal Practitioners (Consequential Amendments) Act 1997 A1997-96 sch 1
notified 1 December 1997 (Gaz 1997 No S380)
s 1, s 2 commenced 1 December 1997 (s 2 (1))
sch 1 commenced 1 June 1998 (s 2 (2))

Crimes (Amendment) Act (No 4) 1997 A1997-117
notified 24 December 1997 (Gaz 1997 No S420)
commenced 24 December 1997 (s 2)

Crimes (Amendment) Act 1998 A1998-9
notified 10 June 1998 (Gaz 1998 No S160)
commenced 10 June 1998 (s 2)

Crimes (Amendment) Act (No 2) 1998 A1998-22
notified 10 July 1998 (Gaz 1998 No S190)
commenced 10 July 1998 (s 2)

Crimes (Amendment) Act (No 3) 1998 A1998-29
notified 10 July 1998 (Gaz 1998 No S190)
s 1, s 2 commenced 10 July 1998 (s 2 (1))
remainder commenced 1 January 1999 (s 2 (2) and see Gaz 1998 No 50)

Crimes (Amendment) Act (No 4) 1998 A1998-57
notified 27 November 1998 (Gaz 1998 No S207)
commenced 27 November 1998

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Custodial Escorts (Consequential Provisions) Act 1998 A1998-67 pt 4
notified 23 December 1998 (Gaz 1998 No S212)
s 1, s 2 commenced 23 December 1998 (s 2 (1))
pt 4 commenced 23 December 1998 (s 2 (2) and Gaz 1998 No 51)

Crimes (Amendment) Act (No 5) 1998 A1998-71
notified 23 December 1998 (Gaz 1998 No S212)
commenced 23 December 1998 (s 2)

Crimes (Amendment) Act 1999 A1999-32
notified 25 June 1999 (Gaz 1999 No S34)
ss 1-4 commenced 25 June 1999 (s 2 (1))
remainder commenced 1 October 1999 (s 2 (2))

Motor Traffic (Amendment) Act (No 2) 1999 A1999-50 sch
notified 17 September 1999 (Gaz 1999 No S54)
ss 1-3 commenced 17 September 1999 (s 2 (1))
sch commenced 6 October 1999 (s 2 (2) and Gaz 1999 No S58)

Children and Young People (Consequential Amendments) Act 1999 A1999-64 sch 2
notified 10 November 1999 (Gaz 1999 No 45)
s 1, s 2 commenced 10 November 1999 (s 2 (1))
sch 2 commenced 10 May 2000 (s 2 (2))

Crimes Amendment Act (No 2) 1999 A1999-71
notified 15 December 1999 (Gaz 1999 No 50)
commenced 15 December 1999 (s 2)

Road Transport Legislation Amendment Act 1999 A1999-79 sch 3
notified 23 December 1999 (Gaz 1999 No S65)
s 1, s 2 commenced 23 December 1999 (IA s 10B)
sch 3 commenced 1 March 2000 (s 2 and see Gaz 2000 No S5)

Victims of Crime (Financial Assistance) (Amendment) Act 1999 A1999-91 s 12
notified 23 December 1999 (Gaz 1999 No S65)
s 1, s 2 commenced 23 December 1999 (s 2 (1))
s 12 commenced 24 December 1999 (s 2 (2) and Gaz 1999 No S69)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Crimes Amendment Act 2000 A2000-3
notified 9 March 2000 (Gaz 2000 No 10)
commenced 9 March 2000 (s 2)

Crimes Amendment Act 2000 (No 2) A2000-56
notified 5 October 2000 (Gaz 2000 No 40)
s 1, s 2 commenced 5 October 2000 (IA s 10B)
remainder (ss 3-4) commenced 5 April 2001 (IA s 10E)

Crimes Amendment Act 2000 (No 3) A2000-58
notified 5 October 2000 (Gaz 2000 No 40)
commenced 5 October 2000 (s 2)

Utilities (Consequential Provisions) Act 2000 A2000-66 sch 1 pt 3
notified 20 December 2000 (Gaz 2000 No S68)
s 1, s 2 commenced 20 December 2000 (IA s 10B)
sch 1 pt 3 commenced 1 January 2001 (Gaz 2000 No S69)

Crimes Amendment Act 2000 (No 4) A2000-85
notified 21 December 2000 (Gaz 2000 No S69)
commenced 21 December 2000 (s 2)

Crimes Amendment Act 2001 A2001-8
notified 8 March 2001 (Gaz 2001 No 10)
commenced 8 March 2001 (s 2)

Bail Amendment Act 2001 A2001-25 pt 3
notified 24 May 2001 (Gaz 2001 No 21)
pt 3 commenced 24 May 2001 (s 2)

Legislation (Consequential Amendments) Act 2001 A2001-44 pt 90
notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 90 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Statute Law Amendment Act 2001 (No 2) A2001-56 pt 3.12
notified 5 September 2001 (Gaz 2001 No S65)
s 1, s 2 commenced 5 September 2001 (IA s 10B)
amdt 3.239 commenced 12 September 2001 (s 2 (2) and see Gaz 2001 No S65))
pt 3.12 remainder commenced 5 September 2001 (s 2 (1))

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Crimes Legislation Amendment Act 2001 A2001-63 pt 4
notified 10 September 2001 (Gaz 2001 No S66)
s 1, s 2 commenced 10 September 2001 (IA s 10B)
pt 4 commenced 27 September 2001 (s 2 (2) and CN 2001 No 3)

Justice and Community Safety Legislation Amendment Act 2001 A2001-70 sch 1
notified LR 14 September 2001
amdts commenced 14 September 2001 (s 2 (5))

Crimes Amendment Act 2001 (No 2) A2001-75
notified LR 14 September 2001
commenced 14 September 2001 (s 2)

Protection Orders (Consequential Amendments) Act 2001 A2001-90 sch 1 pt 3
notified LR 27 September 2001
s 1, s 2 commenced 27 September 2001 (LA s 75)
sch 1 pt 3 commenced 27 March 2002 (s 2, see Protection Orders Act 2001 A2001-89 s 3 and LA s 79)

Crimes Amendment Act 2002 A2002-3
notified LR 14 March 2002
commenced 14 March 2002 (s 2)

Crimes (Bushfires) Amendment Act 2002 A2002-9
notified LR 13 May 2002
s 1, s 2 commenced 13 May 2002 (LA s 75)
remainder commenced 14 May 2002 (s 2)

Legislation Amendment Act 2002 A2002-11 pt 2.12
notified LR 27 May 2002
s 1, s 2 commenced 27 May 2002 (LA s 75)
pt 2.12 commenced 28 May 2002 (s 2 (1))

Crimes (Abolition of Offence of Abortion) Act 2002 A2002-24
notified LR 9 September 2002
commenced 9 September 2002 (s 2)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Statute Law Amendment Act 2002 (No 2) A2002-49 pt 3.4
notified LR 20 December 2002
s 1, s 2 taken to have commenced 7 October 1994 (LA s 75 (2))
pt 3.4 commenced 17 January 2003 (s 2 (1))

Rehabilitation of Offenders (Interim) Amendment Act 2002 (No 2) A2002-50 ss 21-23
notified LR 20 December 2002
s 1, s 2 commenced 20 December 2002 (LA s 75 (1))
s 21, s 22 commenced 21 December 2002 (s 2 (1))
s 23 commenced 20 March 2003 (s 2 (2))

Criminal Code 2002 No 51 pt 1.6
notified LR 20 December 2002
s 1, s 2 commenced 20 December 2002 (LA s 75 (1))
pt 1.6 commenced 1 January 2003 (s 2 (1))

Confiscation of Criminal Assets Act 2003 A2003-8 sch 1 pt 1.2
notified LR 27 March 2003
s 1, s 2 commenced 27 March 2003 (LA s 75 (1))
sch 1 pt 1.2 commenced 15 August 2003 (s 2 and CN2003-7)

Legislation (Gay, Lesbian and Transgender) Amendment Act 2003 A2003-14 sch 1 pt 1.9
notified LR 27 March 2003
s 1, s 2 commenced 27 March 2003 (s 75 (1))
sch 1 pt 1.9 commenced 28 March 2003 (s 2)

Crimes (Industrial Manslaughter) Amendment Act 2003 A2003-55
notified LR 4 December 2003
s 1, s 2 commenced 4 December 2003 (LA s 75 (1))
remainder commenced 1 March 2004 (s 2)

Sexuality Discrimination Legislation Amendment Act 2004 A2004-2 sch 2 pt 2.1
notified LR 18 February 2004
s 1, s 2 commenced 18 February 2004 (LA s 75 (1))
sch 2 pt 2.1 commenced 22 March 2004 (s 2 and CN2004-4)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Bail Amendment Act 2004 A2004-14 sch 2 pt 2.1
notified LR 26 March 2004
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))
sch 2 pt 2.1 commenced 26 June 2004 (s 2 (1))

Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 3 pt 3.2
notified LR 26 March 2004
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))
sch 3 pt 3.2 commenced 9 April 2004 (s 2 (1))

Crimes Amendment Act 2004 A2004-16 pt 2
notified LR 16 March 2004
s 1, s 2 commenced 16 March 2004 (LA s 75 (1))
pt 2 commenced 17 March 2004 (s 2)

Education Act 2004 A2004-17 sch 2 pt 2.3
notified LR 8 April 2004
s 1, s 2 commenced 8 April 2004 (LA s 75 (1))
sch 2 pt 2.3 commenced 1 January 2005 (s 2)

Emergencies Act 2004 A2004-28 sch 3 pt 3.6
notified LR 29 June 2004
s 1, s 2 commenced 29 June 2004 (LA s 75 (1))
sch 3 pt 3.6 commenced 1 July 2004 (s 2 (1) and CN2004-11)

Crimes Legislation Amendment Act 2004 A2004-30 pt 2
notified LR 7 July 2004
s 1, s 2 taken to have commenced 27 May 2004 (LA s 75 (2))
pt 2 commenced 8 July 2004 (s 2 (1))

Justice and Community Safety Legislation Amendment Act 2004 (No 2) A2004-32 pt 8
notified LR 29 June 2004
s 1, s 2 commenced 29 June 2004 (LA s 75 (1))
pt 8 commenced 13 July 2004 (s 2 (3))

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Health Professionals Legislation Amendment Act 2004 A2004-39 sch 6 pt 6.3

notified LR 8 July 2004

s 1, s 2 commenced 8 July 2004 (LA s 75 (1))

sch 6 pt 6.3 commenced 17 January 2006 (s 2 and see Health Professionals Act 2004 A2004-38, s 2 (as am by A2005-28 amdt 1.1) and CN2006-2)

Court Procedures (Consequential Amendments) Act 2004 A2004-60 sch 1 pt 1.17

notified LR 2 September 2004

s 1, s 2 commenced 2 September 2004 (LA s 75 (1))

sch 1 pt 1.17 commenced 10 January 2005 (s 2 and see Court Procedures Act 2004 A2004-59, s 2 and CN2004-29)

Corrections Reform Amendment Act 2004 A2004-61 (as am by A2005-43 amdt 1.12)

notified LR 6 September 2004

s 1, s 2 commenced 6 September 2004 (LA s 75 (1))

remainder never commenced

Note This Act was repealed on 2 June 2006 by the Sentencing Legislation Amendment Act 2006 A2006-23 before it commenced (see A2006-23 s 6 (1)).

Crimes (Restorative Justice) Act 2004 A2004-65 ss 77-79

notified LR 6 September 2004

s 1, s 2 commenced 6 September 2004 (LA s 75 (1))

ss 77-79 commenced 31 January 2005 (s 2 and CN2004-28)

Crimes Amendment Act 2005 A2005-7 pt 3

notified LR 23 February 2005

s 1, s 2 commenced 23 February 2005 (LA s 75 (1))

pt 3 commenced 24 February 2005 (s 2)

Domestic Violence and Protection Orders Amendment Act 2005 A2005-13 sch 1 pt 1.4

notified LR 24 March 2005

s 1, s 2 commenced 24 March 2005 (LA s 75 (1))

sch 1 pt 1.4 commenced 25 March 2005 (s 2)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Statute Law Amendment Act 2005 A2005-20 sch 3 pt 3.12

notified LR 12 May 2005
s 1, s 2 taken to have commenced 8 March 2005 (LA s 75 (2))
sch 3 pt 3.12 commenced 2 June 2005 (s 2 (1))

Justice and Community Safety Legislation Amendment Act 2005 (No 3) A2005-43 pt 1.5

notified LR 30 August 2005
s 1, s 2 commenced 30 August 2005 (LA s 75 (1))
pt 1.5 commenced 1 September 2005 (s 2 (3) and CN2005-14)

Note This Act only amends the Corrections Reform Amendment Act 2004 A2004-61.

Public Sector Management Amendment Act 2005 (No 2) A2005-44 sch 1 pt 1.2

notified LR 30 August 2005
s 1, s 2 commenced 30 August 2005 (LA s 75 (1))
sch 1 pt 1.2 commenced 8 September 2005 (s 2 and CN2005-19)

Mental Health (Treatment and Care) Amendment Act 2005 A2005-48 sch 1 pt 1.2

notified LR 6 September 2005
s 1, s 2 commenced 6 September 2005 (LA s 75 (1))
sch 1 pt 1.2 commenced 7 September 2005 (s 2)

Criminal Code (Administration of Justice Offences) Amendment Act 2005 A2005-53 sch 1 pt 1.6, sch 2 pt 2.1

notified LR 26 October 2005
s 1, s 2 commenced 26 October 2005 (LA s 75 (1))
sch 1 pt 1.6, sch 2 pt 2.1 commenced 23 November 2005 (s 2)

Civil Law (Wrongs) Amendment Act 2006 A2006-1 sch 1 pt 1.1

notified LR 22 February 2006
s 1, s 2 commenced 22 February 2006 (LA s 75 (1))
sch 1 pt 1.1 commenced 23 February 2006 (s 2)

Crimes (Offences Against Pregnant Women) Amendment Act 2006 A2006-5

notified LR 15 March 2006
s 1, s 2 commenced 15 March 2006 (LA s 75 (1))
remainder commenced 16 March 2006 (s 2)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Criminal Code (Mental Impairment) Amendment Act 2006 A2006-14 sch 1 pt 1.2

notified LR 6 April 2006
s 1, s 2 commenced 6 April 2006 (LA s 75 (1))
sch 1 pt 1.2 commenced 7 April 2006 (s 2)

Civil Unions Act 2006 A2006-22 sch 1 pt 1.7

notified LR 19 May 2006
s 1, s 2 commenced 19 May 2006 (LA s 75 (1))
sch 1 pt 1.7 never commenced

Note Act repealed by disallowance 14 June 2006 (see Cwlth Gaz 2006 No S93)

Sentencing Legislation Amendment Act 2006 A2006-23 sch 1 pt 1.7, sch 2

notified LR 18 May 2006
s 1, s 2 commenced 18 May 2006 (LA s 75 (1))
sch 1 pt 1.7, sch 2 commenced 2 June 2006 (s 2 (1) and see Crimes (Sentence Administration) Act 2005 A2005-59 s 2, Crimes (Sentencing) Act 2005 A2005-58, s 2 and LA s 79)

Civil Law (Property) Act 2006 A2006-38 amdt 1.6

notified LR 28 September 2006
s 1, s 2 commenced 28 September 2006 (LA s 75 (1))
amdt 1.6 commenced 28 March 2007 (s 2 and LA s 79)

Health Legislation Amendment Act 2006 (No 2) A2006-46 sch 2 pt 2.3

notified LR 17 November 2006
s 1, s 2 commenced 17 November 2006 (LA s 75 (1))
sch 2 pt 2.3 commenced 18 November 2006 (s 2 (1))

Corrections Management Act 2007 A2007-15 sch 1 pt 1.1

notified LR 18 June 2007
s 1, s 2 commenced 18 June 2007 (LA s 75 (1))
sch 1 pt 1.1 commenced 18 December 2007 (s 2 and LA s 79)

Justice and Community Safety Legislation Amendment Act 2007 A2007-22 sch 1 pt 1.5

notified LR 5 September 2007
s 1, s 2 commenced 5 September 2007 (LA s 75 (1))
sch 1 pt 1.5 commenced 6 September 2007 (s 2)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Occupational Health and Safety (Regulatory Services) Legislation Amendment Act 2007 A2007-37 sch 2 pt 2.1

notified LR 22 November 2007
s 1, s 2 commenced 22 November 2007 (LA s 75 (1))
sch 2 pt 2.1 commenced 23 November 2007 (s 2)

Crimes Amendment Act 2008 A2008-6 pt 3

notified LR 15 April 2008
s 1, s 2 commenced 15 April 2008 (LA s 75 (1))
pt 3 commenced 16 April 2008 (s 2)

Civil Partnerships Act 2008 A2008-14 sch 1 pt 1.7

notified LR 15 May 2008
s 1, s 2 commenced 15 May 2008 (LA s 75 (1))
sch 1 pt 1.7 commenced 19 May 2008 (s 2 and CN2008-8)

Children and Young People Act 2008 A2008-19 sch 1 pt 1.3

notified LR 17 July 2008
s 1, s 2 commenced 17 July 2008 (LA s 75 (1))
sch 1 pt 1.3 commenced 27 February 2009 (s 2 and CN2008-17 (and see CN2008-13))

Children and Young People (Consequential Amendments) Act 2008 A2008-20 sch 4 pt 4.7

notified LR 17 July 2008
s 1, s 2 commenced 17 July 2008 (LA s 75 (1))
s 3 commenced 18 July 2008 (s 2 (1))
sch 4 pt 4.7 commenced 27 February 2009 (s 2 (5) and see Children and Young People Act 2008 A2008-19, s 2 and CN2008-17 (and see CN2008-13))

Medicines, Poisons and Therapeutic Goods Act 2008 A2008-26 sch 2 pt 2.4

notified LR 14 August 2008
s 1, s 2 commenced 14 August 2008 (LA s 75 (1))
sch 2 pt 2.4 commenced 14 February 2009 (s 2 and LA s 79)

Justice and Community Safety Legislation Amendment Act 2008 (No 3) A2008-29 sch 1 pt 1.5

notified LR 13 August 2008
s 1, s 2 commenced 13 August 2008 (LA s 75 (1))
sch 1 pt 1.5 commenced 27 August 2008 (s 2)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 A2008-36 sch 1 pt 1.18

notified LR 4 September 2008

s 1, s 2 commenced 4 September 2008 (LA s 75 (1))

sch 1 pt 1.18 commenced 2 February 2009 (s 2 (1) and see ACT Civil and Administrative Tribunal Act 2008 A2008-35, s 2 (1) and CN2009-2)

Crimes Legislation Amendment Act 2008 A2008-44 sch 1 pt 1.3

notified LR 9 September 2008

s 1, s 2 commenced 9 September 2008 (LA s 75 (1))

sch 1 pt 1.3 commenced 30 May 2009 (s 2 and CN2009-4)

Domestic Violence and Protection Orders Act 2008 A2008-46 sch 3 pt 3.4

notified LR 10 September 2008

s 1, s 2 commenced 10 September 2008 (LA s 75 (1))

sch 3 pt 3.4 commenced 30 March 2009 (s 2)

as modified by

Crimes (Transitional Provisions) Regulation 2009 SL2009-21

notified LR 18 May 2009

s 1, s 2 commenced 18 May 2009 (LA s 75 (1))

remainder commenced 30 May 2009 (s 2 and see Crimes Legislation Amendment Act 2008 A2008-44, s 2 and CN2009-4)

Medicines, Poisons and Therapeutic Goods Regulation 2008 SL2008-42 s 1100 and sch 10 (as am by SL2009-27 s 6, s 7)

notified LR 15 September 2008

s 1, s 2 commenced 15 September 2008 (LA s 75 (1))

remainder commenced 14 February 2009 (s 2 and see Medicines, Poisons and Therapeutic Goods Act 2008 A2008-26, s 2 and LA s 79)

Medicines, Poisons and Therapeutic Goods Amendment Regulation 2009 (No 1) SL2009-27 s 6, s 7

notified LR 5 June 2009

s 1, s 2 commenced 5 June 2009 (LA s 75 (1))

s 6, s 7 commenced 6 June 2009 (s 2)

Note This regulation only amends the Medicines, Poisons and Therapeutic Goods Regulation 2008 SL2008-42.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

as amended by

Crimes Legislation Amendment Act 2009 A2009-24 sch 1 pt 1.3
notified LR 3 September 2009
s 1, s 2 commenced 3 September 2009 (LA s 75 (1))
sch 1 pt 1.3 commenced 4 September 2009 (s 2)

Work Safety Legislation Amendment Act 2009 A2009-28 sch 2 pt 2.3
notified LR 9 September 2009
s 1, s 2 commenced 9 September 2009 (LA s 75 (1))
sch 2 pt 2.3 commences 1 October 2009 (s 2 and see Work Safety Act 2008 A2008-51, s 2 (1) (b) and CN2009-11)

Crimes (Murder) Amendment Act 2009 A2009-32
notified LR 23 September 2009
s 1, s 2 commenced 23 September 2009 (LA s 75 (1))
remainder commenced 14 December 2009 (s 2 and CN2009-13)

Health Practitioner Regulation National Law (ACT) Act 2010 A2010-10 sch 2 pt 2.5
notified LR 31 March 2010
s 1, s 2 commenced 31 March 2010 (LA s 75 (1))
sch 2 pt 2.5 commenced 1 July 2010 (s 2 (1) (a))

Crimes (Serious Organised Crime) Amendment Act 2010 A2010-25 pt 2
notified LR 8 July 2010
s 1, s 2 commenced 8 July 2010 (LA s 75 (1))
pt 2 commenced 9 July 2010 (s 2)

Liquor (Consequential Amendments) Act 2010 A2010-43 sch 1 pt 1.5
notified LR 8 November 2010
s 1, s 2 commenced 8 November 2010 (LA s 75 (1))
sch 1 pt 1.5 commenced 1 December 2010 (s 2 (4) and see Liquor Act 2010 A2010-35, s 2 (3) (as am by A2010-43 amdt 1.19) and CN2010-14)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Road Transport (Alcohol and Drugs) Legislation Amendment Act 2010 A2010-47 sch 1 pt 1.1

notified LR 25 November 2010
s 1, s 2 commenced 25 November 2010 (LA s 75 (1))
sch 1 pt 1.1 commenced 1 December 2010 (s 2 (2) and see Road Transport (Alcohol and Drugs) (Random Drug Testing) Amendment Act 2010 A2010-27, s 2 and CN2010-15)

Justice and Community Safety Legislation Amendment Act 2010 (No 4) A2010-50 sch 1 pt 1.1

notified LR 14 December 2010
s 1, s 2 commenced 14 December 2010 (LA s 75 (1))
sch 1 pt 1.1 commenced 21 December 2010 (s 2 (1))

Crimes Legislation Amendment Act 2011 A2011-7 pt 2

notified LR 16 March 2011
s 1, s 2 commenced 16 March 2011 (LA s 75 (1))
pt 2 commenced 17 March 2011 (s 2)

Courts Legislation Amendment Act 2011 A2011-13 sch 1 pt 1.4

notified LR 11 May 2011
s 1, s 2 commenced 11 May 2011 (LA s 75 (1))
sch 1 pt 1.4 commenced 25 July 2011 (s 2 and CN2011-8)

Road Transport (Alcohol and Drugs) Legislation Amendment Act 2011 A2011-15 pt 2

notified LR 12 May 2011
s 1, s 2 commenced 12 May 2011 (LA s 75 (1))
pt 2 commenced 13 May 2011 (s 2)

Criminal Proceedings Legislation Amendment Act 2011 A2011-20 pt 2

notified LR 6 July 2011
s 1, s 2 commenced 6 July 2011 (LA s 75 (1))
pt 2 commenced 7 July 2011 (s 2)

Administrative (One ACT Public Service Miscellaneous Amendments) Act 2011 A2011-22 sch 1 pt 1.40

notified LR 30 June 2011
s 1, s 2 commenced 30 June 2011 (LA s 75 (1))
sch 1 pt 1.40 commenced 1 July 2011 (s 2 (1))

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Evidence (Consequential Amendments) Act 2011 A2011-48 sch 1 pt 1.12

notified LR 22 November 2011
s 1, s 2 commenced 22 November 2011 (LA s 75 (1))
sch 1 pt 1.12 commenced 1 March 2012 (s 2 (1) and see Evidence Act 2011 A2011-12, s 2 and CN2012-4)

Crimes (Penalties) Amendment Act 2011 A2011-50

notified LR 23 November 2011
s 1, s 2 commenced 23 November 2011 (LA s 75 (1))
remainder commenced 24 November 2011 (s 2)

Statute Law Amendment Act 2011 (No 3) A2011-52 sch 3 pt 3.14

notified LR 28 November 2011
s 1, s 2 commenced 28 November 2011 (LA s 75 (1))
sch 3 pt 3.14 commenced 12 December 2011 (s 2)

Work Health and Safety (Consequential Amendments) Act 2011 A2011-55 sch 1 pt 1.4

notified LR 14 December 2011
s 1, s 2 commenced 14 December 2011 (LA s 75 (1))
sch 1 pt 1.4 commenced 1 January 2012 (s 2 and see Work Health and Safety Act 2011 A2011-35, s 2 and CN2011-12)

Civil Unions Act 2012 A2012-40 sch 3 pt 3.8

notified LR 4 September 2012
s 1, s 2 commenced 4 September 2012 (LA s 75 (1))
sch 3 pt 3.8 commenced 11 September 2012 (s 2)

Public Unleased Land Act 2013 A2013-3 sch 2 pt 2.2

notified LR 21 February 2013
s 1, s 2 commenced 21 February 2013 (LA s 75 (1))
sch 2 pt 2.2 commenced 1 July 2013 (s 2 and CN2013-9)

Justice and Community Safety Legislation Amendment Act 2013 (No 2) A2013-11 sch 1 pt 1.3

notified LR 28 March 2013
s 1, s 2 commenced 28 March 2013 (LA s 75 (1))
sch 1 pt 1.3 commenced 4 April 2013 (s 2)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Crimes Legislation Amendment Act 2013 A2013-12 pt 2
notified LR 17 April 2013
s 1, s 2 commenced 17 April 2013 (LA s 75 (1))
pt 2 commenced 24 April 2013 (s 2)

Marriage Equality (Same Sex) Act 2013 A2013-39 sch 2 pt 2.7
notified LR 4 November 2013
s 1, s 2 commenced 4 November 2013 (LA s 75 (1))
sch 2 pt 2.7 commenced 7 November 2013 (s 2 and CN2013-11)

Note The High Court held this Act to be of no effect (see *Commonwealth v Australian Capital Territory* [2013] HCA 55)

Crimes Legislation Amendment Act 2013 (No 2) A2013-50 pt 3
notified LR 9 December 2013
s 1, s 2 commenced 9 December 2013 (LA s 75)
pt 3 commenced 10 December 2013 (s 2 (2))

as modified by

Heavy Vehicle National Law (ACT) (Transitional Provisions) Regulation 2014 SL2014-16 s 3 and sch 1
notified LR 28 July 2014
s 1, s 2 commenced 28 July 2014 (LA s 75 (1))
s 3 and sch 1 commenced 29 July 2014 (s 2)

as amended by

Crimes Amendment Act 2014 A2014-40
notified LR 2 October 2014
s 1, s 2 taken to have commenced 7 August 2014 (LA s 75 (2))
remainder taken to have commenced 7 August 2014 (s 2)

Rail Safety National Law (ACT) Act 2014 A2014-14 pt 5
notified LR 20 May 2014
s 1, s 2 commenced 20 May 2014 (LA s 75 (1))
pt 5 commenced 20 November 2014 (s 2 and LA s 79)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Mental Health (Treatment and Care) Amendment Act 2014 A2014-51 sch 1 pt 1.3 (as am by A2015-38 amdt 2.54)

notified LR 12 November 2014
s 1, s 2 commenced 12 November 2014 (LA s 75 (1))
sch 1 pt 1.3 commenced 1 March 2016 (s 2 (as am by A2015-38 amdt 2.54))

Crimes Legislation Amendment Act 2015 A2015-3 pt 3

notified LR 2 March 2015
s 1, s 2 commenced 2 March 2015 (LA s 75 (1))
pt 3 commenced 3 March 2015 (s 2 (1))

Veterinary Surgeons Act 2015 A2015-29 sch 2 pt 2.2

notified LR 20 August 2015
s 1, s 2 commenced 20 August 2015 (LA s 75 (1))
sch 2 pt 2.2 commenced 1 December 2015 (s 2 (1) and CN2015-22)

Road Transport Legislation Amendment Act 2015 A2015-30 pt 2

notified LR 21 August 2015
s 1, s 2 commenced 21 August 2015 (LA s 75 (1))
pt 2 commenced 22 August 2015 (s 2)

Crimes (Child Sex Offenders) Amendment Act 2015 A2015-35 sch 1 pt 1.1

notified LR 1 October 2015
s 1, s 2 commenced 1 October 2015 (LA s 75 (1))
sch 1 pt 1.1 commenced 2 October 2015 (s 2)

Crimes Legislation Amendment Act 2015 (No 2) A2015-36 pt 3

notified LR 1 October 2015
s 1, s 2 commenced 1 October 2015 (LA s 75)
pt 3 commenced 2 October 2015 (s 2)

Mental Health Act 2015 A2015-38 sch 2 pt 2.2, sch 2 pt 2.4 div 2.4.6

notified LR 7 October 2015
s 1, s 2 commenced 7 October 2015 (LA s 75 (1))
sch 2 pt 2.2 (amdt 2.54) commenced 8 October 2015 (s 2 (2))
sch 2 pt 2.4 div 2.4.6 commenced 1 March 2016 (s 2 (1) and see Mental Health (Treatment and Care) Amendment Act 2014 A2014-51, s 2 (as am by A2015-38 amdt 2.54))

Note Sch 2 pt 2.2 (amdt 2.54) only amends the Mental Health (Treatment and Care) Amendment Act 2014 A2014-51

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Crimes (Domestic and Family Violence) Legislation Amendment Act 2015 A2015-40 pt 2, sch 1 pt 1.5

notified LR 4 November 2015
s 1, s 2 commenced 4 November 2015 (LA s 75 (1))
pt 2, sch 1 pt 1.5 commenced 5 November 2015 (s 2 (1))

Statute Law Amendment Act 2015 (No 2) A2015-50 sch 3 pt 3.10

notified LR 25 November 2015
s 1, s 2 commenced 25 November 2015 (LA s 75 (1))
sch 3 pt 3.10 commenced 9 December 2015 (s 2)

Road Transport Legislation Amendment Act 2016 A2016-3 pt 2

notified LR 24 February 2016
s 1, s 2 commenced 24 February 2016 (LA s 75 (1))
pt 2 commenced 25 February 2016 (s 2)

Crimes (Sentencing and Restorative Justice) Amendment Act 2016 A2016-4 sch 1 pt 1.7

notified LR 24 February 2016
s 1, s 2 commenced 24 February 2016 (LA s 75 (1))
sch 1 pt 1.7 commenced 2 March 2016 (s 2 (1))

Protection of Rights (Services) Legislation Amendment Act 2016 (No 2) A2016-13 sch 1 pt 1.14

notified LR 16 March 2016
s 1, s 2 commenced 16 March 2016 (LA s 75 (1))
sch 1 pt 1.14 commenced 1 April 2016 (s 2 and see Protection of Rights (Services) Legislation Amendment Act 2016 A2016-1 s 2)

Emergencies Amendment Act 2016 A2016-33 sch 1 pt 1.3

notified LR 20 June 2016
s 1, s 2 commenced 20 June 2016 (LA s 75 (1))
sch 1 pt 1.3 commenced 21 June 2016 (s 2)

Supreme Court Amendment Act 2016 A2016-36 s 10

notified LR 22 June 2016
s 1, s 2 commenced 22 June 2016 (LA s 75 (1))
s 10 commenced 23 June 2016 (s 2)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Justice and Community Safety Legislation Amendment Act 2016 A2016-37 sch 1 pt 1.10

notified LR 22 June 2016
s 1, s 2 commenced 22 June 2016 (LA s 75 (1))
sch 1 pt 1.10 commenced 29 June 2016 (s 2)

Family Violence Act 2016 A2016-42 sch 3 pt 3.5 (as am by A2017-10 s 7)

notified LR 18 August 2016
s 1, s 2 commenced 18 August 2016 (LA s 75 (1))
sch 3 pt 3.5 commenced 1 May 2017 (s 2 (2) as am by A2017-10 s 7)

Crimes (Serious and Organised Crime) Legislation Amendment Act 2016 A2016-48 pt 3

notified LR 23 August 2016
s 1, s 2 commenced 23 August 2016 (LA s 75 (1))
pt 3 commenced 24 August 2016 (s 2 (1))

Public Sector Management Amendment Act 2016 A2016-52 sch 1 pt 1.15

notified LR 25 August 2016
s 1, s 2 commenced 25 August 2016 (LA s 75 (1))
sch 1 pt 1.15 commenced 1 September 2016 (s 2)

Family and Personal Violence Legislation Amendment Act 2017 A2017-10 s 7

notified LR 6 April 2017
s 1, s 2 commenced 6 April 2017 (LA s 75 (1))
s 7 commenced 30 April 2017 (s 2 (1))

Note This Act only amends the Family Violence Act 2016 A2016-42.

Road Transport Reform (Light Rail) Legislation Amendment Act 2017 A2017-21 sch 1 pt 1.4

notified LR 8 August 2017
s 1, s 2 commenced 8 August 2017 (LA s 75 (1))
sch 1 pt 1.4 commenced 15 August 2017 (s 2)

Crimes (Intimate Image Abuse) Amendment Act 2017 A2017-22

notified LR 29 August 2017
s 1, s 2 commenced 29 August 2017 (LA s 75 (1))
remainder commenced 30 August 2017 (s 2)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Crimes (Food or Drink Spiking) Amendment Act 2017 A2017-31
notified LR 28 September 2017
s 1, s 2 commenced 28 September 2017 (LA s 75 (1))
remainder commenced 29 September 2017 (s 2)

Justice and Community Safety Legislation Amendment Act 2017 (No 3) A2017-38 pt 8
notified LR 9 November 2017
s 1, s 2 commenced 9 November 2017 (LA s 75 (1))
pt 8 commenced 16 November 2017 (s 2 (1))

Crimes (Police Powers and Firearms Offence) Amendment Act 2017 A2017-45
notified LR 7 December 2017
s 1, s 2 commenced 7 December 2017 (LA s 75 (1))
ss 3-5 commenced 8 December 2017 (s 2 (1))
remainder commenced 7 March 2018 (s 2 (2))

Crimes (Fortification Removal) Amendment Act 2018 A2018-5
notified LR 1 March 2018
s 1, s 2 commenced 1 March 2018 (LA s 75 (1))
remainder commenced 1 September 2018 (s 2 and LA s 79)

Crimes Legislation Amendment Act 2018 A2018-6 pt 2
notified LR 1 March 2018
s 1, s 2 commenced 1 March 2018 (LA s 75 (1))
pt 2 commenced 2 March 2018 (s 2 (1))

Justice and Community Safety Legislation Amendment Act 2018 A2018-12 pt 3
notified LR 18 April 2018
s 1, s 2 commenced 18 April 2018 (LA s 75 (1))
pt 3 commenced 25 April 2018 (s 2)

Red Tape Reduction Legislation Amendment Act 2018 A2018-33 sch 1 pt 1.6
notified LR 25 September 2018
s 1, s 2 commenced 25 September 2018 (LA s 75 (1))
sch 1 pt 1.6 commenced 23 October 2018 (s 2 (4))

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Crimes Legislation Amendment Act 2018 (No 2) A2018-40 pt 3
notified LR 7 November 2018
s 1, s 2 commenced 7 November 2018 (LA s 75 (1))
pt 3 commenced 8 November 2018 (s 2)

Sentencing Legislation Amendment Act 2018 A2018-43 sch 1 pt 1.1
notified LR 8 November 2018
s 1, s 2 commenced 8 November 2018 (LA s 75 (1))
sch 1 pt 1.1 commenced 9 November 2018 (s 2)

Royal Commission Criminal Justice Legislation Amendment Act 2018 A2018-46 pt 2
notified LR 4 December 2018
s 1, s 2 commenced 4 December 2018 (LA s 75 (1))
pt 2 commenced 5 December 2018 (s 2)

Royal Commission Criminal Justice Legislation Amendment Act 2019 A2019-6 pt 3
notified LR 27 March 2019
s 1, s 2 commenced 28 March 2019 (LA s 75 (1))
s 3 commenced 28 March 2019 (LA s 75AA)
pt 3 commenced 1 September 2019 (s 2 (2) and CN2019-15)

Crimes Legislation Amendment Act 2019 A2019-23 pt 5
notified LR 8 August 2019
s 1, s 2 commenced 8 August 2019 (LA s 75 (1))
pt 5 commenced 15 August 2019 (s 2 (1))

Courts (Fair Work and Work Safety) Legislation Amendment Act 2019 A2019-32 pt 4
notified LR 9 October 2019
s 1, s 2 commenced 9 October 2019 (LA s 75 (1))
s 3, pt 4 commenced 10 October 2019 (s 2 (1))

Crimes (Disrupting Criminal Gangs) Legislation Amendment Act 2019 A2019-43 pt 4
notified LR 6 December 2019
s 1, s 2 commenced 6 December 2019 (LA s 75 (1))
s 3, pt 4 commenced 7 December 2019 (s 2 (1))

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

COVID-19 Emergency Response Legislation Amendment Act 2020 A2020-14 sch 1 pt 1.7

notified LR 13 May 2020
s 1, s 2 taken to have commenced 30 March 2020 (LA s 75 (2))
sch 1 pt 1.7 commenced 14 May 2020 (s 2 (1))

Crimes (Protection of Frontline Community Service Providers) Amendment Act 2020 A2020-18

notified LR 27 May 2020
s 1, s 2 commenced 27 March 2020 (LA s 75 (1))
remainder commenced 10 June 2020 (s 2)

Royal Commission Criminal Justice Legislation Amendment Act 2020 A2020-31 pt 2

notified LR 29 July 2020
s 1, s 2 commenced 29 July 2020 (LA s 75 (1))
pt 2 commenced 1 September 2020 (s 2 and CN2020-17)

Crimes (Offences Against Vulnerable People) Legislation Amendment Act 2020 A2020-41 pt 2

notified LR 20 August 2020
s 1, s 2 commenced 20 August 2020 (LA s 75 (1))
pt 2 commenced 20 April 2021 (s 2)

COVID-19 Emergency Response Legislation Amendment Act 2021 A2021-1 sch 1 pt 1.5

notified LR 19 February 2021
s 1, s 2 commenced 19 February 2021 (LA s 75 (1))
sch 1 pt 1.5 commenced 20 February 2021 (s 2 (1))

Justice and Community Safety Legislation Amendment Act 2021 A2021-3 pt 7

notified LR 19 February 2021
s 1, s 2 commenced 19 February 2021 (LA s 75 (1))
pt 7 commenced 26 February 2021 (s 2 (1))

Work Health and Safety Amendment Act 2021 A2021-19 sch 1 pt 1.2

notified LR 11 August 2021
s 1, s 2 commenced 11 August 2021 (LA s 75 (1))
sch 1 pt 1.2 commenced 11 November 2021 (s 2)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Crimes (Stealthing) Amendment Act 2021 A2021-23
notified LR 13 October 2021
s 1, s 2 commenced 13 October 2021 (LA s 75 (1))
remainder commenced 14 October 2021 (s 2)

Operational Efficiencies (COVID-19) Legislation Amendment Act 2021 A2021-24 pt 6
notified LR 13 October 2021
s 1, s 2 taken to have commenced 8 October 2021 (LA s 75 (2))
pt 6 commenced 14 October 2021 (s 2 (1))

Crimes (Consent) Amendment Act 2022 A2022-7
notified LR 11 May 2022
s 1, s 2 commenced 11 May 2022 (LA s 75 (1))
remainder commenced 12 May 2022 (s 2)

Education Amendment Act 2022 A2022-10 sch 1 pt 1.3
notified LR 17 June 2022
s 1, s 2 commenced 17 June 2022 (LA s 75 (1))
sch 1 pt 1.3 commenced 20 December 2022 (s 2)

Family Violence Legislation Amendment Act 2022 A2022-13 pt 2
notified LR 10 August 2022
s 1, s 2 commenced 10 August 2022 (LA s 75 (1))
pt 2 commenced 17 August 2022 (s 2)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

4 Amendment history

Preliminary
pt 1 hdg — am A2001-8 amdt 1.1

Preliminary
hdg before s 1 — om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Name of Act
s 1 — am Ord1951-14 s 4; Ord1968-4 s 4; Ord1971-2 s 4; Ord1974-17 s 3
sub Ord1983-27 s 4
am A1992-6 s 4
sub A2001-8 amdt 1.2

Application of Act
s 2 — orig s 2 am Ord1983-27 sch 2
om A2001-8 amdt 1.2
pres s 2 (prev s 3) am Ord1985-44 s 4
renum R9 LA (see A2001-63 s 43)

Territorial application of Territory criminal law
s 3 — orig s 3 renum as s 2
prev s 3 (prev s 3A) ins A1995-2 s 4
renum R9 LA (see A2001-63 s 43)
om A2002-51 amdt 1.8

Territorial application of the criminal law of the territory
s 3A — renum as s 3

Interpretation
hdg before s 4 — om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Dictionary
s 4 — orig s 4 am Ord1983-55 s 3; Ord1985-44 s 5
defs reloc to dict A2001-8 amdt 1.4
om A2001-8 amdt 1.5
ins A2001-8 amdt 1.6
am A2017-21 amdt 1.7
def ***bail undertaking*** ins A1992-9 s 5
reloc to dict A2001-8 amdt 1.4
def ***banker*** reloc to dict A2001-8 amdt 1.4
def ***burglary*** ins Ord1983-27 s 5 (as am Ord1983-45 s 3)
om Ord1985-44 s 5
def ***cattle*** am Ord1983-55 s 3
om Ord1985-44 s 5
def ***child*** reloc to dict A2001-8 amdt 1.4
def ***counsel*** om A1997-96 sch 1
def ***court*** and ***judge*** om A2001-8 amdt 1.3
def ***de facto spouse*** reloc to dict A2001-8 amdt 1.4

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

def ***Director of Public Prosecutions*** ins Ord1990-5 sch 2
reloc to dict A2001-8 amdt 1.4
def ***document of title to goods*** reloc to dict A2001-8 amdt 1.4
def ***domestic violence offence*** ins A1997-23 s 4
am A1999-79 sch 3
reloc to dict A2001-8 amdt 1.4
def ***drug*** am Ord1990-5 sch 2
reloc to dict A2001-8 amdt 1.4
def ***dwelling-house*** sub Ord1983-27 s 5
om Ord1985-44 s 5
def ***governor*** om Ord1983-55 s 3
def ***grievous bodily harm*** reloc to dict A2001-8 amdt 1.4
def ***household member*** reloc to dict A2001-8 amdt 1.4
def ***indictment*** reloc to dict A2001-8 amdt 1.4
def ***judge*** om A2001-8 amdt 1.3
def ***Justice*** om Ord1983-27 s 5
def ***knife*** reloc to dict A2001-8 amdt 1.4
def ***law of the Territory*** ins Ord1971-2 s 5
om A2001-8 amdt 1.3
def ***loaded arms*** reloc to dict A2001-8 amdt 1.4
def ***medical practitioner*** reloc to dict A2001-8 amdt 1.4
def ***money*** om Ord1985-44 s 5
def ***motor vehicle*** reloc to dict A2001-8 amdt 1.4
def ***night*** om Ord1985-44 s 5
def ***offensive weapon*** reloc to dict A2001-8 amdt 1.4
def ***officer*** reloc to dict A2001-8 amdt 1.4
def ***person*** om A2001-8 amdt 1.3
def ***place of divine worship*** om Ord1985-44 s 5
def ***property*** om Ord1985-44 s 5
def ***property belonging to a vessel*** om Ord1985-44 s 5
def ***railway*** om Ord1983-55 s 3
def ***relative*** reloc to dict A2001-8 amdt 1.4
def ***school*** reloc to dict A2001-8 amdt 1.4
def ***spouse*** reloc to dict A2001-8 amdt 1.4
def ***telegraph*** reloc to dict A2001-8 amdt 1.4
def ***the Crimes Act*** ins Ord1971-2 s 5
am Ord1990-5 sch 2
om A1995-2 s 5
def ***trustee*** reloc to dict A2001-8 amdt 1.4
def ***Trust Fund*** reloc to dict A2001-8 amdt 1.4
def ***valuable security*** om Ord1985-44 s 5
def ***vessel*** reloc to dict A2001-8 amdt 1.4
def ***weapon*** and ***weapon or instrument*** ins Ord1983-55 s 3
om A2001-8 amdt 1.3
def ***X-film*** ins A1991-120 s 3
om A1992-23 sch 1

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Meaning of *loaded arms*

s 5	om Ord1990-2 s 4 ins A2001-8 amdt 1.6

Reference to *the jury* read as reference to magistrate

s 6	om Ord1985-44 sch ins A2001-8 amdt 1.6

Notes

s 7	am Ord1983-27 sch 2 om Ord1985-44 sch ins A2001-8 amdt 1.6

Offences against Act—application of Criminal Code etc

s 7A	ins A2003-8 amdt 1.2 am A2003-55 s 4; A2004-15 amdt 3.6; A2004-30 s 4; A2006-1 amdt 1.1; A2008-6 s 7; A2011-52 amdt 3.59; A2015-3 s 6; A2015-35 amdt 1.1; A2016-37 amdt 1.24; A2017-22 s 4; A2017-31 s 4; A2017-45 s 4; A2018-5 s 4; A2020-18 s 4; A2020-41 s 4; A2021-19 amdt 1.3

Abolition of distinctions between felony and misdemeanour

s 9	am Ord1968-4 s 5 sub Ord1978-45 s 3; Ord1983-27 s 6

Meaning of *aggravated offence*—pt 2

s 9A	ins A2022-13 s 4

Offences against the person

pt 2 hdg	orig pt 2 hdg om Ord1968-4 s 7 pres pt 2 hdg (prev pt 3 hdg) sub Ord1990-2 s 5 renum R9 LA (see A2001-63 s 43)

When child born alive

s 10	am Ord1968-4 s 6; Ord1978-45 s 4 om Ord1983-27 sch 3 ins Ord1990-2 s 5

Treason—Felony

hdg before s 11	om Ord1968-4 s 7

No time limit on criminal responsibility for homicide

s 11	om Ord1968-4 s 7 ins Ord1990-2 s 5 sub A1995-2 s 6

Murder

s 12	om Ord1968-4 s 7 ins Ord1990-2 s 5 am A2009-32 s 4, s 5

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Trial for murder—provocation

s 13	om Ord1968-4 s 7 ins Ord1990-2 s 5 am A2004-2 amdt 2.1; ss renum R26 LA (see A2004-2 amdt 2.2); A2021-3 s 12, s 13

Trial for murder—diminished responsibility

s 14	om Ord1968-4 s 7 ins Ord1990-2 s 5

Manslaughter

s 15	om Ord1968-4 s 7 ins Ord1990-2 s 5 am A2006-5 s 4; A2011-50 s 4; A2022-13 s 5

Suicide etc—not an offence

s 16	om Ord1968-4 s 7 ins Ord1990-2 s 5

Homicide

hdg before s 17	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Suicide—aiding etc

s 17	om Ord1983-27 sch 3 ins Ord1990-2 s 5

Prevention of suicide

s 18	am Ord1983-27 s 7 sub Ord1990-2 s 5

Intentionally inflicting grievous bodily harm

s 19	am Ord1983-27 s 8 sub Ord1990-2 s 5 am A2006-5 s 5, s 6; A2011-50 s 5, s 6; A2022-13 s 5

Recklessly inflicting grievous bodily harm

s 20	sub Ord1990-2 s 5 am A2006-5 s 7, s 8; A2011-50 s 7, s 8; A2022-13 s 5

Wounding

s 21	am Ord1983-27 sch 1 sub Ord1990-2 s 5 am A2006-5 s 9, s 10; A2022-13 s 5

Assault with intent to commit other offence

s 22 hdg	sub A2008-44 amdt 1.15
s 22	sub Ord1990-2 s 5

Inflicting actual bodily harm

s 23	sub Ord1990-2 s 5 am A2006-5 s 11, s 12; A2022-13 s 5

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Assault occasioning actual bodily harm

s 24	am Ord1983-27 s 9 sub Ord1990-2 s 5 am A2002-49 amdt 3.5; A2006-5 s 13, s 14; A2022-13 s 5

Causing grievous bodily harm

s 25	am Ord1983-27 sch 2 sub Ord1990-2 s 5 am A2011-50 s 9

Conspiracy to murder

hdg before s 26	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Common assault

s 26	am Ord1983-27 sch 1 om Ord1988-75 s 4 ins Ord1990-2 s 5 am A2022-13 s 6

Assault of frontline community service provider

s 26A	ins A2004-32 s 72 om A2008-44 amdt 1.16 ins A2020-18 s 5

Assault of frontline community service provider—alternative verdict

s 26B	ins A2020-18 s 5

Attempts to murder

hdg before s 27	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Acts endangering life etc

s 27	am Ord1968-4 s 8 sub Ord1990-2 s 5 am A1999-79 s 5 sch 3; A2002-49 amdt 3.6; A2019-23 s 24; A2022-13 s 7

Acts endangering health etc

s 28	am Ord1968-4 s 9 sub Ord1990-2 s 5 am A2002-49 amdt 3.7; A2015-40 s 4; pars renum R96 LA; A2019-23 s 25; A2022-13 s 8

Food or drink spiking

s 28AA	ins A2017-31 s 5

Throwing etc objects at vehicles

s 28A	ins A2016-37 amdt 1.25 am A2017-21 amdt 1.8, amdt 1.9

Discharging firearm at building or conveyance

s 28B	ins A2017-45 s 5

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Culpable driving of motor vehicle

s 29	am Ord1983-27 sch 1 sub Ord1990-2 s 5 am Ord1990-5 sch 2; A1999-79 sch 3; A2006-5 s 15, s 16; ss renum A2006-5 s 17; A2011-50 ss 10-13; A2022-13 s 9

Driving motor vehicle at police

s 29A	ins A2020-18 s 6

Damaging police vehicle

s 29B	ins A2020-18 s 6

Threat to kill

s 30	am Ord1983-27 sch 1 om Ord1988-75 s 4 ins Ord1990-2 s 5 am A2022-13 s 10

Letters threatening to murder

hdg before s 31	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Threat to inflict grievous bodily harm

s 31	am Ord1983-27 sch 1 sub Ord1990-2 s 5 am A2022-13 s 11

Acts causing danger to life or bodily harm

hdg before s 32	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Demands accompanied by threats

s 32	am Ord1983-27 sch 1 sub Ord1990-2 s 5 am A2022-13 s 12, s 13

Possession of object with intent to kill etc

s 33	am Ord1983-27 sch 1 sub Ord1990-2 s 5

Discharging loaded arms with intent

s 33A	ins Ord1983-27 s 10 om Ord1990-2 s 5

Use of weapon to resist arrest etc

s 33B	ins Ord1983-27 s 10 om Ord1990-2 s 5

Forcible confinement

s 34	am Ord1983-55 s 4 sub Ord1990-2 s 5

Stalking etc

s 34A	renum as s 35

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Stalking

s 35	orig s 35 renum as s 36 pres s 35 (prev s 34A) ins A1996-36 s 4 sub A2000-85 s 5 am A2001-75 s 4; LA R8 (see A2001-75 s 5) renum R9 LA (see A2001-63 s 43) am A2022-13 s 14

Affray

s 35A	ins A2010-25 s 4 sub A2013-12 s 4 am A2019-43 s 9

Affray—alternative verdicts

s 35AA	ins A2019-43 s 10

Review—affray provisions

s 35AB	ins A2019-43 s 10 exp 7 December 2024 (s 35AB (3))

Torture

s 36	orig s 36 om Ord1983-55 s 5 prev s 36 renum as s 37 pres s 36 (prev s 35) am Ord1983-27 sch 1 sub Ord1990-2 s 5 am A1994-38 sch 1 pt 21 renum R9 LA (see A2001-63 s 43)

Abuse of vulnerable person

s 36A	ins A2020-41 s 5

Failure to protect vulnerable person from criminal offence

s 36B	ins A2020-41 s 5

Neglect of vulnerable person

s 36C	ins A2020-41 s 5

Abduction of young person

s 37	orig s 37 renum as s 38 pres s 37 (prev s 36) ins Ord1990-2 s 5 renum R9 LA (see A2001-63 s 43)

Neglect etc of children

s 37A	renum as s 39

Kidnapping

s 38	orig s 38 renum as s 40 pres s 38 (prev s 37) am Ord1983-27 sch 1 sub Ord1990-2 s 5 renum R9 LA (see A2001-63 s 43)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Neglect etc of children

s 39 orig s 39 renum as s 41
pres s 39 (prev s 37A) ins A1999-64 sch 2
renum R9 LA (see A2001-63 s 43)
am A2008-20 amdts 4.18-4.20; A2011-22 amdt 1.119

Unlawfully taking child etc

s 40 orig s 40 renum as s 42
pres s 40 (prev s 38) am Ord1983-27 sch 1
sub Ord1990-2 s 5
renum R9 LA (see A2001-63 s 43)

Exposing or abandoning child

s 41 orig s 41 renum as s 43
pres s 41 (prev s 39) am Ord1983-27 sch 1
sub Ord1990-2 s 5
renum R9 LA (see A2001-63 s 43)
am A2002-49 amdt 3.8

Child destruction

s 42 orig s 42 renum as s 44
pres s 42 (prev s 40) sub Ord1990-2 s 5
renum R9 LA (see A2001-63 s 43)

Childbirth—grievous bodily harm

s 43 orig s 43 renum as s 45
pres s 43 (prev s 41) am Ord1983-27 sch 1
sub Ord1990-2 s 5
renum R9 LA (see A2001-63 s 43)

Abortion—abolition of common law offence

s 44 orig s 44 am Ord1983-27 sch 1
om Ord1988-44 s 3
prev s 44 renum as s 46
prev s 44 (prev s 42) am Ord1983-27 sch 1
sub Ord1990-2 s 5
renum R9 LA (see A2001-63 s 43)
sub A2002-24 s 3
exp 9 December 2002 (s 44 (2))

Procuring another's miscarriage

s 45 orig s 45 om Ord1988-44 s 3
prev s 45 renum as s 47
prev s 45 (prev s 43) am Ord1983-27 sch 1
sub Ord1990-2 s 5
renum R9 LA (see A2001-63 s 43)
om A2002-24 s 3

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Procuring drugs etc to procure miscarriage

s 46	orig s 46 renum as s 48 prev s 46 (prev s 44) ins Ord1990-2 s 5 renum R9 LA (see A2001-63 s 43) om A2002-24 s 3

Concealment of birth

s 47	orig s 47 renum as s 49 pres s 47 (prev s 45) ins Ord1990-2 s 5 renum R9 LA (see A2001-63 s 43)

Misconduct with regard to corpses

s 48	orig s 48 am Ord1983-27 sch 1 om Ord1990-2 s 5 pres s 48 (prev s 46) am Ord1983-27 sch 1 sub Ord1990-2 s 5 renum R9 LA (see A2001-63 s 43)

Aggravated offences—pt 2 offences against pregnant women

s 48A hdg	sub A2022-13 s 15
s 48A	ins A2006-5 s 18 am A2022-13 s 16

Alternative verdicts for aggravated offences—pt 2 offences against pregnant women

s 48B hdg	sub A2022-13 s 17
s 48B	ins A2006-5 s 18 am A2015-30 s 4; A2022-13 ss 18-21; ss, items renum R137 LA

Aggravated offences—pt 2 offences involving family violence

s 48C	ins A2022-13 s 22

Alternative verdicts for aggravated offences—offences involving family violence

s 48D	ins A2022-13 s 22

Alternative verdicts for certain other offences against the person

s 49 hdg	sub A2002-49 amdt 3.9; A2006-5 s 19
s 49	orig s 49 om Ord1990-2 s 5 pres s 49 (prev s 47) am Ord1983-27 sch 1 sub Ord1990-2 s 5 am A1992-23 sch 1 renum R9 LA (see A2001-63 s 43) items renum R24 LA am A2008-44 amdt 1.17; A2015-30 s 5; A2015-40 s 5, s 6; items renum R96 LA; A2022-13 s 23

Industrial manslaughter

pt 2A hdg	ins A2003-55 s 5 om A2021-19 amdt 1.4

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Definitions for pt 2A

s 49A ins A2003-55 s 5
om A2021-19 amdt 1.4
def ***agent*** ins A2003-55 s 5
om A2021-19 amdt 1.4
def ***causes*** ins A2003-55 s 5
om A2021-19 amdt 1.4
def ***commissioner for OH&S*** ins A2003-55 s 5
om A2007-37 amdt 2.1
def ***conduct*** ins A2003-55 s 5
om A2021-19 amdt 1.4
def ***death*** ins A2003-55 s 5
om A2021-19 amdt 1.4
def ***employee*** ins A2003-55 s 5
om A2021-19 amdt 1.4
def ***employer*** ins A2003-55 s 5
om A2021-19 amdt 1.4
def ***government*** ins A2003-55 s 5
om A2021-19 amdt 1.4
def ***government entity*** ins A2003-55 s 5
om A2021-19 amdt 1.4
def ***independent contractor*** ins A2003-55 s 5
om A2021-19 amdt 1.4
def ***officer*** ins A2003-55 s 5
om A2021-19 amdt 1.4
def ***outworker*** ins A2003-55 s 5
om A2021-19 amdt 1.4
def ***provide services*** ins A2003-55 s 5
om A2021-19 amdt 1.4
def ***senior officer*** ins A2003-55 s 5
am A2005-44 amdt 1.2; A2011-22 amdt 1.120; A2016-52 amdt 1.51
om A2021-19 amdt 1.4
def ***serious harm*** ins A2003-55 s 5
om A2021-19 amdt 1.4
def ***volunteer*** ins A2003-55 s 5
om A2021-19 amdt 1.4
def ***worker*** ins A2003-55 s 5
om A2021-19 amdt 1.4

Omissions of employers and senior officers

s 49B ins A2003-55 s 5
om A2021-19 amdt 1.4

Industrial manslaughter—employer offence

s 49C ins A2003-55 s 5
om A2021-19 amdt 1.4

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Industrial manslaughter—senior officer offence

s 49D	ins A2003-55 s 5 om A2021-19 amdt 1.4

Court may order corporation to take certain actions

s 49E	ins A2003-55 s 5 am A2007-37 amdt 2.2, amdt 2.3; A2009-28 amdt 2.6; A2011-22 amdt 1.119; A2011-55 amdt 1.6; A2017-38 s 24 om A2021-19 amdt 1.4

Sexual offences

pt 3 hdg	orig pt 3 hdg renum as pt 2 hdg pres pt 3 hdg (prev pt 3A hdg) ins Ord1985-62 s 4 renum R9 LA (see A2001-63 s 43)

Objects—pt 3

s 50A	ins A2022-7 s 4

Meaning of *consent*—pt 3

s 50B	ins A2022-7 s 4

Meaning of *sexual act*—pt 3

s 50C	ins A2022-7 s 4

Definitions—pt 3

s 50 hdg	sub A2022-13 s 24
s 50	orig s 50 am Ord1983-27 sch 1 om Ord1990-2 s 5 pres s 50 (prev s 92) ins Ord1985-62 s 4 renum R9 LA (see A2001-63 s 43) am A2011-7 s 4; A2013-12 ss 5-8; pars renum R83 LA; A2022-13 s 25

Sexual assault in the first degree

s 51	orig s 51 am Ord1983-27 sch 1 om Ord1990-2 s 5 pres s 51 (prev s 92A) ins Ord1985-62 s 4 renum R9 LA (see A2001-63 s 43) am A2022-13 s 26, s 27; ss renum R137 LA

Sexual assault in the second degree

s 52	orig s 52 om Ord1990-2 s 5 pres s 52 (prev s 92B) ins Ord1985-62 s 4 renum R9 LA (see A2001-63 s 43) am A2022-13 s 28, s 29; ss renum R137 LA

Culpable driving

s 52A	ins Ord1963-11 s 4 sub Ord1979-1 s 3 om Ord1990-2 s 5

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Sexual assault in the third degree

s 53	orig s 53 om Ord1990-2 s 5 pres s 53 (prev s 92C) ins Ord1985-62 s 4 renum R9 LA (see A2001-63 s 43) am A2022-13 s 30, s 31; ss renum R137 LA

Sexual intercourse without consent

s 54	orig s 54 om Ord1990-2 s 5 pres s 54 (prev s 92D) ins Ord1985-62 s 4 renum R9 LA (see A2001-63 s 43) am A2008-29 amdts 1.11-1.13 am A2022-13 s 32, s 33; ss renum R137 LA

Possessing or making explosives etc with intent to injure the person

hdg before s 55	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Sexual intercourse with young person

s 55	orig s 55 am Ord1983-27 sch 1, sch 2 om Ord1990-2 s 5 pres s 55 (prev s 92E) ins Ord1985-62 s 4 am A1995-2 s 7 renum R9 LA (see A2001-63 s 43) am A2022-13 s 34, s 35; ss renum R137 LA

Sexual intercourse with young person under special care

s 55A	ins A2013-12 s 9 am A2015-29 amdts 2.26-2.28; A2020-31 s 4, s 5

Assaults upon clergymen, officers, and others

hdg before s 56	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Persistent sexual abuse of child or young person under special care

s 56 hdg	sub A2022-13 s 36
s 56	orig s 56 om Ord1990-2 s 5 pres s 56 (prev s 92EA) ins A1991-90 s 3 am A1993-73 s 4 renum R9 LA (see A2001-63 s 43) am A2002-49 amdt 3.10 sub A2018-6 s 4 am A2018-46 s 4, s 5 sub A2020-31 s 6

Act of indecency in the first degree

s 57	orig s 57 am Ord1983-27 sch 1 om Ord1990-2 s 5 pres s 57 (prev s 92F) ins Ord1985-62 s 4 renum R9 LA (see A2001-63 s 43) am A2022-13 s 37

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Act of indecency in the second degree

s 58 orig s 58 am Ord1983-27 sch 2
om Ord1990-2 s 5
pres s 58 (prev s 92G) ins Ord1985-62 s 4
renum R9 LA (see A2001-63 s 43)
am A2022-13 s 38

Act of indecency in the third degree

s 59 orig s 59 am Ord1983-27 sch 1
om Ord1990-2 s 5
pres s 59 (prev s 92H) ins Ord1985-62 s 4
renum R9 LA (see A2001-63 s 43)
am A2022-13 s 39

Act of indecency without consent

s 60 orig s 60 om Ord1983-27 sch 3
pres s 60 (prev s 92J) ins Ord1985-62 s 4
renum R9 LA (see A2001-63 s 43)
am A2011-7 ss 5-7; A2011-20 s 4, s 5; A2022-13 s 40, s 41; ss renum R137 LA

Common assaults

hdg before s 61 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Acts of indecency with young people

s 61 orig s 61 am Ord1974-17 s 4
om Ord1990-2 s 5
pres s 61 (prev s 92K) ins Ord1985-62 s 4
am A1995-2 s 8
renum R9 LA (see A2001-63 s 43)
am A2022-13 s 42, s 43; ss renum R137 LA

Act of indecency with young person under special care

s 61A ins A2013-12 s 10
am A2015-29 amdts 2.29-2.31; A2020-31 ss 7-9; ss renum R129 LA

Intimate observations or capturing visual data etc

s 61B ins A2015-3 s 7
am A2022-13 s 44, s 45

Rape and similar offences

hdg before s 62 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Incest and similar offences

s 62 orig s 62 om Ord1985-62 s 7
pres s 62 (prev s 92L) ins Ord1985-62 s 4
am Ord1986-27 s 3 (as am by Ord1986-37 s 3); Ord1990-5 sch 2; A1995-2 s 9; A2001-63 s 43
renum R9 LA (see A2001-63 s 43)
am A2002-49 amdt 3.11, amdt 3.12

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Abduction

s 63	orig s 63 am Ord1968-4 s 10 om Ord1985-62 s 7 pres s 63 (prev s 92M) ins Ord1985-62 s 4 renum R9 LA (see A2001-63 s 43) am A2022-13 s 46

Bestiality

s 63A	ins A2011-7 s 8

Using child for production of child exploitation material etc

s 64 hdg	sub A2015-35 amdt 1.2
s 64	orig s 64 sub Ord1951-14 s 5 om Ord1985-62 s 7 pres s 64 (prev s 92NA) ins Ord1987-3 s 3 renum R9 LA (see A2001-63 s 43) sub A2004-30 s 5 am A2015-35 amdts 1.3-1.5; A2022-13 s 47, s 48

Trading in child exploitation material

s 64A hdg	sub A2015-35 amdt 1.6
s 64A	ins A2004-30 s 5 am A2015-35 amdt 1.7, amdt 1.8; A2022-13 s 49

Possessing child pornography

s 65 hdg	sub A2015-35 amdt 1.9
s 65	orig s 65 am Ord1983-27 sch 1 om Ord1985-62 s 7 pres s 65 (prev s 92NB) ins A1991-120 s 4 renum R9 LA (see A2001-63 s 43) sub A2004-30 s 5 am A2011-20 s 6 am A2015-35 amdt 1.10, amdt 1.11; A2018-6 s 5; A2022-13 s 50

Grooming and depraving young people

s 66 hdg	sub A2018-6 s 6
s 66	orig s 66 am Ord1983-27 sch 1 om Ord1985-62 s 7 pres s 66 (prev s 92NC) ins A2001-75 s 6 renum R9 LA (see A2001-63 s 43) am A2002-49 amdt 3.13; A2011-20 ss 7-9; A2018-6 ss 7-11; ss renum R114 LA; A2022-13 s 51, s 52

Failure to report child sexual offence

s 66AA	ins A2019-6 s 7 am A2022-13 s 53

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Making false report about child sexual offence

s 66AB	ins A2019-6 s 7 am A2022-13 s 54

Failure by person in authority to protect child or young person from sexual offence

s 66A	ins A2018-46 s 6 am A2020-31 s 10, s 11; pars renum R129 LA; A2022-13 s 55

Course of conduct charge—child sexual offences

s 66B	ins A2018-46 s 6

When a person does not consent to an act

s 67	orig s 67 am Ord1968-4 s 11 om Ord1985-62 s 7 pres s 67 (prev s 92P) ins Ord1985-62 s 4 renum R9 LA (see A2001-63 s 43) am A2021-23 s 4; pars renum R134 LA sub A2022-7 s 5

Sexual intercourse—people not to be presumed incapable by reason of age

s 68	orig s 68 am Ord1983-27 sch 1 om Ord1985-62 s 7 pres s 68 (prev s 92Q) ins Ord1985-62 s 4 renum R9 LA (see A2001-63 s 43) am A2019-6 s 8

Marriage no bar to conviction

s 69	orig s 69 sub Ord1951-14 s 6 om Ord1985-62 s 7 pres s 69 (prev s 92R) ins Ord1985-62 s 4 renum R9 LA (see A2001-63 s 43)

Alternative verdicts for certain sexual offences

s 70 hdg	sub A2002-49 amdt 3.14
s 70	orig s 70 sub Ord1951-14 s 6 am Ord1984-78 s 4 om Ord1985-62 s 7 pres s 70 (prev s 92S) ins Ord1985-62 s 4 am Ord1990-2 s 6; A1995-2 s 10 renum R9 LA (see A2001-63 s 43) am A2013-12 s 11

Adding count for act of indecency

s 71	orig s 71 sub Ord1951-14 s 6 am Ord1983-27 sch 1 om Ord1985-62 s 7 pres s 71 (prev s 92T) ins Ord1985-62 s 4 renum R9 LA (see A2001-63 s 43)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Indictment for act of indecency

s 72	orig s 72 sub Ord1951-14 s 6 am Ord1983-27 sch 1 om Ord1985-62 s 7 pres s 72 (prev s 92U) ins Ord1985-62 s 4 renum R9 LA (see A2001-63 s 43) am A2013-12 s 12

Aggravated offences—pt 3 offences involving family violence

s 72AA	ins A2022-13 s 56

Alternative verdicts for aggravated offences—offences involving family violence

s 72AB	ins A2022-13 s 56

Intimate image abuse

pt 3A hdg	orig pt 3A hdg renum as pt 3 hdg pres pt 3A hdg ins A2017-22 s 5

Definitions—pt 3A

s 72A	ins Ord1951-14 s 6 am Ord1983-27 sch 1 om Ord1985-62 s 7 ins A2017-22 s 5 def ***aggravated offence*** ins A2022-13 s 57 def ***breasts*** ins A2017-22 s 5 def ***engaged in a private act*** ins A2017-22 s 5 def ***genital or anal region*** ins A2017-22 s 5 def ***intimate image*** ins A2017-22 s 5

Meaning of *distribute*—pt 3A

s 72B	ins A2017-22 s 5

Non-consensual distribution of intimate images

s 72C	ins A2017-22 s 5 am A2022-13 s 58

Distribution of intimate image of young person

s 72D	ins A2017-22 s 5 am A2022-13 s 59

Threaten to capture or distribute intimate images

s 72E	ins A2017-22 s 5 am A2022-13 s 60

Aggravated offences—pt 3A offences involving family violence

s 72EA	ins A2022-13 s 61

Alternative verdicts for aggravated offences—offences involving family violence

s 72EB	ins A2022-13 s 61

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Consent—pt 3A

s 72F	ins A2017-22 s 5 am A2022-7 s 6

Exceptions for reasonable distribution

s 72G	ins A2017-22 s 5

Court may order rectification

s 72H	ins A2017-22 s 5

Female genital mutilation

pt 3B hdg	renum as pt 4 hdg

Sexual servitude

pt 3C hdg	renum as pt 5 hdg

Female genital mutilation

pt 4 hdg	orig pt 4 hdg renum as pt 6 hdg pres pt 4 hdg (prev pt 3B hdg) ins A1995-50 s 5 renum R9 LA (see A2001-63 s 43)

Stealing and like offences

pt 4 ch 1 hdg	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Interpretation

pt 4 div 1 hdg	renum as div 6.1 hdg

Malicious injuries to property

pt 4 ch 2 hdg	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Theft and related offences

pt 4 div 2 hdg	renum as div 6.2 hdg

Criminal damage to property

pt 4 div 3 hdg	renum as div 6.3 hdg

Forgery and the use of forged instruments

pt 4 div 3A hdg	renum as div 6.4 hdg

Offences relating to computers

pt 4 div 3B hdg	renum as div 6.5 hdg

Contamination of goods and related offences

pt 4 div 3C hdg	renum as div 6.6 hdg

Miscellaneous

pt 4 div 4 hdg	renum as div 6.7 hdg

Offences relating to computers

pt 4 div 5 hdg	ins A1990-66 s 4 om A1992-23 sch 1

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Meaning of *female genital mutilation* for pt 4

s 73	orig s 73 sub Ord1951-14 s 6 am Ord1983-27 sch 1 om Ord1985-62 s 7 pres s 73 (prev s 92V) ins A1995-50 s 5 renum R9 LA (see A2001-63 s 43)

Prohibition of female genital mutilation

s 74	orig s 74 sub Ord1951-14 s 6 am Ord1983-27 sch 1 om Ord1985-62 s 7 pres s 74 (prev s 92W) ins A1995-50 s 5 renum R9 LA (see A2001-63 s 43)

Removal of child from ACT for genital mutilation

s 75	orig s 75 sub Ord1951-14 s 6 om Ord1985-62 s 7 pres s 75 (prev s 92X) ins A1995-50 s 5 renum R9 LA (see A2001-63 s 43)

Exception—medical procedures for genuine therapeutic purposes

s 76	orig s 76 sub Ord1951-14 s 6 am Ord1983-27 sch 1 om Ord1985-62 s 7 pres s 76 (prev s 92Y) ins A1995-50 s 5 renum R9 LA (see A2001-63 s 43) am A2002-49 amdt 3.15, amdt 3.16; A2004-39 amdt 6.3; A2006-46 amdt 2.4

Exception—sexual reassignment procedures

s 77	orig s 77 sub Ord1951-14 s 6 om Ord1985-62 s 7 pres s 77 (prev s 92Z) ins A1995-50 s 5 renum R9 LA (see A2001-63 s 43)

Consent no defence in certain cases

s 77A	ins Ord1951-14 s 6 om Ord1985-62 s 7

Sexual servitude

pt 5 hdg	orig pt 5 hdg om Ord1986-15 s 6 ins A1991-78 s 4 renum as pt 7 hdg pres pt 5 hdg (prev pt 3C hdg) ins A2001-8 s 4 renum R9 LA (see A2001-63 s 43)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Meaning of *sexual servitude* and *sexual services* for pt 5

s 78 hdg	sub A2002-49 amdt 3.17
s 78	orig s 78 sub Ord1951-14 s 6 om Ord1985-62 s 7 pres s 78 (prev s 92ZA) ins A2001-8 s 4 renum R9 LA (see A2001-63 s 43)

Incest by male

s 78A	ins Ord1951-14 s 6 am Ord1983-27 sch 1 om Ord1985-62 s 7

Incest by male, attempts

s 78B	ins Ord1951-14 s 6 om Ord1985-62 s 7

Incest by female

s 78C	ins Ord1951-14 s 6 am Ord1983-27 sch 1 om Ord1985-62 s 7

Defences

s 78D	ins Ord1951-14 s 6 om Ord1985-62 s 7

Removal from guardianship etc

s 78E	ins Ord1951-14 s 6 om Ord1985-62 s 7

Rape or attempt—verdict of incest or attempt

s 78F	ins Ord1951-14 s 6 om Ord1985-62 s 7

Sanction of Attorney-General

s 78G	ins Ord1951-14 s 6 om Ord1985-62 s 7

Unnatural offences

hdg before s 79	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Sexual servitude offences

s 79	orig s 79 am Ord1983-27 sch 1 om Ord1985-62 s 7 pres s 79 (prev s 92ZB) ins A2001-8 s 4 renum R9 LA (see A2001-63 s 43) am A2022-13 s 62, s 63

Deceptive recruiting for sexual services

s 80	orig s 80 am Ord1983-27 sch 1 om Ord1985-62 s 7 pres s 80 (prev s 92ZC) ins A2001-8 s 4 renum R9 LA (see A2001-63 s 43)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

am A2022-13 s 64

Sexual servitude offence etc against person younger than 18 years—charges and proof

s 81 orig s 81 am Ord1983-27 sch 1
om Ord1985-62 s 7
pres s 80 (prev s 92ZD) ins A2001-8 s 4
renum R9 LA (see A2001-63 s 43)
sub A2022-13 s 65

Attempts to procure abortion

hdg before s 82 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Alternative verdicts—sexual servitude offence etc

s 82 orig s 82 am Ord1983-27 sch 1
om Ord1990-2 s 5
pres s 82 (prev s 92ZE) ins A2001-8 s 4
renum R9 LA (see A2001-63 s 43)
sub A2022-13 s 65

Definitions for pt 6

s 83 orig s 83 am Ord1983-27 sch 1
om Ord1990-2 s 5
prev s 83 (prev s 93) ins Ord1983-27 s 11
sub Ord1985-44 s 6
renum R9 LA (see A2001-63 s 43)
om A2004-15 amdt 3.7
def ***blackmail*** ins Ord1985-44 s 6
om A2004-15 amdt 3.7
def ***burglary*** ins Ord1985-44 s 6
om A2004-15 amdt 3.7
def ***deception*** ins Ord1985-44 s 6
om A2004-15 amdt 3.7
def ***explosive*** ins Ord1985-44 s 6
om A2004-15 amdt 3.7
def ***firearm*** ins Ord1985-44 s 6
om A2004-15 amdt 3.7
def ***gain*** ins Ord1985-44 s 6
om A2004-15 amdt 3.7
def ***handling*** ins Ord1985-44 s 6
om A2004-15 amdt 3.7
def ***imitation explosive*** ins Ord1985-44 s 6
om A2004-15 amdt 3.7
def ***imitation firearm*** ins Ord1985-44 s 6
om A2004-15 amdt 3.7
def ***instrument*** ins Ord1986-15 s 4
om A2004-15 amdt 3.7
def ***loss*** ins Ord1985-44 s 6
om A2004-15 amdt 3.7

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

def ***offensive weapon*** ins Ord1985-44 s 6
om A2001-8 amdt 1.7
def ***property*** ins Ord1985-44 s 6
om A2004-15 amdt 3.7
def ***robbery*** ins Ord1985-44 s 6
om A2004-15 amdt 3.7
def ***theft*** ins Ord1985-44 s 6
om A2004-15 amdt 3.7

Stealing—interpretation

s 84 orig s 84 am Ord1983-27 sch 1
om Ord1990-2 s 5
prev s 84 (prev s 94) am Ord1983-27 sch 1
sub Ord1985-44 s 6
renum R9 LA (see A2001-63 s 43)
om A2004-15 amdt 3.7

Concealing birth of a child

hdg before s 85 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Property belonging to another—interpretation

s 85 orig s 85 sub Ord1951-14 s 7
om Ord1990-2 s 5
prev s 85 (prev s 95) am Ord1983-27 sch 1
sub Ord1985-44 s 6
renum R9 LA (see A2001-63 s 43)
om A2004-15 amdt 3.7

Abduction

hdg before s 86 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Appropriation and dishonest appropriation—interpretation

s 86 orig s 86 am Ord1983-27 sch 1
om Ord1985-62 s 7
prev s 86 (prev s 96) am Ord1983-27 sch 1; Ord1983-55 s 8
sub Ord1985-44 s 6
renum R9 LA (see A2001-63 s 43)
om A2004-15 amdt 3.7

Intention to deprive permanently—interpretation

s 87 orig s 87 am Ord1983-27 sch 1
om Ord1985-62 s 7
prev s 87 (prev s 97) am Ord1983-27 sch 1
sub Ord1985-44 s 6
renum R9 LA (see A2001-63 s 43)
om A2004-15 amdt 3.7

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Stolen property—interpretation

s 88	orig s 88 om Ord1985-62 s 7 prev s 88 (prev s 98) am Ord1983-27 sch 1 sub Ord1985-44 s 6 am Ord1986-27 s 4; Ord1987-3 s 4 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7

Theft

s 89	orig s 89 am Ord1983-27 sch 1 om Ord1985-62 s 7 prev s 89 (prev s 99) am Ord1983-27 sch 1 sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7

Minor theft

s 90	orig s 90 sub Ord1985-62 s 3 om Ord1990-2 s 5 prev s 90 (prev s 99A) ins A1995-49 s 4 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7

Kidnapping

s 90A	ins Ord1963-11 s 5 om Ord1990-2 s 5

Robbery

s 91	orig s 91 am Ord1983-27 sch 1 om Ord1990-2 s 5 prev s 91 (prev s 100) am Ord1983-27 sch 1 sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7

Procuring etc female under 21

s 91A	ins Ord1951-14 s 8 am Ord1970-40 s 3; Ord1983-27 sch 1 om Ord1985-62 s 7

Procuring female by drugs

s 91B	ins Ord1951-14 s 8 am Ord1970-40 s 4; Ord1983-27 sch 1 om Ord1985-62 s 7

Male living on earnings of prostitution

s 91C	ins Ord1951-14 s 8 om Ord1985-62 s 7

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Employment etc in brothel of girl under 18

s 91D	ins Ord1951-14 s 8 am Ord1983-27 sch 1 om Ord1985-62 s 7

Bigamy

hdg before s 92	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Armed robbery

s 92	orig s 92 om Ord1971-2 s 8 prev s 92 renum as s 50 prev s 92 (prev s 101) am Ord1983-27 sch 1; Ord1983-55 sch sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7

Sexual assault in the first degree

s 92A	renum as s 51

Sexual assault in the second degree

s 92B	renum as s 52

Sexual assault in the third degree

s 92C	renum as s 53

Sexual intercourse without consent

s 92D	renum as 54

Sexual intercourse with young person

s 92E	renum as s 55

Maintaining a sexual relationship with a young person

s 92EA	renum as s 56

Act of indecency in the first degree

s 92F	renum as s 57

Act of indecency in the second degree

s 92G	renum as s 58

Act of indecency in the third degree

s 92H	renum as s 59

Acts of indecency without consent

s 92J	renum as s 60

Acts of indecency with young persons

s 92K	renum as s 61

Incest and similar offences

s 92L	renum as s 62

Abduction

s 92M	renum as s 63

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Employment of young person for prostitution
s 92N ins Ord1985-62 s 4
om A1992-65 s 4

Employment of young persons for pornographic purposes
s 92NA renum as s 64

Possession of child pornography
s 92NB renum as s 65

Using the internet etc to deprave young people
s 92NC renum as s 66

Consent
s 92P renum as s 67

Sexual intercourse—persons not to be presumed incapable by reason of age
s 92Q renum as s 68

Marriage no bar to conviction
s 92R renum as s 69

Alternative verdict
s 92S renum as s 70

Adding count for act of indecency
s 92T renum as s 71

Indictment for act of indecency
s 92U renum as s 72

Interpretation
s 92V renum as s 73

Prohibition of female genital mutilation
s 92W renum as s 74

Removal of child from Territory for genital mutilation
s 92X renum as s 75

Exception—medical procedures for genuine therapeutic purposes
s 92Y renum as s 76

Exception—sexual reassignment procedures
s 92Z renum as s 77

Definitions of *sexual servitude* and *sexual services*
s 92ZA renum as s 78

Sexual servitude offences
s 92ZB renum as s 79

Deceptive recruiting for sexual services
s 92ZC renum as s 80

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Increased penalty for aggravated offences

s 92ZD	renum as s 81

Alternative verdict if aggravated offence not proven

s 92ZE	renum as s 82

Burglary

s 93	orig s 93 om Ord1971-2 s 8 prev s 93 renum as s 83 prev s 93 (prev s 102) am Ord1983-27 sch 1; Ord1983-55 sch sub Ord1985-44 s 6; A2001-63 s 12 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7

Delivery of stolen goods held by dealers

s 93A	ins Ord1983-55 s 6 om Ord1985-44 s 6

Disposal of stolen goods etc

s 93B	ins Ord1983-55 s 6 om Ord1985-44 s 6

Robbery

hdg before s 94	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Aggravated burglary

s 94	orig s 94 renum as s 84 prev s 94 (prev s 103) am Ord1983-27 sch 1; Ord1983-55 sch sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7

Obtaining financial advantage by deception

s 95	orig s 95 renum as s 85 prev s 95 (prev s 104) ins Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7

Robbery—threat of violence to third person

s 95A	ins Ord1983-55 s 7 om Ord1985-44 s 6

Obtaining service by deception

s 96	orig s 96 renum as s 86 prev s 96 (prev s 105) sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Evasion of liability by deception

s 97	orig s 97 renum as s 87 prev s 97 (prev s 106) am Ord1983-27 s 12, sch 1, sch 2 sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7

Making off without payment

s 98	orig s 98 renum as s 88 prev s 98 (prev s 107) am Ord1983-27 s 13, sch 1 sub Ord1985-44 s 6 am A1995-49 s 5; R9 LA (see A2001-63 s 43) renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7

Extortion etc by menace or threat

hdg before s 99	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Valueless cheques

s 99	orig s 99 renum as s 89 prev s 99 (prev s 107A) ins A2001-63 s 13 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7

Minor theft

s 99A	renum as s 90

False accounting

s 100	orig s 100 renum as s 91 prev s 100 (prev s 108) am Ord1983-27 s 14, sch 1 sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7

Liability of company officers

s 101	orig s 101 renum as s 92 prev s 101 (prev s 109) am Ord1983-27 s 15, sch 1 sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7

False statements by officers of associations

s 102	orig s 102 renum as s 93 prev s 102 (prev s 110) am Ord1968-4 s 12 sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Suppression etc of documents

s 103	orig s 103 renum as s 94 prev s 103 (prev s 111) am Ord1983-27 s 16, sch 1 sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7

Blackmail

s 104	orig s 104 om Ord1983-55 s 9 prev s 104 renum as s 95 prev s 104 (prev s 112) sub Ord1944-1 s 3; Ord1963-11 s 6 am Ord1978-45 s 5; Ord1983-27 sch 1, sch 2 sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7

Handling stolen property

s 105	orig s 105 renum as s 96 prev s 105 (prev s 113) sub Ord1963-11 s 6 am Ord1978-45 s 6; Ord1983-27 sch 1, sch 2 sub Ord1985-44 s 6 am Ord1986-27 s 5 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7

Sacrilege, burglary and housebreaking

hdg before s 106	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Dishonest abstraction

s 106 hdg	(prev s 114 hdg) sub A2000-66 sch 1 pt 3
s 106	orig s 106 renum as s 97 prev s 106 (prev s 114) am Ord1983-27 sch 1, sch 2; Ord1983-55 s 10 sub Ord1985-44 s 6 am A2000-66 sch 1 pt 3 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7

Possession of housebreaking implements etc

s 107	orig s 107 renum as s 98 prev s 107 (prev s 116) sub Ord1985-44 s 6 am Ord1990-5 sch 2; R9 LA (see A2001-63 s 43) renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Advertising for return of stolen property

s 108 orig s 108 renum as s 100
prev s 108 (prev s 117) am Ord1983-27 sch 1, sch 2
sub Ord1985-44 s 6
renum R9 LA (seå A2001-63 s 43)
om A2004-15 amdt 3.7

Delivery of stolen property held by dealers

s 109 orig s 109 renum as s 101
prev s 109 (prev s 118) sub Ord1985-44 s 6
renum R9 LA (see A2001-63 s 43)
am A2002-49 amdt 3.18
om A2004-15 amdt 3.7

Disposal of stolen property

s 110 orig s 110 renum as s 102
prev s 110 (prev s 119) sub Ord1985-44 s 6
renum R9 LA (see A2001-63 s 43)
om A2004-15 amdt 3.7

Taking vehicle without authority

s 111 orig s 111 renum as s 103
prev s 111 (prev s 120) am Ord1963-11 s 7; Ord1984-78 s 5
sub Ord1985-44 s 6
renum R9 LA (see A2001-63 s 43)
om A2004-15 amdt 3.7

Proof of general deficiency in a case

s 112 orig s 112 renum as s 104
prev s 112 (prev s 124) sub Ord1985-44 s 6
renum R9 LA (see A2001-63 s 43)
om A2004-15 amdt 3.7

Procedure and evidence

s 113 orig s 113 renum as s 105
prev s 113 (prev s 125) am Ord1983-27 sch 2
sub Ord1985-44 s 6
renum R9 LA (see A2001-63 s 43)
om A2004-15 amdt 3.7

Verdict of 'theft or handling'

s 114 orig s 114 renum as s 106
prev s 114 (prev s 126) am Ord1983-27 sch 1
sub Ord1985-44 s 6
renum R9 LA (see A2001-63 s 43)
om A2004-15 amdt 3.7

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Offences relating to property

pt 6 hdg — orig pt 6 hdg om Ord1983-27 s 31
pres pt 6 hdg (prev pt 4 hdg) sub Ord1985-44 s 6
renum R9 LA (see A2001-63 s 43)

Interpretation for part 6

div 6.1 hdg — (prev pt 4 div 1 hdg) ins Ord1985-44 s 6
renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40)
om A2004-15 amdt 3.7

Theft and related offences

div 6.2 hdg — (prev pt 4 div 2 hdg) ins Ord1985-44 s 6
renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40)
om A2004-15 amdt 3.7

Money laundering and organised fraud

div 6.2A hdg — ins A2003-8 amdt 1.3

Definitions for div 6.2A

s 114A — ins A2003-8 amdt 1.3
am A2015-50 amdt 3.59
def ***deal*** ins A2003-8 amdt 1.3
def ***proceeds of crime*** ins A2003-8 amdt 1.3
am A2008-44 amdt 1.18
def ***property*** ins A2003-8 amdt 1.3
def ***unlawful activity*** ins A2003-8 amdt 1.3

Money laundering

s 114B — ins A2003-8 amdt 1.3

Possession etc of property suspected of being proceeds of crime

s 114C — ins A2003-8 amdt 1.3

Organised fraud

s 114D — ins A2003-8 amdt 1.3
am A2005-53 amdt 2.1

Criminal damage to property

div 6.3 hdg — (prev pt 4 div 3 hdg) ins Ord1985-44 s 6
renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40)

Interpretation for div 6.3

s 115 — orig s 115 renum and reloc as s 155 A1991-90 s 4
pres s 115 (prev s 127) sub Ord1985-44 s 6
renum R9 LA (see A2001-63 s 43)
am A2002-9 s 4

Larceny

hdg before s 116 — om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Declaratory

hdg before s 116 — om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Destroying or damaging property

s 116	orig s 116 renum as s 107 pres s 116 (prev s 128) sub Ord1985-44 s 6 am A1995-49 s 6 renum R9 LA (see A2001-63 s 43) am A2002-51 amdt 1.9; ss renum R19 LA (see A2002-51 amdt 1.10); A2006-23 amdts 2.1-2.3; A2013-12 s 13; A2022-13 ss 66-69

Simple larceny and general provisions

hdg before s 117	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Arson

s 117	orig s 117 renum as s 108 pres s 117 (prev s 129) sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) am A2002-51 amdt 1.9; ss renum R19 LA (see A2002-51 amdt 1.10); A2006-23 amdt 2.4, amdt 2.5

Lawful excuse

s 118	orig s 118 renum as s 109 prev s 118 (prev s 130) sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) om A2002-51 amdt 1.9

Causing bushfires

s 118A	ins A2002-9 s 5 om A2002-51 amdt 1.9

Defacing premises

s 119	orig s 119 renum as s 110 pres s 119 (prev s 131) sub Ord1985-44 s 6 am Ord1986-57 s 4; Ord1990-5 sch 2 renum R9 LA (see A2001-63 s 43) am A2006-23 amdt 2.6, amdt 2.7 sub A2008-6 s 8 am A2013-3 amdt 2.3

Defacing premises—strict liability

s 120	orig s 120 renum as s 111 pres s 120 (prev s 132) sub Ord1985-44 renum R9 LA (see A2001-63 s 43) om A2002-51 amdt 1.9 ins A2008-6 s 8

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Possession of article with intent to destroy property

s 121	orig s 121 am Ord1983-27 sch 2 sub Ord1985-44 s 6 om Ord1986-57 s 3 prev s 121 (prev s 133) sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) om A2002-51 amdt 1.9

Untrue representations

s 122	orig s 122 am Ord1983-27 sch 2 sub Ord1985-44 s 6 om Ord1986-57 s 3 pres s 122 (prev s 134) am Ord1983-27 sch 2 sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) am A2006-23 amdt 2.8

Alternative verdicts—criminal damage to property offences

s 123	orig s 123 am Ord1983-27 sch 2 om Ord1983-27 sch 3 ins Ord1985-44 s 6 om Ord1986-57 s 3 pres s 123 (prev s 135) am Ord1983-27 sch 1 sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) sub A2022-13 s 70

Forgery and use of forged instruments

div 6.4 hdg	(prev pt 4 div 3A hdg) ins Ord1986-15 s 5 renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40) om A2004-15 amdt 3.7

Making of false instrument

s 124	orig s 124 renum as s 112 prev s 124 (prev s 135A) ins Ord1986-15 s 5 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7

Larceny by bailees

hdg before s 125	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Act or omission to a person's prejudice

s 125	orig s 125 renum as s 113 prev s 125 (prev s 135B) ins Ord1986-15 s 5 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7

Of animals

hdg before s 126	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Forgery and use of forged instruments

s 126 orig s 126 renum as s 114
prev s 126 (prev s 135C) ins Ord1986-15 s 5
renum R9 LA (see A2001-63 s 43)
om A2004-15 amdt 3.7

Possession of false instrument

s 127 orig s 127 renum as s 115
prev s 127 (prev s 135D) ins Ord1986-15 s 5
renum R9 LA (see A2001-63 s 43)
om A2004-15 amdt 3.7

Possession of machine etc

s 128 orig s 128 renum as s 116
prev s 128 (prev s 135E) ins Ord1986-15 s 5
renum R9 LA (see A2001-63 s 43)
om A2004-15 amdt 3.7

Forfeiture

s 129 orig s 129 renum as s 117
prev s 129 (prev s 135F) ins Ord1986-15 s 5
renum R9 LA (see A2001-63 s 43)
om A2004-15 amdt 3.7

General allegation of intent sufficient

s 130 orig s 130 renum as s 118
prev s 130 (prev s 135G) ins Ord1986-15 s 5
renum R9 LA (see A2001-63 s 43)
om A2004-15 amdt 3.7

Offences relating to computers

div 6.5 hdg (prev pt 4 div 3B hdg) ins A1992-23 sch 1
renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40)
om A2002-51 amdt 1.11

Interpretation for div 6.5

s 131 orig s 131 renum as s 119
prev s 131 (prev s 152 and s 135H) ins as s 152 A1990-66 s 4
renum as s 135H A1992-23 sch 1; renum as s 131 R9 LA (see A2001-63 s 43)
om A2002-51 amdt 1.11

Unlawful access to data in computer

s 132 orig s 132 renum as s 120
prev s 132 (prev s 153 and s 135J) ins as s 153 A1990-66 s 4
renum as s 135J A1992-23 sch 1; renum as s 132 R9 LA (see A2001-63 s 43)
om A2002-51 amdt 1.11

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Damaging data in computers

s 133	orig s 133 renum as s 121 prev s 133 (prev s 154 and s 135K) ins as s 154 A1990-66 s 4 renum as s 135K A1992-23 sch 1; renum as s 133 R9 LA (see A2001-63 s 43) om A2002-51 amdt 1.11

Of written instruments

hdg before s 134	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Dishonest use of computers

s 134	orig s 134 renum as s 122 prev s 134 (prev s 155 and s 135L) am Ord1983-27 sch 1, sch 2 sub Ord1985-44 s 6 renum and reloc as s 155 A1991-90 s 4; renum as s 135L A1992-23 sch 1; renum as s 134 R9 LA (see A2001-63 s 43) om A2002-51 amdt 1.11

Contamination of goods and related offences

div 6.6 hdg	(prev pt 4 div 3C hdg) ins A2000-3 s 4 renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40)

Definitions of *contaminate* and *goods*

s 135	orig s 135 renum as s 123 pres s 135 (prev s 135M) ins A2000-3 s 4 renum R9 LA (see A2001-63 s 43)

Making of false instrument

s 135A	renum as s 124

Act or omission to a person's prejudice

s 135B	renum as s 125

Forgery and the use of forged instruments

s 135C	renum as s 126

Possession of false instrument

s 135D	renum as s 127

Possession of machine etc

s 135E	renum as s 128

Forfeiture

s 135F	renum as s 129

General allegation of intent sufficient

s 135G	renum as s 130

Interpretation

s 135H	(prev s 152) renum as s 131

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Unlawful access to data in computer
s 135J (prev s 153) renum as s 132

Damaging data in computers
s 135K (prev s 154) renum as s 133

Rescuing a prisoner from custody etc
s 135L (prev s 155 and s 115) renum as s 134

Definitions of *contaminate* and *goods*
s 135M renum as s 135

Meaning of economic loss
s 135N renum as s 136

Contaminating goods with intent to cause public alarm or economic loss
s 135O renum as s 137

Threatening to contaminate goods with intent to cause public alarm or economic loss
s 135P renum as s 138

Making false statements about contamination of goods with intent to cause public alarm or economic loss
s 135Q renum as s 139

Territorial nexus for offences
s 135R renum as s 140

Meaning of economic loss
s 136 orig s 136 renum as s 141
pres s 136 (prev s 135N) ins A2000-3 s 4
renum R9 LA (see A2001-63 s 43)

Contaminating goods with intent to cause public alarm or economic loss
s 137 orig s 137 renum as s 142
pres s 137 (prev s 135O) ins A2000-3 s 4
renum R9 LA (see A2001-63 s 43)
am A2006-23 amdt 2.9

Threatening to contaminate goods with intent to cause public alarm or economic loss
s 138 orig s 138 renum as s 143
pres s 138 (prev s 135P) ins A2000-3 s 4
renum R9 LA (see A2001-63 s 43)
am A2006-23 amdt 2.10

Of things attached to or growing on land
hdg before s 139 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Making false statements about contamination of goods with intent to cause public alarm or economic loss

s 139	orig s 139 renum as s 144 pres s 139 (prev s 135Q) ins A2000-3 s 4 renum R9 LA (see A2001-63 s 43) am A2006-23 amdt 2.11

Territorial nexus for offences

s 140	orig s 140 renum as s 145 pres s 140 (prev s 135R) ins A2000-3 s 4 renum R9 LA (see A2001-63 s 43)

Offences relating to causing public alarm

div 6.7 hdg	(prev div 6.6A hdg) ins A2002-3 s 4 renum R11 LA (see A2001-90 amdt 1.40)

Acting with intent to cause public alarm

s 140A	ins A2002-3 s 4 am A2006-23 amdt 2.12

Threatening to act with intent to cause public alarm

s 140B	ins A2002-3 s 4 am A2006-23 amdt 2.13

Making false statements with intent to cause public alarm

s 140C	ins A2002-3 s 4 am A2006-23 amdt 2.14

Territorial nexus for offences

s 140D	ins A2002-3 s 4

Miscellaneous

div 6.8 hdg	orig div 6.8 hdg (prev pt 4 div 4 hdg) ins Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40) pres div 6.8 hdg (prev div 6.7 hdg) renum R11 LA (see A2001-90 amdt 1.40)

Hindering working of mines

s 141	orig s 141 om Ord1983-27 sch 3 prev s 141 renum as s 146 pres s 141 (prev s 136) sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) am A2006-23 amdt 2.15

Removal of sea banks etc

s 142	orig s 142 om Ord1983-27 sch 3 prev s 142 renum as s 147 pres s 142 (prev s 137) sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) am A2006-23 amdt 2.16

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Obstructing navigation of rivers

s 143	orig s 143 om Ord1983-27 sch 3 prev s 143 renum as s 148 pres s 143 (prev s 138) am Ord1983-27 sch 1 sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) am A2006-23 amdt 2.17

From mines

hdg before s 144	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Offences in relation to railways

s 144	orig s 144 renum as s 149 pres s 144 (prev s 139) am Ord1983-27 sch 2 sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) am A2006-23 amdt 2.18; A2017-21 amdt 1.10

Obstructing railway engines

s 145	orig s 145 renum as s 150 pres s 145 (prev s 140) am Ord1983-27 sch 2 sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) am A2006-23 amdt 2.19; A2017-21 amdt 1.11

Alternative verdict

s 146	orig s 146 renum as s 151 pres s 146 (prev s 141) ins Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43)

Displaying false signals

s 147	orig s 147 renum as s 152 pres s 147 (prev s 142) ins Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) am A2006-23 amdt 2.20

In dwelling-house

hdg before s 148	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Removing or concealing buoys etc

s 148	orig s 148 renum as s 153 pres s 148 (prev s 143) ins Ord1985-44 s 6 am R5 LRA renum R9 LA (see A2001-63 s 43) am A2006-23 amdt 2.21

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Removal of articles on public exhibition

s 149	orig s 149 renum as s 154 prev s 149 (prev s 144) am Ord1983-27 sch 2 sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7

Of goods in process of manufacture, tools etc

hdg before s 150	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Being found with intent to commit offence

s 150	orig s 150 renum as s 155 prev s 150 (prev s 145) sub Ord1985-44 s 6 am Ord1990-5 sch 2; A2001-8 amdt 1.8 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7

Forcible entry on land

s 151	orig s 151 renum as s 156 pres s 151 (prev s 146) am Ord1983-27 sch 2 sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) am A2006-23 amdt 2.22

Interpretation

s 151A	renum as s 157

From ships or wharfs

hdg before s 152	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Forcible detainer of land

s 152	orig s 152 am Ord1983-27 sch 1 om Ord1985-44 s 6 prev s 152 ins A1990-66 s 4 renum and reloc as s 135H A1992-23 sch 1 prev s 152 (prev s 358AA) ins Ord1988-75 s 9 renum and reloc as s 152 A1991-78 s 5 renum as s 158 R9 LA (see A2001-63 s 43) pres s 152 (prev s 147) am Ord1983-27 sch 2 sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) am A2006-23 amdt 2.23

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Disclosure of information by territory officer

s 153 hdg	sub A2016-52 amdt 1.52
s 153	orig s 153 am Ord1983-27 sch 1, sch 2 om Ord1985-44 s 6 prev s 153 ins A1990-66 s 4 renum and reloc as s 135J A1992-23 sch 1 prev s 153 (prev s 358AB) ins Ord1988-75 s 9 renum and reloc as s 153 A1991-78 s 5 renum as s 159 R9 LA (see A2001-63 s 43) prev s 153 (prev s 148) am Ord1983-27 sch 1, sch 2 sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7 pres s 153 reloc from Crimes (Offences against the Government) Act 1989 s 10 by A2004-15 amdt 3.16 am A2006-23 amdt 2.24, amdt 2.25

By tenants or lodgers

hdg before s 154	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Additional offences on territory premises

s 154	orig s 154 am Ord1983-27 sch 2 om Ord1985-44 s 6 prev s 154 ins A1990-66 s 4 renum and reloc as s 135K A1992-23 sch 2 prev s 154 (prev s 358AC) ins Ord1988-75 s 9 renum and reloc as s 154 A1991-78 s 5 renum as s 160 R9 LA (see A2001-63 s 43) prev s 154 (prev s 149) am Ord1983-27 sch 1 sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7 pres s 154 reloc from Crimes (Offences against the Government) Act 1989 s 19 by A2004-15 amdt 3.18 am A2006-23 amdt 2.26, amdt 2.27

Unlawfully using another's vehicle or boat

s 154A	ins Ord1963-11 s 8 am Ord1983-27 sch 2 om Ord1985-44 s 6

Fraudulent abstraction, waste etc of electricity

s 154B	ins Ord1984-78 s 6 om Ord1985-44 s 6

Embezzlement or larceny

hdg before s 155	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

By clerks and servants

hdg before s 155	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Indictment for theft etc of deeds

s 155	orig s 155 om Ord1985-44 s 6 prev s 155 (prev s 115) am Ord1983-27 sch 1, sch 2 sub Ord1985-44 s 6 renum and reloc as s 155 A1991-90 s 4 renum as s 161 R9 LA (see A2001-63 s 43) prev s 155 (prev s 358AD) ins Ord1988-75 s 9 renum and reloc as s 155 A1991-78 s 5 renum and reloc as s 135L A1992-23 sch 1 renum as s 134 R9 LA (see A2001-63 s 43) prev s 155 (prev s 150) am Ord1983-27 sch 1, sch 2 sub Ord1985-44 s 6 renum as s 155 R9 LA (see A2001-63 s 43) am A2002-49 amdt 3.19, amdt 3.20 om A2004-15 amdt 3.7

Allegations in indictment about stolen money or securities

s 156	orig s 156 am Ord1983-27 sch 1 om Ord1985-44 s 6 prev s 156 (prev s 358AE) ins Ord1988-75 s 9 renum and reloc as s 156 A1991-78 s 5 renum as s 162 prev s 156 (prev s 151) sub Ord1985-44 s 6 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.7

Escape provisions

pt 7 hdg	orig pt 7 renum as pt 8 hdg pres pt 7 hdg (prev pt 5 hdg) renum R9 LA (see A2001-63 s 43)

Meaning of *lawful custody*—periodic detention

s 157	orig s 157 am Ord1983-27 sch 1 om Ord1985-44 s 6 (prev s 358AF) ins Ord1988-75 s 9 renum and reloc as s 157 A1991-78 s 5 renum as s 163 pres s 157 (prev s 151A) ins A1995-3 s 64 renum R9 LA (see A2001-63 s 43) sub A2006-23 amdt 1.54 om A2016-4 amdt 1.15

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Interpretation

s 158 orig s 158 am Ord1983-27 sch 1
om Ord1985-44 s 6
prev s 158 (prev s 358AG) ins Ord1988-75 s 9
renum and reloc as s 158 A1991-78 s 5
renum as s 164
pres s 158 (prev s 152) ins A1990-66 s 4
renum as s 158 R9 LA (see A2001-63 s 43)

By persons employed in the Public Service

hdg before s 159 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Unlawful access to data in computer

s 159 orig s 159 am Ord1983-27 sch 1
om Ord1985-44 s 6
prev s 159 (prev s 358AH) ins Ord1988-75 s 9
renum and reloc as s 159 A1991-78 s 5
renum as s 165
pres s 159 (prev s 153) ins A1990-66 s 4
renum R9 LA (see A2001-63 s 43)
am A2006-23 amdt 1.55, amdt 2.28

Damaging data in computers

s 160 orig s 160 am Ord1983-27 sch 1
om Ord1985-44 s 6
prev s 160 (prev s 358AI) ins Ord1988-75 s 9
am A1992-9 s 7
renum and reloc as s 160 A1991-78 s 5
renum as s 166
pres s 160 (prev s 154) ins A1990-66 s 4
renum R9 LA (see A2001-63 s 43)
am A2006-23 amdt 2.29

General deficiency

hdg before s 161 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Rescuing a prisoner from custody etc

s 161 orig s 161 om Ord1985-44 s 6
pres s 161 (prev s 115 and prev s 155) am Ord1983-27 sch 1, sch 2
sub Ord1985-44 s 6
renum and reloc as s 155 A1991-90 s 4
renum as s 161 R9 LA (see A2001-63 s 43)
am A2006-23 amdt 1.56, amdt 2 30

By joint owners

hdg before s 162 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Person unlawfully at large

s 162 orig s 162 om Ord1985-44 s 6
pres s 162 (prev s 358AE and prev s 156) ins as s 358AE Ord1988-75 s 9
renum as s 156 A1991-78 s 5
renum as s 162 R9 LA (see A2001-63 s 43)
am A2002-49 amdt 3.21; A2006-23 amdt 1.57, amdt 1.58, amdt 2.31

Alternative verdict

hdg before s 163 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Permitting escape

s 163 orig s 163 am Ord1983-27 sch 2
om Ord1985-44 s 6
pres s 163 (prev s 358AF and prev s 157) ins as s 358AF Ord1988-75 s 9
renum as s 157 A1991-78 s 5
renum as s 163 R9 LA (see A2001-63 s 43)
am A2002-49 amdt 3.22; A2006-23 amdt 1.58, amdt 2.32

Frauds by factors and other agents

hdg before s 164 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Harbouring etc escapee

s 164 orig s 164 om Ord1985-44 s 6
pres s 164 (prev s 358AG and prev s 158) ins as s 358AG Ord1988-75 s 9
renum as s 158 A1991-78 s 5
renum as s 164 R9 LA (see A2001-63 s 43)
am A2006-23 amdt 2.33

Escaped prisoner—current sentence

s 165 orig s 165 am Ord1983-27 sch 1
om Ord1985-44 s 6
prev s 165 (prev s 358AH and prev s 159) ins as s 358AH Ord1988-75 s 9
renum as s 159 A1991-78 s 5
renum as s 165 R9 LA (see A2001-63 s 43)
om A2006-23 amdt 1.59

Failure to answer bail etc—offence

s 166 orig s 166 am Ord1983-27 sch 1
om Ord1985-44 s 6
pres s 166 (prev s 358AI and prev s 160) ins as s 358AI Ord1988-75 s 9
renum as s 160 A1991-78 s 5
renum as s 166 R9 LA (see A2001-63 s 43)
am A2006-23 amdt 2.34

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Perjury

s 167 orig s 167 om Ord1985-44 s 6
prev s 167 (prev s 327) am Ord1983-27 sch 1
renum R9 LA (see A2001-63 s 43)
am A2002-49 amdt 3.23
om A2005-53 amdt 1.39

Perjury with intent to procure conviction etc

s 168 orig s 168 am Ord1983-27 sch 2
om Ord1985-44 s 6
prev s 168 (prev s 328) am Ord1983-27 s 18, sch 1
renum R9 LA (see A2001-63 s 43)
am A2002-49 amdt 3.23
om A2005-53 amdt 1.39

Conviction for false swearing on indictment for perjury

s 169 orig s 169 am Ord1983-27 sch 1
om Ord1985-44 s 6
prev s 169 (prev s 329) renum R9 LA (see A2001-63 s 43)
om A2005-53 amdt 1.39

Anabolic steroids

pt 8 hdg orig pt 8 hdg renum as pt 9 hdg
prev pt 8 hdg (prev pt 7 hdg) renum R9 LA (see A2001-63 s 43)
om A2005-53 amdt 1.39
pres pt 8 hdg ins A2008-26 amdt 2.7

Meaning of *anabolic steroid*

s 170 orig s 170 am Ord1983-27 sch 1
om Ord1985-44 s 6
prev s 170 (prev s 330) am Ord1983-27 sch 1
renum R9 LA (see A2001-63 s 43)
am A2002-49 amdt 3.23
om A2005-53 amdt 1.39
pres s 170 ins A2008-26 amdt 2.7
sub as mod SL2008-42 mod 10.1 (as ins by SL2009-27 s 7)
mod lapsed 21 December 2010 (SL2008-42 mod 10.1 om by A2010-50 amdt 1.14)
sub A2010-50 amdt 1.1

Prescribing and supplying anabolic steroids

s 171 orig s 171 om Ord1985-44 s 6
prev s 171 (prev s 331) renum R9 LA (see A2001-63 s 43)
om A2005-53 amdt 1.39
pres s 171 ins A2008-26 amdt 2.7

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Possessing anabolic steroids

s 172	orig s 172 am Ord1983-27 sch 1 om Ord1985-44 s 6 prev s 172 (prev s 332) am Ord1983-55 sch renum R9 LA (see A2001-63 s 43) om A2005-53 amdt 1.39 pres s 172 ins A2008-26 amdt 2.7

Administering anabolic steroids

s 173	orig s 173 am Ord1983-27 sch 1 om Ord1985-44 s 6 prev s 173 (prev s 333) am Ord1983-27 sch 2; Ord1983-55 sch renum R9 LA (see A2001-63 s 43) am A2002-49 amdt 3.23 om A2005-53 amdt 1.39 pres s 173 ins A2008-26 amdt 2.7

Exclusion powers

pt 9 hdg	ins A2016-48 s 11

Definitions—pt 9

s 174	orig s 174 am Ord1983-27 sch 1 om Ord1985-44 s 6 prev s 174 (prev s 334) ins Ord1990-4 s 5 renum R9 LA (see A2001-63 s 43) om A2005-53 amdt 1.39 ins A2016-48 s 11 def ***exclusion direction*** ins A2016-48 s 11 def ***exclusion period*** ins A2016-48 s 11 def ***exclusion zone*** ins A2016-48 s 11 def ***public place*** ins A2016-48 s 11

Exclusion direction

s 175	orig s 175 am Ord1983-27 sch 1 om Ord1985-44 s 6 prev s 175 (prev s 340) am Ord1983-27 sch 2; A1992-9 s 6 renum R9 LA (see A2001-63 s 43) om A2005-53 amdt 1.39 ins A2016-48 s 11

Exclusion zone

s 176	orig s 176 am Ord1983-27 sch 1 om Ord1985-44 s 6 prev s 176 (prev s 341) am Ord1983-27 sch 2 renum R9 LA (see A2001-63 s 43) om A2005-53 amdt 1.39 ins A2016-48 s 11

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Directors etc cheating or defrauding

s 176A	ins Ord1984-78 s 7 om Ord1985-44 s 6

Exclusion direction—information to be given

s 177	orig s 177 om Ord1985-44 s 6 prev s 177 (prev s 342) am Ord1983-27 sch 2 renum R9 LA (see A2001-63 s 43) om A2005-53 amdt 1.39 ins A2016-48 s 11

Exclusion direction—information to be recorded

s 178	orig s 178 om Ord1985-44 s 6 prev s 178 (prev s 343) renum R9 LA (see A2001-63 s 43) om A2005-53 amdt 1.39 ins A2016-48 s 11

Fraudulent misappropriation of moneys collected or received

s 178A	ins Ord1963-11 s 9 om Ord1985-44 s 6

Valueless cheques

s 178B	ins Ord1983-55 s 11 om Ord1985-44 s 6

Obtaining money etc by deception

s 178C	ins Ord1983-55 s 11 om Ord1985-44 s 6

Obtaining money etc by false or misleading statements

s 178D	ins Ord1983-55 s 11 om Ord1985-44 s 6

Obtaining credit by fraud

s 178E	ins Ord1983-55 s 11 om Ord1985-44 s 6

False pretences

hdg before s 179	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Failing to comply with exclusion direction

s 179	orig s 179 am Ord1963-11 s 10; Ord1983-27 sch 1 om Ord1985-44 s 6 prev s 179 (prev s 344) am Ord1983-27 sch 1 sub Ord1988-75 s 5 renum R9 LA (see A2001-63 s 43) om A2005-53 amdt 1.39 ins A2016-48 s 11

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Accessories

pt 9 hdg	orig pt 9 hdg om Ord1988-75 s 6 prev pt 9 hdg (prev pt 8 hdg) sub Ord1988-75 s 6 renum R9 LA (see A2001-63 s 43) sub A2002-51 amdt 1.12 om A2005-53 amdt 1.39

Aiding and abetting

s 180	orig s 180 am Ord1963-11 s 11 om Ord1985-44 s 6 prev s 180 (prev s 345) ins Ord1988-75 renum R9 LA (see A2001-63 s 43) om A2002-51 amdt 1.13

Accessory after the fact

s 181	orig s 181 om Ord1985-44 s 6 prev s 181 (prev s 346) ins Ord1988-75 s 6 renum R9 LA (see A2001-63 s 43) am A2004-15 amdt 3.8 om A2005-53 amdt 1.39

Attempts

s 182	orig s 182 am Ord1963-11 s 12 om Ord1985-44 s 6 prev s 182 (prev s 347) prev s 182 ins Ord1988-75 s 6 renum R9 LA (see A2001-63 s 43) om A2002-51 amdt 1.14

Incitement

s 183	orig s 183 sub Ord1963-11 s 13 am Ord1983-27 sch 2 om Ord1985-44 s 6 prev s 183 (prev s 348) prev s 183 ins Ord1988-75 s 6 renum R9 LA (see A2001-63 s 43) pars renum R11 LA om A2002-51 amdt 1.14

Conspiracy

s 184	orig s 184 am Ord1983-27 sch 1 om Ord1985-44 s 6 prev s 184 (prev s 349) am Ord1983-27 sch 1 sub Ord1988-75 s 6 renum R9 LA (see A2001-63 s 43) om A2002-51 amdt 1.14

Criminal investigation

pt 10 hdg	sub Ord1983-55 s 23; Ord1988-75 s 7; A1991-78 s 6
pt 10 hdg note	ins A2002-11 amdt 2.21

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Preliminary

div 10.1 hdg (prev pt 10 div 1 hdg) ins Ord1984-32
sub A1991-78; A1994-75
renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40)

Definitions for pt 10

s 185 orig s 185 am Ord1983-27 sch 1
om Ord1985-44 s 6
pres s 185 (prev s 349AA) ins A1994-75 s 4
renum R9 LA (see A2001-63 s 43)
def ***assisting officer*** ins A1994-75 s 4
def ***Commonwealth Crimes Act*** ins A1994-75 s 4
def ***conveyance*** ins A1994-75 s 4
def ***evidential material*** ins A1994-75 s 4
sub A2008-44 amdt 1.19
def ***executing officer*** ins A1994-75 s 4
def ***frisk search*** ins A1994-75 s 4
def ***identification material*** ins A2015-36 s 6
def ***impaired state*** ins A2015-36 s 6
def ***issuing officer*** ins A1994-75 s 4
am A2018-40 s 5
def ***medical practitioner*** om A1995-50 s 6
ins A1994-75 s 4
om A1995-50 s 6
def ***offence*** ins A1994-75 s 4
def ***ordinary search*** sub A1994-75 s 4
am A1997-10 s 4
def ***police station*** ins A1994-75 s 4
def ***premises*** ins A1994-75 s 4
def ***recently used conveyance*** ins A1994-75 s 4
def ***seizable item*** ins A1994-75 s 4
def ***serious offence*** ins A2008-44 amdt 1.20
def ***strip search*** ins A1994-75 s 4
def ***summary offence*** sub A1994-75 s 4
am A2001-56 amdt 3.239
om A2002-11 amdt 2.22
def ***tainted property*** ins A2003-8 amdt 1.4
def ***take*** ins A2015-36 s 6
def ***target material*** ins A2003-8 amdt 1.4
def ***thing relevant to*** ins A2008-44 amdt 1.21
def ***thing relevant to an indictable offence*** ins A1994-75 s 4
om A2008-44 amdt 1.21
def ***thing relevant to a summary offence*** ins A1994-75 s 4
om A2008-44 amdt 1.21
def ***warrant*** ins A1994-75 s 4
def ***warrant premises*** ins A1994-75 s 4

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Search of transgender or intersex person

s 185A	ins A2003-14 amdt 1.31

Corrupt rewards

hdg before s 186	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Application of pt 10

s 186	orig s 186 am Ord1983-27 sch 1; Ord1984-78 s 8 om Ord1985-44 s 6 pres s 186 (prev s 349AB) ins A1994-75 s 4 renum R9 LA (see A2001-63 s 43)

Receivers

hdg before s 187	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Application of Cwlth Crimes Act, pt 1C

s 187	orig s 187 om Ord1985-44 s 6 pres s 187 (prev s 349AC) ins A2001-63 s 14 renum R9 LA (see A2001-63 s 43) am A2008-44 amdt 1.22, amdt 1.23 mod SL2014-16 mod 1.1 (mod exp 1 July 2020 (see SL2014-16 s 4)) am A2014-14 s 56

Preventative action

div 10.1A hdg	orig pt 10 div 1A hdg ins Ord1988-75 s 9 om A1991-78 s 8 prev pt 10 div 1A hdg renum as div 10.2 hdg

Preventative action

div 10.2 hdg	orig pt 10 div 2 hdg renum as div 10.3 hdg pres div 10.2 hdg (prev pt 10 div 1A hdg) ins A1994-75 s 4 renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40)

Police powers of entry

s 188	orig s 188 am Ord1983-27 sch 1, sch 2; Ord1984-78 s 9 om Ord1985-44 s 6 pres s 188 (prev s 349A) ins Ord1986-53 s 3 am Ord1987-3 s 5 renum R9 LA (see A2001-63 s 43)

Issue of warrant

s 189	orig s 189 am Ord1983-27 sch 2; Ord1984-78 s 10 om Ord1985-44 s 6 pres s 189 (prev s 349B) ins Ord1986-53 s 3 am Ord1987-3 s 6 renum R9 LA (see A2001-63 s 43)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Receiving etc goods stolen outside the Territory

s 189A	ins Ord1951-14 s 9 am Ord1983-27 sch 1; Ord1984-78 s 11 om Ord1985-44 s 6

Prosecution under s 188 or s 189 where property stolen in course of transmission

s 189B	ins Ord1984-78 s 12 om Ord1985-44 s 6

Entry in emergencies

s 190	orig s 190 am Ord1983-27 sch 2; Ord1984-78 s 13 om Ord1985-44 s 6 pres s 190 (prev s 349C) ins Ord1986-53 s 3 renum R9 LA (see A2001-63 s 43)

Seizure of firearms—warrants and emergencies

s 191	orig s 191 om Ord1985-44 s 6 pres s 191 (prev s 349D) ins A1991-9 sch am A1992-35 s 3; A1996-74 sch 3; A1997-23 s 5; R9 LA (see A2001-63 s 43) renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.31) am A2001-90 amdt 1.30; A2005-13 amdt 1.22; A2008-46 amdt 3.10; A2016-42 amdt 3.25

Seizure of firearms—protection orders

s 192 hdg	sub A2001-90 amdt 1.32
s 192	orig s 192 om Ord1985-44 s 6 pres s 192 (prev s 349DA) ins A1997-23 s 6 renum R9 LA (see A2001-63 s 43) am A2001-90 amdt 1.33; A2004-60 amdts 1.103-1.105; A2005-13 amdt 1.23; A2008-46 amdt 3.11, amdt 3.12; A2015-40 amdt 1.8; A2016-42 amdts 3.26-3.28

Power to conduct search of person for knife

s 193	orig s 193 om Ord1985-44 s 6 pres s 193 (prev s 349DB) ins A1998-22 s 5 renum R9 LA (see A2001-63 s 43)

Search warrants

div 10.3 hdg	orig pt 10 div 3 hdg renum as div 10.4 hdg pres div 10.3 hdg (prev pt 10 div 2 hdg) ins Ord1984-32 s 4 sub A1994-75 s 4 renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40)

Declaratory and general

hdg before s 194	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

When search warrants can be issued

s 194	orig s 194 om Ord1985-44 s 6 pres s 194 (prev s 349E) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43) am A2003-8 amdt 1.5; A2008-44 amdt 1.24

Electronic versions of affidavits and warrants

s 194A hdg	sub A2021-24 s 14
s 194A	ins A2020-14 amdt 1.46 am A2021-1 amdt 1.12; A2021-24 s 15; ss renum R134 LA

The things that are authorised by search warrant

s 195	orig s 195 om Ord1985-44 s 6 pres s 195 (prev s 349F) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43) am A2002-49 amdt 3.24; A2003-8 amdt 1.6, amdt 1.7; A2008-44 amdt 1.25

Injuries to buildings etc by fire

hdg before s 196	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Availability of assistance and use of force in executing warrant

s 196	orig s 196 am Ord1963-11 s 14 om Ord1968-4 s 13 pres s 196 (prev s 349G) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43)

Details of warrant to be given to occupier etc

s 197	orig s 197 am Ord1963-11 s 15; Ord1983-27 sch 1 om Ord1985-44 s 6 pres s 197 (prev s 349H) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43)

Specific powers available to police officers executing warrant

s 198	orig s 198 am Ord1963-11 s 16; Ord1983-27 sch 1 om Ord1985-44 s 6 pres s 198 (prev s 349J) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43)

Use of equipment to examine or process things

s 199	orig s 199 am Ord1983-27 sch 1 om Ord1985-44 s 6 pres s 199 (prev s 349K) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43)

Use of electronic equipment at premises

s 200	orig s 200 am Ord1963-11 s 17; Ord1983-27 sch 1 om Ord1985-44 s 6 pres s 200 (prev s 349L) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Compensation for damage to electronic equipment

s 201	orig s 201 am Ord1963-11 s 18; Ord1983-27 sch 1, sch 2 om Ord1985-44 s 6 pres s 201 (prev s 349M) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43)

Copies of seized things to be provided

s 202	orig s 202 am Ord1963-11 s 19; Ord1983-27 sch 1 om Ord1985-44 s 6 pres s 202 (prev s 349N) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43)

Injuries to buildings by explosive substances

hdg before s 203	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Occupier entitled to be present during search

s 203	orig s 203 am Ord1963-11 s 20; Ord1983-27 sch 1 om Ord1985-44 s 6 pres s 203 (prev s 349P) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43)

Receipts for things seized under warrant

s 204	orig s 204 am Ord1963-11 s 21; Ord1983-27 sch 1 om Ord1985-44 s 6 pres s 204 (prev s 349Q) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43)

Injuries to buildings by rioters

hdg before s 205	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Warrants by telephone or other electronic means

s 205	orig s 205 om Cwlth Act 1971 No 26 sch pres s 205 (prev s 349R) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43) am A2018-33 amdt 1.12

Restrictions on personal searches

s 206	orig s 206 om Cwlth Act 1971 No 26 sch pres s 206 (prev s 349S) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43)

Powers to stop and search

div 10.4 hdg	orig pt 10 div 4 hdg renum as div 10.5 hdg pres div 10.4 hdg (prev pt 10 div 3 hdg) ins A1994-75 s 5 sub A2001-63 s 15 renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Stopping, searching and detaining people

s 207	orig s 207 om Cwlth Act 1971 No 26 sch pres s 207 (prev s 349SA) ins A2001-63 s 16 renum R9 LA (see A2001-63 s 43) am A2008-44 amdt 1.26

Injuries to buildings by tenants

hdg before s 208	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

How a police officer exercises a power under s 207

s 208	orig s 208 om Ord1985-44 s 6 pres s 208 (prev s 349SB) ins A2001-63 s 16 renum R9 LA (see A2001-63 s 43)

Injuries to manufactures, machinery etc

hdg before s 209	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Stopping, searching and detaining conveyances

s 209 hdg	(prev s 349T hdg) sub A2001-63 s 17
s 209	orig s 209 am Ord1983-27 sch 1 om Ord1985-44 s 6 pres s 209 (prev s 349T) ins A1994-75 s 5 am A2001-63 s 18 renum R9 LA (see A2001-63 s 43) am A2008-44 amdt 1.27

How a police officer exercises a power under s 209

s 210	orig s 210 am Ord1983-27 sch 1 om Ord1985-44 s 6 pres s 210 (prev s 349U) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43)

Crime scene powers

div 10.4A hdg	ins A2017-45 s 6

Definitions—div 10.4A

s 210A	ins A2017-45 s 6 def ***crime scene*** ins A2017-45 s 6 def ***crime scene power*** ins A2017-45 s 6 def ***private premises*** ins A2017-45 s 6 def ***serious offence*** ins A2017-45 s 6

Meaning of *public place*—div 10.4A

s 210B	ins A2017-45 s 6

Establish crime scene—public place

s 210C	ins A2017-45 s 6

Establish crime scene—private premises

s 210D	ins A2017-45 s 6

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

When crime scene established
s 210E ins A2017-45 s 6

Senior police officer to be told about crime scene
s 210F ins A2017-45 s 6

Crime scene powers
s 210G ins A2017-45 s 6

Crime scene—duration
s 210H ins A2017-45 s 6

Crime scene—frequency
s 210I ins A2017-45 s 6

Crime scene obligations—all places
s 210J ins A2017-45 s 6

Crime scene obligations—conveyances
s 210K ins A2017-45 s 6

Offence—fail to comply with direction
s 210L ins A2017-45 s 6

Review—div 10.4A
s 210M ins A2017-45 s 6
exp 7 March 2021 (s 210M (3))

Arrest and related matters
div 10.5 hdg orig pt 10 div 5 hdg renum as div 10.6 hdg
pres div 10.5 hdg (prev pt 10 div 4 hdg) ins A1994-75 s 5
sub A2001-63 s 15
renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40)

Injuries to corn, hay-stacks, trees etc
hdg before s 211 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Requirement to provide name etc
s 211 orig s 211 am Ord1983-27 sch 1
om Ord1985-44 s 6
pres s 211 (prev s 349V) ins A1994-75 s 5
renum R9 LA (see A2001-63 s 43)
am A2002-49 amdt 3.25

Power of arrest without warrant by police officers
s 212 orig s 212 am Ord1983-27 sch 1
om Ord1985-44 s 6
pres s 212 (prev s 349W) ins A1994-75 s 5
am A1997-23 s 7; A2001-63 ss 19-23
renum R9 LA (see A2001-63 s 43)
am A2005-13 amdt 1.24; A2008-46 amdt 3.13; A2016-42 amdt 3.29, amdt 3.30

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Arrest without warrant in possession

s 213 orig s 213 am Ord1983-27 sch 1
om Ord1985-44 s 6
pres s 213 (prev s 349X) ins A1994-75 s 5
am A1998-67 s 14
renum R9 LA (see A2001-63 s 43)

Arrest of prisoner unlawfully at large

s 214 orig s 214 am Ord1983-27 sch 1
om Ord1985-44 s 6
pres s 214 (prev s 349Y) ins A1994-75 s 5
am A1998-67 s 15; A2001-63 s 24
renum R9 LA (see A2001-63 s 43)
am A2006-23 amdt 1.60

Power of arrest without warrant of person on bail

s 215 orig s 215 am Ord1983-27 sch 1
om Ord1985-44 s 6
prev s 215 (prev s 349Z) ins A1994-75 s 5
renum R9 LA (see A2001-63 s 43)
om A2004-14 amdt 2.1

Arrest for breach of bail conditions by person outside ACT

s 216 orig s 216 am Ord1983-27 sch 1, sch 2
om Ord1985-44 s 6
prev s 216 (prev s 349ZA) ins A1994-75 s 5
renum R9 LA (see A2001-63 s 43)
om A2004-14 amdt 2.1

Arrest without warrant for offences committed outside ACT

s 217 orig s 217 am Ord1983-27 sch 1, sch 2
om Ord1985-44 s 6
pres s 217 (prev s 349ZB) ins A1994-75 s 5
am A2001-63 s 25
renum R9 LA (see A2001-63 s 43)
am A2008-44 amdt 1.28

Power of arrest without warrant by other persons

s 218 orig s 218 am Ord1983-27 sch 2
om Ord1985-44 s 6
pres s 218 (prev s 349ZC) ins A1994-75 s 5
renum R9 LA (see A2001-63 s 43)

Warrants for arrest

s 219 orig s 219 am Ord1983-55 sch
om Ord1985-44 s 6
pres s 219 (prev s 349ZD) ins A1994-75 s 5
am A2001-25 s 18
renum R9 LA (see A2001-63 s 43)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Power to enter premises to arrest offender

s 220 orig s 220 om Ord1985-44 s 6
pres s 220 (prev s 349ZE) ins A1994-75 s 5
am A2001-63 s 26, s 27
renum R9 LA (see A2001-63 s 43)
am A2004-15 amdt 3.9; A2008-44 amdt 1.29, amdt 1.30; A2010-47 amdt 1.1; A2011-15 s 4; A2016-3 s 4

Injuries to mines

hdg before s 221 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Use of force in making arrest

s 221 orig s 221 am Ord1983-27 sch 1
om Ord1985-44 s 6
pres s 221 (prev s 349ZF) ins A1994-75 s 5
renum R9 LA (see A2001-63 s 43)

Persons to be informed of grounds of arrest

s 222 orig s 222 am Ord1983-27 sch 1
om Ord1985-44 s 6
pres s 222 (prev s 349ZG) ins A1994-75 s 5
renum R9 LA (see A2001-63 s 43)

Power to conduct frisk search of arrested person

s 223 orig s 223 am Ord1983-27 sch 1
om Ord1985-44 s 6
pres s 223 (prev s 349ZH) ins A1994-75 s 5
am A2001-63 s 28, s 29
renum R9 LA (see A2001-63 s 43)

Power to conduct ordinary search of arrested person

s 224 orig s 224 am Ord1983-27 sch 1
om Ord1985-44 s 6
pres s 224 (prev s 349ZJ) ins A1994-75 s 5
am A1997-10 s 5; A2001-63 s 30, s 31
renum R9 LA (see A2001-63 s 43)

Injuries to sea or river banks etc

hdg before s 225 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Power to conduct search of arrested person's premises

s 225 orig s 225 am Ord1983-27 sch 1
om Ord1985-44 s 6
pres s 225 (prev s 349ZK) ins A1994-75 s 5
renum R9 LA (see A2001-63 s 43)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Power to conduct search at police station

s 226	orig s 226 am Ord1983-27 sch 1 om Ord1985-44 s 6 pres s 226 (prev s 349ZL) ins A1994-75 s 5 am A1997-10 s 6 renum R9 LA (see A2001-63 s 43)

Injuries to ponds, reservoirs etc

hdg before s 227	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Power to conduct strip search

s 227	orig s 227 om Ord1985-44 s 6 pres s 227 (prev s 349ZM) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43) am A2018-33 amdt 1.12

Injuries to bridges, viaducts and toll-bars

hdg before s 228	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Rules for conduct of strip search

s 228	orig s 228 am Ord1983-27 sch 1 om Ord1985-44 s 6 pres s 228 (prev s 349ZN) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43)

Safekeeping of things seized

s 229	orig s 229 om Ord1985-44 s 6 pres s 229 (prev s 349ZO) ins A1997-10 s 7 renum R9 LA (see A2001-63 s 43)

Injuries to railway carriages and telegraphs

hdg before s 230	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Identification material—person at least 18 years old

s 230	orig s 230 am Ord1983-27 sch 1 om Ord1985-44 s 6 pres s 230 (prev s 349ZP) ins A1994-75 s 5 am A1999-64 sch 2; A2001-63 s 32 renum R9 LA (see A2001-63 s 43) sub A2015-36 s 7

Identification material—person under 18 years old

s 230A	ins A2015-36 s 7

Destruction of identification material

s 231	orig s 231 om Ord1985-44 s 6 pres s 231 (prev s 349ZQ) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43) am A2015-36 s 8

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Offence—refusing to allow fingerprint or photo to be taken

s 232 hdg	sub A2015-36 s 9
s 232	orig s 232 om Ord1985-44 s 6 pres s 232 (prev s 349ZR) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43) am A2002-49 amdt 3.25

Identification parades—general

s 233	orig s 233 om Ord1985-44 s 6 pres s 233 (prev s 349ZS) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43)

Identification parades for suspects under 18 etc

s 234	orig s 234 om Ord1985-44 s 6 pres s 234 (prev s 349ZT) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43)

Injuries to vessels

hdg before s 235	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Identification by means of photographs

s 235	orig s 235 om Ord1968-4 s 14 pres s 235 (prev s 349ZU) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43)

Identification procedures if more than 1 suspect

s 236	orig s 236 am Ord1983-27 sch 1 om Ord1985-44 s 6 pres s 236 (prev s 349ZV) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43)

Descriptions

s 237	orig s 237 am Ord1983-27 sch 1 om Ord1985-44 s 6 pres s 237 (prev s 349ZW) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43)

Examination

s 238	orig s 238 am Ord1983-27 sch 1 om Ord1985-44 s 6 pres s 238 (prev s 349ZX) ins A1994-75 s 5 sub A1996-31 s 4 am A1999-64 s 4 sch 2; A2001-56 amdt 3.240 renum R9 LA (see A2001-63 s 43)

General

div 10.6 hdg	(prev pt 10 div 5 hdg) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Assisting officers—search and arrest of persons

s 239	orig s 239 am Ord1983-27 sch 1 om Ord1985-44 s 6 pres s 239 (prev s 349ZY) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43)

Conduct of ordinary searches and frisk searches

s 240	orig s 240 am Ord1968-4 s 15 om Ord1985-44 s 6 pres s 240 (prev s 349ZZ) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43)

Announcement before entry

s 241	orig s 241 am Ord1983-27 sch 1 om Ord1985-44 s 6 pres s 241 (prev s 349ZZA) ins A1994-75 s 5 am A1997-23 s 8 renum R9 LA (see A2001-63 s 43)

Offence of making false statements in warrants

s 242	orig s 242 am Ord1983-27 sch 1 om Ord1985-44 s 6 pres s 242 (prev s 349ZZB) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43)

Offences relating to telephone warrants

s 243	orig s 243 am Ord1983-27 sch 1 om Ord1985-44 s 6 pres s 243 (prev s 349ZZC) ins A1994-75 s 5 renum R9 LA (see A2001-63 s 43)

Injuries to books, works of art etc in museums etc

hdg before s 244	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Return of seized knife or thing

s 244	orig s 244 am Ord1983-27 s 17 om Ord1985-44 s 6 pres s 244 (prev s 349ZZD) ins A1994-75 s 5 am A1998-22; A2001-63 s 33, s 34 renum R9 LA (see A2001-63 s 43)

Injuries to cattle

hdg before s 245	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Magistrates Court may permit thing to be retained

s 245	orig s 245 am Ord1983-27 sch 1, sch 2; Ord1984-78 s 14 om Ord1985-44 s 6 pres s 245 (prev s 349ZZE) ins A1994-75 s 5 am A2001-63 s 35 renum R9 LA (see A2001-63 s 43)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Law relating to legal professional privilege not affected

s 246 orig s 246 am Ord1983-27 sch 2
om Ord1985-44 s 6
prev s 246 (prev s 349ZZF) ins A1994-75 s 5
renum R9 LA (see A2001-63 s 43)
om A2002-11 amdt 2.23

Injuries over five pounds not otherwise provided for

hdg before s 247 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Laws relating to taking forensic samples not affected

s 247 orig s 247 am Ord1983-27 sch 1, sch 2
om Ord1985-44 s 6
pres s 247 (prev s 349ZZG) ins A1994-75 s 5
renum R9 LA (see A2001-63 s 43)
am A2015-36 s 10

Letters threatening to burn or destroy property

hdg before s 248 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Forfeiture of knife

s 248 orig s 248 am Ord1983-27 sch 1
om Ord1985-44 s 6
pres s 248 (prev s 349ZZH) ins A1998-22 s 7
renum R9 LA (see A2001-63 s 43)
am A2006-23 amdt 1.61

False statement that person or property in danger

s 248A ins Ord1984-78 s 15
om Ord1985-44 s 6

Making or having gunpowder etc with intent to commit offences against property

hdg before s 249 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Seizure of forfeited articles

s 249 orig s 249 om Ord1985-44 s 6
pres s 249 (prev s 350) ins Ord1983-55 s 12
am Ord1985-67 sch; Ord1986-15 s 7; A1991-104 s 5
renum R9 LA (see A2001-63 s 43)
am A2016-13 amdt 1.47

Declaratory and general

hdg before s 250 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Disposal of forfeited articles by public trustee

s 250 orig s 250 om Ord1986-15 s 6
pres s 250 (prev s 350A) ins A1991-104 s 6
renum R9 LA (see A2001-63 s 43)
sub A2003-8 amdt 1.8
am A2016-13 amdt 1.47, amdt 1.48

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Costs etc payable to public trustee

s 251	orig s 251 am Ord1983-27 sch 2 om Ord1986-15 s 6 prev s 251 (prev s 350B) ins A1991-104 s 6 renum R9 LA (see A2001-63 s 43) om A2003-8 amdt 1.8

Investigation of extra-territorial offences

pt 10A hdg	renum as pt 11 hdg

Forgeries not specially provided for

hdg before s 252	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

When case not to be proceeded with gaoler to discharge prisoner on certificate from Attorney-General etc

s 252	orig s 252 om Ord1986-15 s 6 pres s 252 (prev s 358) am A2001-44 amdts 1.993-1.995 renum R9 LA (see A2001-63 s 43) am A2004-60 amdt 1.106

Particular provisions for children

div 10.7 hdg	ins A2008-19 amdt 1.17

Arrest of children under 10 years old

sdiv 10.7.1 hdg	ins A2008-19 amdt 1.17

Warrant for arrest of child under 10 years old

s 252A	ins A2008-19 amdt 1.17

Arrest of child under 10 years old—without warrant

s 252B	ins A2008-19 amdt 1.17

Police action after arresting child under 10 years old

s 252C	ins A2008-19 amdt 1.17 am A2011-22 amdt 1.119

Preliminary procedures in relation to children and young people

sdiv 10.7.2 hdg	ins A2008-19 amdt 1.17

Definitions—subdiv 10.7.2

s 252D	ins A2008-19 amdt 1.17 def ***child*** ins A2008-19 amdt 1.17 def ***committed*** ins A2008-19 amdt 1.17 def ***under restraint*** ins A2008-19 amdt 1.17 def ***young person*** ins A2008-19 amdt 1.17

Meaning of *under restraint*

s 252E	ins A2008-19 amdt 1.17

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Meaning of *in the company of a police officer*
s 252F ins A2008-19 amdt 1.17
am A2010-43 amdt 1.7; A2010-47 amdt 1.2; A2013-50 s 5, s 6; A2017-21 amdt 1.12

Interviewing children and young people about offences
s 252G ins A2008-19 amdt 1.17
am A2022-13 s 71

Interviewing children and young people about offences—urgent circumstances
s 252H ins A2008-19 amdt 1.17

Parents etc to be told if children and young people under restraint
s 252I ins A2008-19 amdt 1.17

Police to summons children and young people unless ineffective
s 252J ins A2008-19 amdt 1.17

Parents etc to be told if children and young people charged
s 252K ins A2008-19 amdt 1.17

Investigations relating to acquittals
div 10.8 hdg ins A2016-36 s 10

Authorisation of police investigations—acquitted person
s 252L ins A2016-36 s 10

Fortification of premises
div 10.9 hdg ins A2018-5 s 5

Definitions—div 10.9
s 252M ins A2018-5 s 5
def ***compliance period*** ins A2018-5 s 5
def ***fortification*** ins A2018-5 s 5
def ***fortification inspection order*** ins A2018-5 s 5
def ***fortification offence*** ins A2018-5 s 5
def ***fortification removal order*** ins A2018-5 s 5
def ***occupier*** ins A2018-5 s 5

Fortification removal order—application for order or variation
s 252N ins A2018-5 s 5

Fortification removal order
s 252O ins A2018-5 s 5

Fortification removal order—length
s 252P ins A2018-5 s 5

Fortification removal order—compliance period
s 252Q ins A2018-5 s 5

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Fortification removal order—inspection
s 252R ins A2018-5 s 5

Fortification removal order—removal by police
s 252S ins A2018-5 s 5

Fortification inspection order—application for order or variation
s 252T ins A2018-5 s 5

Fortification inspection order
s 252U ins A2018-5 s 5

Fortification inspection order—length
s 252V ins A2018-5 s 5

Fortification inspection order—inspection
s 252W ins A2018-5 s 5

Exercising powers—announce entry and explain purpose
s 252X ins A2018-5 s 5

Exercising powers—occupier entitled to be present during inspection
s 252Y ins A2018-5 s 5

Exercising powers—use reasonable force
s 252Z ins A2018-5 s 5

Premises must not be fortified
s 252ZA ins A2018-5 s 5

Fortification must not be replaced or restored
s 252ZB ins A2018-5 s 5

Protection from liability
s 252ZC ins A2018-5 s 5

Chief police officer delegations
s 252ZD ins A2018-5 s 5

Investigation of extra-territorial offences
pt 10A hdg renum as pt 11 hdg

Investigation of extraterritorial offences
pt 11 hdg (prev pt 10A hdg) ins A1994-75 s 8
renum R9 LA (see A2001-63 s 43)

Forgery etc of public seals or official signatures
hdg before s 253 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Interpretation for pt 11

s 253 orig s 253 om Ord1983-27 sch 3
pres s 253 (prev s 358A) ins Ord1984-32 s 4
am Ord1990-5 sch 2; A1994-75 sch 1; A2001-44 amdt 1.997
renum R9 LA (see A2001-63 s 43)
am A2008-44 amdt 1.31
def ***appropriate authority*** ins Ord1984-32 s 4
def ***corresponding law*** ins Ord1984-32 s 4
sub A2001-44 amdt 1.996
def ***night*** ins Ord1984-32 s 4
def ***offence to which this Act applies*** ins Ord1984-32 s 4
def ***owner*** ins Ord1984-32 s 4
def ***premises*** ins Ord1984-32 s 4
def ***reciprocating State*** ins Ord1984-32 s 4
def ***search warrant*** ins Ord1984-32 s 4
am A1994-75 sch 1
def ***telephone*** ins Ord1984-32 s 4

Declaration of corresponding law

s 254 orig s 254 om Ord1983-27 sch 3
pres s 254 (prev s 358AA) ins A2001-44 amdt 1.998
renum R9 LA (see A2001-63 s 43)
am A2011-52 amdt 3.60

Forgery of acts, proclamations etc

hdg before s 255 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Issue of search warrants

s 255 orig s 255 am Ord1983-27 sch 1; Ord1983-55 sch
om Ord1986-15 s 6
pres s 255 (prev s 358B) ins Ord1984-32 s 4
am Ord1985-67 sch
renum R9 LA (see A2001-63 s 43)

Forgery etc of transfers of stock etc

hdg before s 256 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Authority given by search warrant

s 256 orig s 256 am Ord1983-27 sch 1
om Ord1986-15 s 6
pres s 256 (prev s 358C) ins Ord1984-32 s 4
renum R9 LA (see A2001-63 s 43)

Offence of hindering execution of search warrant

s 257 orig s 257 am Ord1983-27 sch 1
om Ord1986-15 s 6
pres s 257 (prev s 358D) ins Ord1984-32 s 4
renum R9 LA (see A2001-63 s 43)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Ministerial arrangements for transmission and return of objects seized under pt 11 or corresponding law

s 258 hdg	(prev s 358E hdg) am A1994-75 note
s 258	orig s 258 am Ord1983-27 sch 1 om Ord1986-15 s 6 pres s 258 (prev s 358E) ins Ord1984-32 s 4 am A1994-75 sch 1 renum R9 LA (see A2001-63 s 43) am A2002-49 amdt 3.26

Meaning of *statute* and *Act* in indictments etc

s 259	orig s 259 om Ord1983-27 sch 3 prev s 259 (prev s 359) renum R9 LA (see A2001-63 s 43) om A2002-49 amdt 3.27

Unfitness to plead, mental illness and mental dysfunction

pt 11A hdg	renum as pt 13 hdg

Preliminary

div 11A.1 hdg	renum as div 13.1 hdg

Unfitness to plead

div 11A.2 hdg	renum as div 13.2 hdg

Acquittal on grounds of mental impairment

div 11A.3 hdg	renum as div 13.3 hdg

Dismissal by magistrates court on grounds of mental impairment

div 11A.3A hdg	renum as div 13.4 hdg

Referral of mentally dysfunctional or mentally ill persons to Tribunal following conviction

div 11A.4 hdg	renum as div 13.5 hdg

Summary proceedings against mentally dysfunctional or mentally ill persons

div 11A.5 hdg	renum as div 13.6 hdg

Preliminary

pt 11B hdg	renum as pt 14 hdg

Procedure, evidence, verdict etc

pt 12 hdg	(prev pt 11 hdg) renum R9 LA (see A2001-63 s 43)

General principles and procedures

pt 12 div 1 hdg	renum as div 15.1 hdg

Pre-sentence reports

pt 12 div 2 hdg	renum as div 15.2 hdg

Forgery of India bonds, Exchequer bills etc

hdg before s 260	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

What defects do not vitiate indictment

s 260 orig s 260 om Ord1983-27 sch 3
pres s 260 (prev s 360) am Ord1983-27 sch 2
renum R9 LA (see A2001-63 s 43)

Formal objections—when to be taken

s 261 orig s 261 om Ord1983-27 sch 3
pres s 261 (prev s 362) renum R9 LA (see A2001-63 s 43)

Judgment on demurrer to indictment

s 262 orig s 262 om Ord1983-27 sch 3
pres s 262 (prev s 363) am Ord1983-27 sch 2
renum R9 LA (see A2001-63 s 43)

Traversing indictment

s 263 orig s 263 om Ord1983-27 sch 3
pres s 263 (prev s 364) renum R9 LA (see A2001-63 s 43)
am A2006-23 amdt 1.62

Forgery etc of stamps, or having forged dies etc

hdg before s 264 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Orders for amendment of indictment, separate trial and postponement of trial

s 264 orig s 264 om Ord1983-27 sch 3
pres s 264 (prev s 365) sub Ord1963-11 s 22
am A1992-9 s 8
renum R9 LA (see A2001-63 s 43)

Forgery etc of, or engraving plate etc for, bank notes etc

hdg before s 265 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Amended indictment

s 265 orig s 265 am Ord1983-27 sch 1, sch 2
om Ord1986-15 s 6
pres s 265 (prev s 366) sub Ord1963-11 s 22
renum R9 LA (see A2001-63 s 43)
am A2002-49 amdt 3.28

Verdict and judgment valid after amendment

s 266 orig s 266 am Ord1983-27 sch 1, sch 2
om Ord1986-15 s 6
pres s 266 (prev s 367) renum R9 LA (see A2001-63 s 43)

Form of record after amendment

s 267 orig s 267 am Ord1983-27 sch 1, sch 2
om Ord1986-15 s 6
pres s 267 (prev s 368) renum R9 LA (see A2001-63 s 43)

Respiting undertakings on postponement

s 268 orig s 268 om Ord1986-15 s 6
pres s 268 (prev s 369) am A1992-9 s 9
renum R9 LA (see A2001-63 s 43)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Separate offences—when can be joined

s 269 orig s 269 am Ord1983-27 sch 1, sch 2
om Ord1986-15 s 6
pres s 269 (prev s 370) am Ord1983-27 sch 2
renum R9 LA (see A2001-63 s 43)

Accessories may be charged together in 1 indictment

s 270 orig s 270 am Ord1983-27 sch 1
om Ord1986-15 s 6
pres s 270 (prev s 371) am Ord1983-27 sch 2
renum R9 LA (see A2001-63 s 43)

Forgery etc of wills, deeds, bills of exchange etc

hdg before s 271 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Indictment charging previous offence also

s 271 orig s 271 am Ord1983-27 sch 1
om Ord1986-15 s 6
pres s 271 (prev s 372) renum R9 LA (see A2001-63 s 43)

Property of partners or joint owners

s 272 orig s 272 am Ord1983-27 sch 1
om Ord1986-15 s 6
pres s 272 (prev s 373) am Ord1985-44 s 7
renum R9 LA (see A2001-63 s 43)

Description of written instruments

s 273 orig s 273 am Ord1983-27 sch 1
om Ord1986-15 s 6
pres s 273 (prev s 374) renum R9 LA (see A2001-63 s 43)

General averment of intent to defraud or injure

s 274 orig s 274 am Ord1983-27 sch 1
om Ord1986-15 s 6
pres s 274 (prev s 375) renum R9 LA (see A2001-63 s 43)

Indictment for murder or manslaughter

s 275 orig s 275 am Ord1983-27 sch 1
om Ord1986-15 s 6
pres s 275 (prev s 376) am Ord1983-55 sch; Ord1990-2 s 7
renum R9 LA (see A2001-63 s 43)

Form of indictment against accessories to murder

s 276 orig s 276 am Ord1983-27 sch 1
om Ord1986-15 s 6
pres s 276 (prev s 378) am Ord1983-27 sch 2; Ord1983-55 sch
renum R9 LA (see A2001-63 s 43)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Forgery of instruments etc made by judges, officers of court, justices of the peace etc or of signature thereto

hdg before s 277 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Addition of count for assault

s 277 orig s 277 am Ord1983-27 sch 1, sch 2
om Ord1986-15 s 6
pres s 277 (prev s 380) am Ord1983-27 sch 2
renum R9 LA (see A2001-63 s 43)

Indictment for perjury

s 278 orig s 278 am Ord1983-27 sch 1
om Ord1986-15 s 6
pres s 278 (prev s 392) renum R9 LA (see A2001-63 s 43)
om A2005-53 amdt 1.40

Forgery etc of records etc or copies thereof

hdg before s 279 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Indictments for conspiracy

s 279 orig s 279 om Ord1983-27 sch 3
pres s 279 (prev s 393) renum R9 LA (see A2001-63 s 43)

Arraignment etc on charge of previous conviction

s 280 orig s 280 am Ord1983-27 sch 2; Ord1983-55 sch
om Ord1986-15 s 6
pres s 280 (prev s 394) renum R9 LA (see A2001-63 s 43)
am A2002-49 amdt 3.29, amdt 3.30

Treason trials

s 280A reloc from Law Reform (Miscellaneous Provisions) Act 1955 s 61 by A2006-38 amdt 1.6

Plea of not guilty

s 281 orig s 281 am Ord1983-27 sch 1, sch 2
om Ord1986-15 s 6
pres s 281 (prev s 395) renum R9 LA (see A2001-63 s 43)

Refusal to plead

s 282 orig s 282 am Ord1983-27 sch 1
om Ord1986-15 s 6
pres s 282 (prev s 396) renum R9 LA (see A2001-63 s 43)

Plea of autrefois convict etc

s 283 orig s 283 am Ord1983-27 sch 1
om Ord1986-15 s 6
pres s 283 (prev s 399) renum R9 LA (see A2001-63 s 43)

Forgery etc of instruments of evidence

hdg before s 284 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Practice as to entering the dock

s 284 orig s 284 am Ord1983-27 sch 1
om Ord1986-15 s 6
pres s 284 (prev s 400) am Ord1983-27 sch 2; Ord1987-3 s 7
renum R9 LA (see A2001-63 s 43)

Accused may be defended by lawyer

s 285 orig s 285 am Ord1983-27 sch 1, sch 2
om Ord1986-15 s 6
pres s 285 (prev s 402) am A1997-96 sch 1
renum R9 LA (see A2001-63 s 43)
sub A2002-49 amdt 3.31

Right to inspect depositions on trial

s 286 orig s 286 am Ord1983-27 sch 2
om Ord1986-15 s 6
pres s 286 (prev s 403) renum R9 LA (see A2001-63 s 43)

Power of judge to record verdict of acquittal

s 287 orig s 287 am Ord1983-55 sch
om Ord1986-15 s 6
pres s 287 (prev s 404) ins Ord1984-78 s 21
renum R9 LA (see A2001-63 s 43)

Notice of alibi

s 288 orig s 288 am Ord1983-27 sch 1
om Ord1986-15 s 6
prev s 288 (prev s 406) ins Ord1984-78 s 22
am A1997-96 sch 1
renum R9 LA (see A2001-63 s 43)
am A2002-49 amdt 3.32; A2006-23 amdt 1.63

Abolition of presumption of marital coercion

s 289 orig s 289 am Ord1983-27 sch 1; Ord1983-55 sch
om Ord1986-15 s 6
prev s 289 (prev s 407) ins A1999-71 s 4
renum R9 LA (see A2001-63 s 43)

Incriminating statements admissible though on oath

s 290 orig s 290 am Ord1983-27 sch 1, sch 2
om Ord1986-15 s 6
pres s 290 (prev s 411) am Ord1983-27 sch 2
renum R9 LA (see A2001-63 s 43)

Evidence of previous conviction charged in indictment

s 291 orig s 291 am Ord1983-27 sch 1, sch 2
om Ord1986-15 s 6
pres s 291 (prev s 414) renum R9 LA (see A2001-63 s 43)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Proof of lawful authority or excuse

s 292 orig s 292 am Ord1983-27 sch 1, sch 2
om Ord1986-15 s 6
pres s 292 (prev s 417) renum R9 LA (see A2001-63 s 43)

Forgery of instruments etc under Registration of Deeds Acts

hdg before s 293 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

On trial for perjury presumption of authority to administer oath etc

s 293 orig s 293 am Ord1983-27 sch 1, sch 2
om Ord1986-15 s 6
prev s 293 (prev s 423) renum R9 LA (see A2001-63 s 43)
om A2005-53 amdt 1.40

Falsely acknowledging recognizances etc

hdg before s 294 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Order of closing addresses

s 294 orig s 294 am Ord1983-27 sch 1; Ord1984-78 s 16
om Ord1986-15 s 6
pres s 294 (prev s 423A) ins A1998-57 s 4
renum R9 LA (see A2001-63 s 43)

Forgery etc of matters relating to marriage

hdg before s 295 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Witnesses in mitigation

s 295 orig s 295 om Ord1983-27 sch 3
pres s 295 (prev s 424) renum R9 LA (see A2001-63 s 43)
sub A2002-49 amdt 3.33

Falsifying entries of births, deaths etc

hdg before s 296 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Conviction for alternative offence

s 296 orig s 296 om Ord1983-27 sch 3
pres s 296 (prev s 425) am Ord1983-27 sch 2
renum R9 LA (see A2001-63 s 43)

After trial for offence, if alternative verdict possible, no further prosecution

s 297 orig s 297 om Ord1983-27 sch 3
pres s 297 (prev s 426) am Ord1983-27 sch 2
renum R9 LA (see A2001-63 s 43)

Obtaining or demanding property on forged instruments

hdg before s 298 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

On trial for any offence—verdict of attempt

s 298 orig s 298 am Ord1983-27 sch 1
om Ord1986-15 s 6
pres s 298 (prev s 427) am Ord1983-27 sch 2
renum R9 LA (see A2001-63 s 43)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Forging or fraudulent use of trade-marks

hdg before s 299 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Multiple alternative verdicts

s 299 orig s 299 om Ord1983-27 sch 3
pres s 299 (prev s 427A) ins Ord1990-2 s 8
renum R9 LA (see A2001-63 s 43)

Unfitness to plead and mental impairment

pt 13 hdg orig pt 13 hdg renum as pt 16 hdg
pres pt 13 hdg (prev pt 11A hdg) ins A1994-46 s 4
renum R9 LA (see A2001-63 s 43)
sub A2006-14 amdt 1.10

Preliminary

div 13.1 hdg (prev pt 11A div 1 hdg) ins A1994-46 s 4
renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40)

Interpretation and general clauses

hdg before s 300 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Definitions for pt 13

s 300 orig s 300 om Ord1983-27 s 31
pres s 300 (prev s 428B) ins A1994-46 s 4
renum R9 LA (see A2001-63 s 43)
am A2008-19 amdt 1.18
def ***ACAT*** ins A2008-36 amdt 1.235
def ***accused*** ins A1999-32 s 5 s 5
def ***alternative offence*** ins A2004-16 s 4
def ***conduct*** ins A2004-16 s 4
def ***counterfeit coin, resembling or apparently intended to resemble, any of the Queens gold or silver coin*** om Ord1983-27 s 31
def ***court*** ins A1994-46 s 4
om A2002-49 amdt 3.34
def ***defendant*** ins A1999-32 s 5
sub A2004-60 amdt 1.107
def ***engage in conduct*** ins A2004-16 s 4
def ***forensic mental health order*** ins A2014-51 amdt 1.6
am A2015-38 amdt 2.70
def ***mental dysfunction*** ins A1994-46 s 4
om A2006-14 amdt 1.11
def ***mental health order*** ins A1994-46 s 4
sub A2005-48 amdt 1.2
def ***mental illness*** ins A1999-32 s 5
am A2005-48 amdt 1.3
om A2006-14 amdt 1.11

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

def ***Queen's gold or silver coins*** om Ord1983-27 s 31
def ***Queen's copper coin*** om Ord1983-27 s 31
def ***Queen's current coin*** om Ord1983-27 s 31
def ***serious offence*** ins A1994-46 s 4
am A2008-44 amdt 1.32
def ***special hearing*** ins A1994-46 s 4
am A2005-7 s 6
def ***tribunal*** ins A1994-46 s 4
om A2008-36 amdt 1.236

Limitation on orders and detention—non-acquittals

s 301 orig s 301 om Ord1983-27 s 31
pres s 301 (prev s 428C) ins A1994-46 s 4
sub A1999-32 s 6
renum R9 LA (see A2001-63 s 43)
am A2008-36 amdt 1.246; A2014-51 amdts 1.7-1.9

Limitation on orders and detention—acquittals

s 302 orig s 302 om Ord1983-27 s 31
pres s 302 (prev s 428CA) ins A1999-32 s 6
renum R9 LA (see A2001-63 s 43)
am A2008-36 amdt 1.246; A2014-51 amdts 1.10-1.12

Limitation on Supreme Court orders

s 303 orig s 303 om Ord1983-27 s 31
pres s 303 (prev s 428CB) ins A1999-32 s 6
renum R9 LA (see A2001-63 s 43)
am A2014-51 amdt 1.13

Limitation on orders and detention—dismissal of charge

s 304 orig s 304 om Ord1983-27 s 31
pres s 304 (prev s 428CC) ins A1999-32 s 6
renum R9 LA (see A2001-63 s 43)
am A2008-36 amdt 1.246; A2014-51 amdts 1.14-1.16

Limitation on orders and detention—Magistrates Court

s 305 orig s 305 om Ord1983-27 s 31
pres s 305 (prev s 428CD) ins A1999-32 s 6
renum R9 LA (see A2001-63 s 43)
am A2008-36 amdt 1.246; A2014-51 amdts 1.17-1.19

Limitation on Magistrates Court orders

s 306 orig s 306 om Ord1983-27
pres s 306 (prev s 428CE) ins A1999-32 s 6
renum R9 LA (see A2001-63 s 43)
am A2014-51 amdt 1.20

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

How relevant court may inform itself

s 307 orig s 307 om Ord1983-27 s 31
pres s 307 (prev s 428CF) ins A1999-32 s 6
renum R9 LA (see A2001-63 s 43)

Criteria for detention

s 308 orig s 308 om Ord1983-27 s 31
pres s 308 (prev s 428D) ins A1994-46 s 4
am A1999-32 s 7
renum R9 LA (see A2001-63 s 43)
am A2006-14 amdt 1.12; A2006-23 amdt 1.64; A2008-36 amdt 1.237

Assessment whether emergency detention required

s 309 orig s 309 om Ord1983-27 s 31
pres s 309 (prev s 428DA) ins A1999-32 s 8
renum R9 LA (see A2001-63 s 43)
am A2004-14 amdt 2.2; A2005-48 amdt 1.4; A2006-14 amdt 1.13, amdt 1.14; A2006-23 amdt 1.65; A2008-36 amdt 1.246; A2014-51 amdts 1.21-1.27; A2015-38 amdt 2.70

Unfitness to plead

div 13.2 hdg (prev pt 11A div 2 hdg) ins A1994-46 s 4
renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40)

Application of div 13.2

s 310 orig s 310 om Ord1983-27 s 31
pres s 310 (prev s 428E) ins A1994-46 s 4
am A1999-32 s 9
renum R9 LA (see A2001-63 s 43)
sub A2005-7 s 7

When a person is unfit to plead

s 311 orig s 311 om Ord1983-27 s 31
pres s 311 (prev s 428F) ins A1994-46 s 4
renum R9 LA (see A2001-63 s 43)
sub A2005-7 s 7

Presumption of fitness to plead, standard of proof etc

s 312 orig s 312 om Ord1983-27 s 31
pres s 312 (prev s 428FA) ins A1999-32 s 10
renum R9 LA (see A2001-63 s 43)
sub A2005-7 s 7

Who can raise question of unfitness to plead

s 313 orig s 313 om Ord1983-27 s 31
pres s 313 (prev s 428G) ins A1994-46 s 4
am A1999-32 s 11
renum R9 LA (see A2001-63 s 43)
sub A2005-7 s 7

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Procedure if question raised

s 314	orig s 314 om Ord1983-27 s 31 pres s 314 (prev s 428H) ins A1994-46 s 4 am A1999-32 s 12 renum R9 LA (see A2001-63 s 43) sub A2005-7 s 7

Counterfeiting or uttering the Queen's copper coin

hdg before s 315	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Procedure if question reserved for investigation

s 315	orig s 315 om Ord1983-27 s 31 pres s 315 (prev s 428I) ins A1994-46 s 4 am A1999-32 s 13 renum R9 LA (see A2001-63 s 43) sub A2005-7 s 7 am A2006-14 amdt 1.15; A2006-23 amdt 1.66; A2010-10 amdt 2.21

Investigation into fitness to plead

s 315A	ins A2005-7 s 7 am A2010-10 amdt 2.21

Person found fit to plead

s 315B	ins A2005-7 s 7

Person found unfit to plead and unlikely to become fit to plead

s 315C	ins A2005-7 s 7

Person found temporarily unfit to plead

s 315D	ins A2005-7 s 7 am A2008-36 amdt 1.238; A2010-10 amdt 2.21; A2014-51 amdt 1.34

Special hearing

s 316 hdg	sub A2005-7 s 8
s 316	orig s 316 om Ord1983-27 s 31 pres s 316 (prev s 428J) ins A1994-46 s 4 am A1999-32 s 14; R9 LA (see A2001-63 s 43) renum R9 LA (see A2001-63 s 43) am A2004-16 s 5; A2005-7 s 9, s 10; A2008-36 amdt 1.239; A2018-12 s 5

Verdicts available at special hearing

s 317	orig s 317 om Ord1983-27 s 31 pres s 317 (prev s 428K) ins A1994-46 s 4 am A1999-32 s 15; R9 LA (see A2001-63 s 43) renum R9 LA (see A2001-63 s 43) am A2004-16 ss 6-8

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Counterfeiting or uttering foreign coin

hdg before s 318 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Non-acquittal at special hearing—non-serious offence

s 318 orig s 318 om Ord1983-27 s 31
pres s 318 (prev s 428L) ins A1994-46 s 4
am A1999-32 s 16
renum R9 LA (see A2001-63 s 43)
am A2004-16 s 9; A2008-36 amdt 1.240; A2014-51 amdt 1.28; A2015-38 amdt 2.70

Non-acquittal at special hearing—serious offence

s 319 orig s 319 om Ord1983-27 s 31
pres s 319 (prev s 428M) ins A1994-46 s 4
am A1999-32 s 17
renum R9 LA (see A2001-63 s 43)
am A2004-16 s 10; A2008-36 amdt 1.246; A2014-51 amdt 1.29; A2015-38 amdt 2.70

Action if accused becomes fit to plead after special hearing

s 319A ins A2004-16 s 11
am A2005-7 s 11; A2008-36 amdt 1.241; A2015-38 amdt 2.70

Supreme Court—special verdict of not guilty because of mental impairment

div 13.3 hdg (prev pt 11A div 3 hdg) ins A1994-46 s 4
am A1999-32 s 18
renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40)
sub A2006-14 amdt 1.16

Acquittal on grounds of mental impairment

s 320 orig s 320 om Ord1983-27 s 31
prev s 320 (prev s 428N) ins A1994-46 s 4
am A1999-32 s 19
renum R9 LA (see A2001-63 s 43)
om A2006-14 amdt 1.17

Supreme Court—plea of not guilty because of mental impairment

s 321 orig s 321 om Ord1983-27 s 31
pres s 321 (prev s 428O) ins A1994-46 s 4
am A1999-32 s 20
renum R9 LA (see A2001-63 s 43)
sub A2006-14 amdt 1.18

Explanation to jury

s 322 orig s 322 om Ord1983-27 s 31
pres s 322 (prev s 428P) ins A1994-46 s 4
am A1999-32 s 21
renum R9 LA (see A2001-63 s 43)
am A2006-14 amdt 1.19

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Importing or exporting counterfeit coin

hdg before s 323 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Supreme Court orders following special verdict of not guilty because of mental impairment—non-serious offence

s 323 hdg sub A2006-14 amdt 1.20

s 323 orig s 323 om Ord1983-27 s 31
pres s 323 (prev s 428Q) ins A1994-46 s 4
am A1999-32 s 22
renum R9 LA (see A2001-63 s 43)
am A2006-14 amdt 1.21; A2008-36 amdt 1.246; A2014-51 amdt 1.30; A2015-38 amdt 2.70

Making or having etc tools for coining

hdg before s 324 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Supreme Court orders following special verdict of not guilty because of mental impairment—serious offence

s 324 hdg sub A2006-14 amdt 1.22

s 324 orig s 324 om Ord1983-27 s 31
pres s 324 (prev s 428R) ins A1994-46 s 4
am A1999-32 s 23
renum R9 LA (see A2001-63 s 43)
am A2006-14 amdt 1.23; A2008-36 amdt 1.246
sub A2014-51 amdt 1.31
am A2015-38 amdt 2.70

Magistrates Court—finding of not guilty because of mental impairment

div 13.4 hdg (prev pt 11A div 3A hdg) ins A1999-32 s 24
renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40)
sub A2006-14 amdt 1.24

Meaning of *serious offence* in div 13.4

s 325 orig s 325 om Ord1983-27 s 31
pres s 325 (prev s 428RA) ins A1999-32 s 24
renum R9 LA (see A2001-63 s 43)

Provisions for cutting suspected coin

hdg before s 326 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Dismissal on grounds of mental impairment

s 326 orig s 326 om Ord1983-27 s 31
prev s 326 (prev s 428RB) ins A1999-32 s 24
renum R9 LA (see A2001-63 s 43)
om A2006-14 amdt 1.25

Magistrates Court—plea of not guilty because of mental impairment

s 327 orig s 327 renum as s 167
pres s 327 (prev s 428RC) ins A1999-32 s 24
renum R9 LA (see A2001-63 s 43)
sub A2006-14 amdt 1.26

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Magistrates Court orders following finding of not guilty because of mental impairment—non-serious offence

s 328 hdg	sub A2006-14 amdt 1.27
s 328	orig s 328 renum as s 168
	pres s 328 (prev s 428RD) ins A1999-32 s 24
	renum R9 LA (see A2001-63 s 43)
	am A2006-14 amdt 1.28; A2008-36 amdt 1.246; A2014-51 amdt 1.32; A2015-38 amdt 2.70

Magistrates Court orders following finding of not guilty because of mental impairment—serious offence

s 329 hdg	sub A2006-14 amdt 1.29
s 329	orig s 329 renum as s 169
	pres s 329 (prev s 428RE) ins A1999-32 s 24
	renum R9 LA (see A2001-63 s 43)
	am A2006-14 amdt 1.30; A2008-36 amdt 1.246
	sub A2014-51 amdt 1.33
	am A2015-38 amdt 2.70

Referring people with mental impairment to ACAT after conviction

div 13.5 hdg	(prev pt 11A div 4 hdg) ins A1994-46 s 4
	am A1999-32 s 25
	renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40)
	sub A2006-14 amdt 1.31; A2008-36 amdt 1.242

Application of div 13.5

s 330	orig s 330 renum as s 170
	pres s 330 (prev s 428S) ins A1994-46 s 4
	am A1999-32 s 26
	renum R9 LA (see A2001-63 s 43)
	am A2006-14 amdt 1.32

Referral to ACAT

s 331 hdg	am A2008-36 amdt 1.246
s 331	orig s 331 renum as s 171
	pres s 331 (prev s 428T) ins A1994-46 s 4
	am A1999-32 s 27
	renum R9 LA (see A2001-63 s 43)
	am A2006-14 amdt 1.33, amdt 1.34; A2008-36 amdt 1.246; A2014-51 amdt 1.34

Summary proceedings against mentally impaired people

div 13.6 hdg	(prev pt 11A div 5 hdg) ins A1994-46 s 4
	am A1999-32 s 28
	renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40)
	sub A2006-14 amdt 1.35

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Application of div 13.6

s 332	orig s 332 renum as s 172 pres s 332 (prev s 428U) ins A1994-46 s 4 renum R9 LA (see A2001-63 s 43)

Indictable offences heard and determined summarily

s 333	orig s 333 renum as s 173 pres s 333 (prev s 428V) ins A1994-46 s 4 am A1999-32 s 29 renum R9 LA (see A2001-63 s 43) am A2006-14 amdt 1.36

Powers of Magistrates Court

s 334	orig s 334 om Ord1983-27 sch 3 prev s 334 renum as s 174 pres s 334 (prev s 428W) ins A1994-46 s 4 am A1999-32 s 30; R9 LA (see A2001-63 s 43) renum R9 LA (see A2001-63 s 43) am A2005-48 amdt 1.5; A2006-14 amdts 1.37-1.39; A2006-23 amdt 1.67; A2008-36 amdt 1.246; A2014-51 amdt 1.34; A2015-38 amdt 2.71

Fitness to plead—Magistrates Court

s 335	orig s 335 om Ord1983-27 sch 3 pres s 335 (prev s 428WA) ins A1999-32 s 31 renum R9 LA (see A2001-63 s 43) am A2004-16 ss 12-14; A2005-7 s 12, s 13; A2008-36 amdt 1.246; A2014-51 amdt 1.34

Action if accused becomes fit to plead after hearing

s 335A	ins A2004-16 s 15 am A2005-7 s 14; A2008-36 amdt 1.243; A2015-38 amdt 2.72

How Magistrates Court may be informed

s 336	orig s 336 om Ord1983-27 sch 3 pres s 336 (prev s 428X) ins A1994-46 s 4 renum R9 LA (see A2001-63 s 43) sub A2002-11 amdt 2.24

Transitional

div 13.7 hdg	ins A2004-16 s 16 exp 17 June 2004 (s 338)

Intoxication

pt 14 hdg	orig pt 14 hdg renum as pt 17 hdg prev pt 14 hdg (prev pt 11B hdg) ins A2000-58 s 4 renum R9 LA (see A2001-63 s 43) om A2002-51 amdt 1.15

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Certain indictable offences punishable summarily

pt 14 ch 1 hdg — sub Ord1951-14 s 11
om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Offences punishable summarily in certain cases by whipping

pt 14 ch 2 hdg — om Ord1974-17 s 12

Other offences punishable summarily

pt 14 ch 3 hdg — om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Procedure etc before justices

pt 14 ch 4 hdg — om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Sentences

pt 15 hdg — (prev pt 12 hdg) renum R9 LA (see A2001-63 s 43)
om A2006-23 amdt 1.68

Objects of corrections legislation

div 15.1A hdg — ins A2004-61 s 4 (A2004-61 rep before commenced by A2006-23 s 6 (1))

Objects

s 337 — orig s 337 om Ord1983-27 sch 3
prev s 337 (prev s 428XA) ins A2000-58 s 4
renum R9 LA (see A2001-63 s 43)
om A2002-51 amdt 1.15
prev s 337 ins A2004-16 s 16
exp 17 June 2004 (s 338)
prev s 337 ins A2004-61 s 4 (A2004-61 rep before commenced by A2006-23 s 6 (1))

Achieving the objects

s 338 — orig s 338 om Ord1983-27 sch 3
prev s 338 (prev s 428XB) ins A2000-58 s 4
renum R9 LA (see A2001-63 s 43)
om A2002-51 amdt 1.15
prev s 337 ins A2004-16 s 16
exp 17 June 2004 (s 338)
prev s 338 ins A2004-61 s 4 (A2004-61 rep before commenced by A2006-23 s 6 (1))

What is corrections legislation?

s 339 — orig s 339 om Ord1983-27 sch 3
prev s 339 (prev s 428XC) ins A2000-58 s 4
renum R9 LA (see A2001-63 s 43)
om A2002-51 amdt 1.15
prev s 339 ins A2004-61 s 4 (A2004-61 rep before commenced by A2006-23 s 6 (1))

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

General principles and procedures

div 15.1 hdg (prev pt 12 div 1 hdg) ins A1993-73 s 5
renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40)
om A2006-23 amdt 1.68

Meaning of *victim* in pt 12

s 340 orig s 340 renum as s 175
prev s 340 (prev s 428Y) ins A1994-84 s 11
renum R9 LA (see A2001-63 s 43)
om A2006-23 amdt 1.68

Purposes for which sentence imposed

s 341 orig s 341 renum as s 176
prev s 341 (prev s 429) sub Ord1951-14 s 10
om Ord1986-14 s 3
prev s 341 ins A1993-73 s 5
sub A1998-9 s 4
renum R9 LA (see A2001-63 s 43)
om A2006-23 amdt 1.68

Matters to which court to have regard

s 342 orig s 342 renum as s 177
prev s 342 (prev s 429A) ins A1993-73 s 5
am A1997-10 s 8; A1997-117 s 4; A1998-9 s 5; R9 LA (see A2001-63 s 43)
renum R9 LA (see A2001-63 s 43)
am A2004-65 s 77; A2006-5 s 20
om A2006-23 amdt 1.68

Victim impact statements

s 343 orig s 343 renum as s 178
prev s 343 (prev s 429AB) ins A1994-84 s 12
renum R9 LA (see A2001-63 s 43)
om A2006-23 amdt 1.68

Matters not to be taken into account

s 344 orig s 344 renum as s 179
prev s 344 (prev s 429B) ins A1993-73 s 5
am A1998-9 s 6; R9 LA (see A2001-63 s 43)
renum R9 LA (see A2001-63 s 43)
am A2003-8 amdt 1.9, amdt 1.10; A2004-65 s 78
om A2006-23 amdt 1.68

Restriction on imposing sentences of imprisonment

s 345 orig s 345 om Ord1983-27 sch 3
prev s 345 renum as s 180
prev s 345 (prev s 429C) ins A1993-73 s 5
renum R9 LA (see A2001-63 s 43)
om A2006-23 amdt 1.68

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Sentences—imprisonment and fines

s 346	orig s 346 om Ord1983-27 sch 3 prev s 346 renum as s 181 prev s 346 (prev s 430) ins Ord1983-55 s 15 renum R9 LA (see A2001-63 s 43) om A2006-23 amdt 1.68

Fine instead of imprisonment

s 347	orig s 347 om Ord1983-27 sch 3 prev s 347 renum as s 182 prev s 347 (prev s 431) ins Ord1985-44 s 8 renum R9 LA (see A2001-63 s 43) om A2006-23 amdt 1.68

Fines

s 348	orig s 348 om Ord1983-27 sch 3 prev s 348 renum as s 183 prev s 348 (prev s 431A) ins A1993-73 s 6 renum R9 LA (see A2001-63 s 43) om A2006-23 amdt 1.68

Theft of motor vehicle—cancellation of licence

s 349	orig s 349 renum as s 184 prev s 349 (prev s 432) ins Ord1986-57 s 5 am A1997-52 s 22; A1999-79 s 5 sch 3 renum R9 LA (see A2001-63 s 43) om A2004-15 amdt 3.10

Interpretation

s 349AA	renum as s 185

Application of Part

s 349AB	renum as s 186

Application of Cwlth Crimes Act, pt 1C

s 349AC	renum as s 187

Police powers of entry

s 349A	renum as s 188

Issue of warrant

s 349B	renum as s 189

Entry in emergencies

s 349C	renum as s 190

Seizure of weapon

s 349D	renum as s 191

Seizure of firearms—protection and restraining orders

s 349DA	renum as s 192

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Power to conduct search of person for knife
S 349DB renum as s 193

When search warrants can be issued
s 349E renum as s 194

The things that are authorised by search warrant
s 349F renum as s 195

Availability of assistance and use of force in executing warrant
s 349G renum as s 196

Details of warrant to be given to occupier etc
s 349H renum as s 197

Specific powers available to police officers executing warrant
s 349J renum as s 198

Use of equipment to examine or process things
s 349K renum as s 199

Use of electronic equipment at premises
s 349L renum as s 200

Compensation for damage to electronic equipment
s 349M renum as s 201

Copies of seized things to be provided
s 349N renum as s 202

Occupier entitled to be present during search
s 349P renum as s 203

Receipts for things seized under warrant
s 349Q renum as s 204

Warrants by telephone or other electronic means
s 349R renum as s 205

Restrictions on personal searches
s 349S renum as s 206

Stopping, searching and detaining people
s 349SA renum as s 207

How a police officer exercises a power under s 349SA
s 349SB renum as s 208

Searches without warrant in emergency situations
s 349T renum as s 209

How a police officer exercises a power under section 349T
s 349U renum as s 210

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Requirement to furnish name etc
s 349V renum as s 211

Power of arrest without warrant by police officers
s 349W renum as s 212

Arrest without warrant in possession
s 349X renum as s 213

Arrest of prisoner unlawfully at large
s 349Y renum as s 214

Power of arrest without warrant of person on bail
s 349Z renum as s 215

Arrest for breach of bail conditions by person outside the Territory
s 349ZA renum as s 216

Arrest without warrant for offences committed outside the Territory
s 349ZB renum as s 217

Power of arrest without warrant by other persons
s 349ZC renum as s 218

Warrants for arrest
s 349ZD renum as s 219

Power to enter premises to arrest offender
s 349ZE renum as s 220

Use of force in making arrest
s 349ZF renum as s 221

Persons to be informed of grounds of arrest
s 349ZG renum as s 222

Power to conduct frisk search of arrested person
s 349ZH renum as s 223

Power to conduct ordinary search of arrested person
s 349ZJ renum as s 224

Power to conduct search of arrested person's premises
s 349ZK renum as s 225

Power to conduct ordinary search
s 349ZL renum as s 226

Power to conduct strip search
s 349ZM renum as s 227

Rules for conduct of strip search
s 349ZN renum as s 228

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Safekeeping of things seized
s 349ZO renum as s 229

Taking fingerprints, recordings, samples of handwriting or photographs
s 349ZP renum as s 230

Destruction of identification material
s 349ZQ renum as s 231

Offence of refusing to allow identification material to be taken
s 349ZR renum as s 232

Identification parades—general
s 349ZS renum as s 233

Identification parades for suspects under 18 etc
s 349ZT renum as s 234

Identification by means of photographs
s 349ZU renum as s 235

Identification procedures where there is more than 1 suspect
s 349ZV renum as s 236

Descriptions
s 349ZW renum as s 237

Examination
s 349ZX renum as s 238

Assisting officers—search and arrest of persons
s 349ZY renum as s 239

Conduct of ordinary searches and frisk searches
s 349ZZ renum as s 240

Announcement before entry
s 349ZZA renum as s 241

Offence of making false statements in warrants
s 349ZZB renum as s 242

Offences relating to telephone warrants
s 349ZZC renum as s 243

Retention of knife or thing which is seized
s 349ZZD renum as s 244

Magistrates Court may permit a thing to be retained
s 349ZZE renum as s 245

Law relating to legal professional privilege not affected
s 349ZZF renum as s 246

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Laws relating to taking forensic samples not affected

s 349ZZG renum as s 247

Forfeiture of knife

s 349ZZH renum as s 248

Reparation orders

s 350 orig s 350 om Ord1983-27 sch 3
prev s 350 renum as s 249
prev s 350 (prev s 437) am Ord1983-27 sch 2; Ord1985-44 s 9
sub Ord1986-57 s 6
am Ord1990-1 s 3; A1991-18; A1999-91 s 12; A2001-44 amdt 1.999, amdt 1.1000; R9 LA (see A2001-63 s 43)
renum R9 LA (see A2001-63 s 43)
am A2002-49 amdt 3.35, amdt 3.36; ss renum R20 LA (see A2002-49 amdt 3.37); A2003-8 amdt 1.11; ss renum R23 LA (see A2003-8 amdt 1.12); A2004-15 amdt 3.11, amdt 3.12; A2004-60 amdt 1.108
om A2006-23 amdt 1.68

Forfeited articles to be dealt with by Public Trustee

s 350A renum as s 250

Costs etc payable to Public Trustee

s 350B renum as s 251

Judgment after sentence deferred

s 351 orig s 351 om Ord1983-27 sch 3
ins Ord1983-55 s 12
om A1994-86 s 4
prev s 351 (prev s 441) am Ord1983-27 s 20
renum R9 LA (see A2001-63 s 43)
om A2006-23 amdt 1.68

Apprehension of offenders

hdg before s 352 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

When sentence takes effect

s 352 orig s 352 am Ord1983-27 s 19, sch 2; Ord1984-78 s 17; Ord1986-53 s 3
om A1994-75 s 6
prev s 352 (prev s 441A) ins Ord1983-27 s 21
am A1993-73 s 7
renum R9 LA (see A2001-63 s 43)
am A2002-50 s 22
om A2006-23 amdt 1.68

Offences committed outside Territory—power of arrest

s 352A ins Ord1984-78 s 18
om A1994-75 s 6

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Provision for passing sentences of less duration than those fixed

s 353	orig s 353 am Ord1983-27 sch 2 om A1994-75 s 6 prev s 353 (prev s 442) sub Ord1963-11 s 23 am Ord1974-17 s 6; Ord1986-57 s 7 renum R9 LA (see A2001-63 s 43) om A2006-23 amdt 1.68

Power to search and medically examine a person and take fingerprints etc

s 353A	ins Ord1944-1 s 4 am Ord1984-78 s 19; A1991-122 s 3 om A1994-75 s 6

Search warrants

hdg before s 354	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Concurrent and cumulative sentences

s 354	om Ord1983-27 sch 3 ins Ord1983-55 s 13 am Ord1984-78 s 20 om Ord1988-75 s 8 ins A1991-78 s 7 sub A1993-3 s 4 am A1994-75 s 7; A1999-50 s 20 sch; A1999-79 s 5 sch 3 om A2001-63 s 36 (prev s 443) am Ord1983-27 sch 1, sch 2 sub Ord1986-57 s 8; A1993-73 s 8 am A1998-29 4; A1999-64 sch 2 renum R9 LA (see A2001-63 s 43) om A2006-23 amdt 1.68

Sentences of imprisonment and uncompleted juvenile detention orders

s 355	orig s 355 am Ord1983-27 sch 2 om Ord1983-27 sch 3 prev s 355 (prev s 444) ins A1997-86 s 4 sub A1999-64 s 4 sch 2 renum R9 LA (see A2001-63 s 43) om A2006-23 amdt 1.68

Previous sentences to be noted in new sentence

s 356	orig s 356 om Ord1983-27 sch 3 prev s 356 (prev s 446) renum R9 LA (see A2001-63 s 43) am A2002-49 amdt 3.38 om A2006-23 amdt 1.68

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Outstanding charges may be taken into account when passing sentence

s 357	orig s 357 om Ord1983-27 sch 3 prev s 357 (prev s 448) ins Ord1983-27 s 23 am Ord1985-16 s 3; A2001-44 amdt 1.1001 renum R9 LA (see A2001-63 s 43) am A2004-60 amdt 1.109 om A2006-23 amdt 1.68

Discharge of persons in custody

hdg before s 358	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Appeal if promised cooperation not forthcoming

s 358	orig s 358 renum as s 252 prev s 358 (prev s 449) ins A1993-73 s 9 renum R9 LA (see A2001-63 s 43) om A2006-23 amdt 1.68

Declaration of corresponding law

s 358AA	orig s 358AA renum and reloc as s 152 and then s 158 prev s 358AA renum as s 254

Aiding prisoner to escape

s 358AB	orig s 358AB renum and reloc as s 153 and then s 159

Escaping

s 358AC	orig s 358AC renum and reloc as s 154 and then s 160

Rescuing a prisoner from custody etc

s 358AD	orig s 358AD renum and reloc as s 155 and then s 161

Person unlawfully at large

s 358AE	orig s 358AE renum and reloc as s 156 and then s 162

Permitting escape

s 358AF	orig s 358AF renum and reloc as s 157 and then s 163

Harbouring etc escapee

s 358AG	orig s 358AG renum and reloc as s 158 and then s 164

Escaped prisoner—current sentence

s 358AH	orig s 358AH renum and reloc as s 159 and then s 165

Failure to answer bail etc—offence

s 358AI	orig s 358AI renum and reloc as s 160 and then s 166

Interpretation

s 358A	renum as s 253

Issue of search warrant

s 358B	renum as s 255

Authority conferred by search warrant

s 358C	renum as s 256

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Offence of hindering execution of search warrant

s 358D renum as s 257

Ministerial arrangements for transmission and return of objects seized under this Part or under a corresponding law

s 358E renum as s 258

As to indictment—form, venue, amendments etc

hdg before s 359 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Court to explain sentence

s 359 orig s 359 renum as s 259
prev s 359 (prev s 450) ins A1993-73 s 9
renum R9 LA (see A2001-63 s 43)
om A2006-23 amdt 1.68

Time held in custody to count

s 360 orig s 360 renum as s 260
prev s 360 (prev s 451) ins A1993-73 s 9
renum R9 LA (see A2001-63 s 43)
am A2002-50 s 23
om A2006-23 amdt 1.68

Sentence to be adjusted if no remission laws apply

s 361 orig s 361 om Ord1983-27 sch 3
prev s 361 (prev s 452) ins A1993-73 s 9
renum R9 LA (see A2001-63 s 43)
om A2006-23 amdt 1.68

Pre-sentence reports

div 15.2 hdg (prev pt 12 div 2 hdg) ins A1993-73 s 9
renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40)
om A2006-23 amdt 1.68

Meaning of *authorised officer* in div 15.2

s 362 orig s 362 renum as s 261
prev s 362 (prev s 453) ins A1993-73 s 9
renum R9 LA (see A2001-63 s 43)
om A2006-23 amdt 1.68
def ***authorised officer*** ins A1993-73 s 9
am A1994-38 sch 1 pt 21
om A2006-23 amdt 1.68

Court may order pre-sentence reports

s 363 orig s 363 renum as s 262
prev s 363 (prev s 454) ins A1993-73 s 9
renum R9 LA (see A2001-63 s 43)
om A2006-23 amdt 1.68

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Contents of pre-sentence report

s 364	orig s 364 renum as s 263 prev s 364 (prev s 455) ins A1993-73 s 9 renum R9 LA (see A2001-63 s 43) am A2004-65 s 79 om A2006-23 amdt 1.68

Circulation of pre-sentence report

s 365	orig s 365 renum as s 264 prev s 365 (prev s 456) ins A1993-73 s 9 renum R9 LA (see A2001-63 s 43) om A2006-23 amdt 1.68

Right of cross-examination on pre-sentence report

s 366	orig s 366 renum as s 265 prev s 366 (prev s 457) am Ord1983-27 sch 2 om Ord1990-1 s 4 prev s 366 ins A1993-73 s 9 renum R9 LA (see A2001-63 s 43) om A2006-23 amdt 1.68

Community service orders

pt 15A hdg	renum as pt 19 hdg

Grant of pardon and remission of penalties

pt 15B hdg	renum as pt 21 hdg

Proceedings after sentence

pt 16 hdg	(prev pt 13 hdg) renum R9 LA (see A2001-63 s 43)

Procedure on forfeiture

s 367	orig s 367 renum as s 266 prev s 367 (prev s 464) om Ord1983-27 sch 3 prev s 367 ins Ord1986-15 s 9 renum R9 LA (see A2001-63 s 43) am A2002-49 amdt 3.39, amdt 3.40; A2004-15 amdt 3.13

Common law forfeiture in offences abolished

s 368	orig s 368 renum as s 267 prev s 368 (prev s 465) am Ord1983-27 sch 2 renum R9 LA (see A2001-63 s 43) om A2006-23 amdt 1.69

Disabilities of offence

s 369	orig s 369 renum as s 268 prev s 369 (prev s 466) am Ord1983-27 sch 2 renum R9 LA (see A2001-63 s 43) om A2006-23 amdt 1.69

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Effect of reversing judgment

s 370	orig s 370 renum as s 269 prev s 370 (prev s 468) am Ord1990-5 sch 2 renum R9 LA (see A2001-63 s 43) om A2006-23 amdt 1.69

What not sufficient to stay or reverse judgment

s 371	orig s 371 renum as s 270 pres s 371 (prev s 472) renum R9 LA (see A2001-63 s 43)

Pronouncing proper judgment

s 372	orig s 372 renum as s 271 pres s 372 (prev s 473) renum R9 LA (see A2001-63 s 43)

New trials regulated

s 373	orig s 373 renum as s 272 pres s 373 (prev s 474) am Ord1983-27 sch 2 renum R9 LA (see A2001-63 s 43)

Offences punishable summarily and summary procedure generally

pt 17 hdg	ins A1999-79 s 5 sch 3 om R9 LA ins A2001-90 amdt 1.34 om R11 LA (prev pt 14 hdg) sub Ord1983-55 s 23 renum R9 LA (see A2001-63 s 43)

Summary disposal of certain cases at prosecutor's election

s 374	orig s 374 renum as s 273 prev s 374 (prev s 476) am Ord1942-12 s 3 sub Ord1951-14 s 11; Ord1974-17 s 11 am Ord1983-27 sch 2 sub Ord1985-40 s 4 renum R9 LA (see A2001-63 s 43) om A2008-44 amdt 1.33 pres s 374 ins A2011-13 amdt 1.5 (9), (10) exp 25 July 2014 (s 374 (10)) am A2019-32 s 9; A2022-13 s 72, s 73; ss renum R137 LA

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Summary disposal of certain cases

s 375 orig s 375 renum as s 274
pres s 375 (prev s 477) sub Ord1951-14 s 11
am Ord1963-11 s 24
sub Ord1974-17 s 11
am Ord1983-27 s 24
sub Ord1985-40 s 4
am Ord1985-67 sch; Ord1985-75 s 2
renum R9 LA (see A2001-63 s 43)
sub A2008-19 amdt 1.19
am A2008-44 amdts 1.34-1.41; ss renum R61 LA; A2011-13 amdt 1.6; ss renum R75 LA; A2013-12 s 14, s 15; ss renum R83 LA; A2019-32 s 10; pars renum R124 LA

Withdrawal of consent to summary disposal of case

s 375A ins A2008-44 amdt 1.42
am A2009-24 amdt 1.6

Saving of other summary jurisdiction

s 376 orig s 376 renum as s 275
prev s 376 (prev s 479) om Ord1951-14 s 11
pres s 376 ins Ord1974-17 s 11
am Ord1985-40 s 5; Ord1985-67 sch
renum R9 LA (see A2001-63 s 43)

Certificate of dismissal

s 377 orig s 377 om Ord1983-27 sch 3
pres s 377 (prev s 480) sub Ord1951-14 s 11; Ord1974-17 s 11
am Ord1983-27 s 26; Ord1985-40 s 6; Ord1985-67 sch; A1991-44 s 9
renum R9 LA (see A2001-63 s 43)
am A2011-13 amdt 1.7

Summary conviction or dismissal bar to indictment

s 378 orig s 378 renum as s 276
pres s 378 (prev s 481) sub Ord1951-14 s 11; Ord1974-17 s 11
am Ord1983-27 s 27; Ord1985-40 s 7; Ord1985-67 sch
renum R9 LA (see A2001-63 s 43)
am A2011-13 amdt 1.8

Misbehaviour at public meetings

s 379 orig s 379 om Ord1985-62 s 7
prev s 379 (prev s 482) ins Ord1983-55 s 16
renum R9 LA (see A2001-63 s 43)
am A2002-49 amdt 3.41

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Possession of offensive weapons and disabling substances

s 380 hdg	(prev s 493 hdg) sub A2001-8 amdt 1.9
s 380	orig s 380 renum as s 277 pres s 380 (prev s 493) am Ord1983-27 sch 2 sub Ord1987-3 s 8 am A2001-8 amdt 1.10 renum R9 LA (see A2001-63 s 43)

Possession of offensive weapons and disabling substances with intent

s 381 hdg	(prev s 494 hdg) sub A2001-8 amdt 1.11
s 381	orig s 381 om Ord1985-62 s 7 pres s 381 (prev s 494) am Ord1983-27 sch 2; Ord1984-78 s 23 sub Ord1987-3 s 8 am A2001-8 amdt 1.12 renum R9 LA (see A2001-63 s 43)

Possession of knife in public place or school

s 382	orig s 382 om Ord1985-44 sch prev s 382 (prev s 495) ins A1998-22 s 8 renum R9 LA (see A2001-63 s 43)

Sale of knife to person under 16

s 383	orig s 383 om Ord1985-44 sch prev s 383 (prev s 496) ins A1998-22 s 8 renum R9 LA (see A2001-63 s 43)

Retail supplier of knives to display sign

s 384	orig s 384 am Ord1983-27 sch 2 om Ord1985-44 sch prev s 384 (prev s 497) ins A2000-56 s 4 renum R9 LA (see A2001-63 s 43)

Laying of poison

s 385	orig s 385 am Ord1983-27 sch 2 om Ord1985-44 sch pres s 385 (prev s 510A) ins Ord1983-55 s 18 renum R9 LA (see A2001-63 s 43)

Unlawful possession of money or goods

s 386	orig s 386 om Ord1985-44 sch prev s 386 (prev s 527A) ins Ord1983-55 s 19 am Ord1987-3 s 9; Ord1990-5 sch 2 renum R9 LA (see A2001-63 s 43) sub A2003-8 amdt 1.13 om A2004-15 amdt 3.14

Forfeiture of unlawfully obtained money or goods

s 386A	ins A2003-8 amdt 1.13 om A2004-15 amdt 3.14

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Disposal of forfeited money or goods by public trustee

s 386B	ins A2003-8 amdt 1.13 om A2004-15 amdt 3.14

Return or compensation for forfeited money or goods

s 386C	ins A2003-8 amdt 1.13 om A2004-15 amdt 3.14

Making false invoice

s 387	orig s 387 om Ord1985-44 sch pres s 387 (prev s 527B) ins Ord1984-78 s 24 renum R9 LA (see A2001-63 s 43)

Application of compensation

s 388	orig s 388 om Ord1985-44 sch pres s 388 (prev s 543) am Ord1983-27 sch 2 renum R9 LA (see A2001-63 s 43)

Obstruction of stream etc

s 389	orig s 389 om Ord1985-44 sch prev s 389 (prev s 544) om Ord1983-27 sch 3 pres s 389 ins Ord1983-55 s 20 renum R9 LA (see A2001-63 s 43)

Entrance to cellars etc

s 390	orig s 390 om Ord1986-15 s 8 prev s 390 (prev s 545) om Ord1983-27 sch 3 pres s 390 ins Ord1983-55 s 20 renum R9 LA (see A2001-63 s 43)

Fighting

s 391	orig s 391 om Ord1983-27 sch 3 pres s 391 (prev s 545A) ins A1992-76 s 4 renum R9 LA (see A2001-63 s 43) am A2019-43 s 11

Offensive behaviour

s 392	orig s 392 renum as s 278 pres s 392 (prev s 546A) ins Ord1983-55 s 20 renum R9 LA (see A2001-63 s 43) am A2019-43 s 12

Indecent exposure

s 393	orig s 393 renum as s 279 pres s 393 (prev s 546B) ins Ord1983-55 s 20 am A2001-63 s 38 renum R9 LA (see A2001-63 s 43)

Urinating in public place

s 393A	ins A2008-6 s 9

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Arraignment, plea and trial

hdg before s 394 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Noise abatement directions

s 394 orig s 394 renum as s 280
pres s 394 (prev s 546C) ins Ord1983-55 s 20
am A2001-63 ss 39-41
renum R9 LA (see A2001-63 s 43)
am A2008-6 s 10, s 11; ss renum R54 LA

Bogus advertisements

s 395 orig s 395 renum as s 281
pres s 395 (prev s 546D) ins Ord1987-3 s 10
renum R9 LA (see A2001-63 s 43)
am A2006-22 amdt 1.25 (A2006-22 rep before commenced by disallowance (see Cwlth Gaz 2006 No S93)); A2008-14 amdt 1.19; A2012-40 amdt 3.27

Public mischief

s 396 orig s 396 renum as s 282
pres s 396 (prev s 546E) ins Ord1987-3 s 10
renum R9 LA (see A2001-63 s 43)
am A2004-28 amdt 3.10, amdt 3.11; A2015-50 amdt 3.60; A2016-33 amdt 1.7

Apprehended violence or injury—recognisance to keep the peace etc

s 397 orig s 397 om Ord1983-27 sch 3
pres s 397 (prev s 547) am Ord1983-27 sch 2; Ord1988-44 s 4
renum R9 LA (see A2001-63 s 43)
am A2003-14 amdt 1.32; A2006-23 amdt 1.70

Alternative methods of proceeding before magistrate

s 398 orig s 398 om Ord1983-27 sch 3
pres s 398 (prev s 548) am Ord1983-27 sch 2
renum R9 LA (see A2001-63 s 43)

General averment of intent to defraud or injure

s 399 orig s 399 renum as s 283
pres s 399 (prev s 551) am Ord1983-27 sch 2
renum R9 LA (see A2001-63 s 43)

Sentence may be for less term or fine of less amount than that fixed

s 400 orig s 400 renum as s 284
prev s 400 (prev s 553) am Ord1983-27 sch 2
renum R9 LA (see A2001-63 s 43)
om A2006-23 amdt 1.71

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Application of forfeitures and penalties

s 401 orig s 401 om Ord1983-27 sch 3
prev s 401 (prev s 555) am Ord1983-27 sch 2
renum R9 LA (see A2001-63 s 43)
om A2006-23 amdt 1.71

Conditional release of offenders

pt 18 hdg (prev pt 15 hdg) sub Ord1971-2 s 7
renum R9 LA (see A2001-63 s 43)
om A2006-23 amdt 1.72

Conditional release of offenders without proceeding to conviction

s 402 orig s 402 renum as s 285
prev s 402 (prev s 556A) ins Ord1971-2 s 7
am Ord1985-67 sch; Ord1986-57 s 10 (as am by Ord1987-3 s 11); A1995-2 sch
renum R9 LA (see A2001-63 s 43)
om A2006-23 amdt 1.72

Conditional release of offenders

s 403 orig s 403 renum as s 286
prev s 403 (prev s 556B) ins Ord1971-2 s 7
am Ord1985-67 sch; Ord1986-57 s 11; Ord1990-5 sch 2; A1993-73 s 10; R9 LA (see A2001-63 s 43)
renum R9 LA (see A2001-63 s 43)
am A2002-49 amdt 3.42; ss renum R20 LA (see A2002-49 amdt 3.43)
om A2006-23 amdt 1.72

Failure to comply with condition of recognisance or release

s 404 orig s 404 om Ord1971-2 s 8
prev s 404 renum as s 287
prev s 404 (prev s 556C) ins Ord1971-2 s 7
am Ord1985-67 sch; A1992-9 s 12
renum R9 LA (see A2001-63 s 43)
om A2006-23 amdt 1.72

Power to discharge or vary conditions of recognisance

s 405 orig s 405 om A1994-98 s 7
prev s 405 (prev s 556D) ins Ord1971-2 s 7
am Ord1985-16 s 4; A1993-91 sch 3; A1995-2 sch
renum R9 LA (see A2001-63 s 43)
am A2002-49 amdt 3.44, amdt 3.45
om A2006-23 amdt 1.72

Rules respecting evidence

hdg before s 406 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Recovery of amounts if recognisances estreated

s 406 orig s 406 om Ord1971-2 s 8
prev s 406 renum as s 288
prev s 406 (prev s 556E) ins Ord1971-2 s 7
am Ord1985-67 sch; Ord1986-74 s 88; Ord1990-5 sch 2; A1991-44 s 9; A1995-2 sch
renum R9 LA (see A2001-63 s 43)
om A2006-23 amdt 1.72

Community service orders

pt 19 hdg (prev pt 15A hdg) ins Ord1985-11 s 4
renum R9 LA (see A2001-63 s 43)
om A2006-23 amdt 1.72

Definitions for pt 19

s 407 orig s 407 om Ord1971-2 s 8
prev s 407 renum as s 289
prev s 407 (prev s 556F) ins Ord1985-11 s 4
am Ord1985-67 sch
renum R9 LA (see A2001-63 s 43)
om A2006-23 amdt 1.72
def ***authorized officer*** ins Ord1985-11 s 4
om A1994-97 sch
def ***Community Corrections Officer*** ins A1994-97 sch
om A2006-23 amdt 1.72
def ***community service order*** ins Ord1985-11 s 4
om A2006-23 amdt 1.72
def ***offender*** ins Ord1985-11 s 4
om A2006-23 amdt 1.72
def ***officer of the court*** ins Ord1985-11 s 4
am A1991-44 s 9
om A2006-23 amdt 1.72
def ***supervisor*** ins Ord1985-11 s 4
sub A1994-97 sch
om A2006-23 amdt 1.72

Directions to perform work

s 408 orig s 408 om Ord1971-2 s 8
prev s 408 (prev s 556G) ins Ord1985-11 s 4
am Ord1985-67 sch; Ord1986-57 s 12; A1994-97 sch; A1998-29 s 5; A1999-79 sch 3; A2001-44 amdt 1.1002, amdt 1.1003
renum R9 LA (see A2001-63 s 43)
am A2004-60 amdt 1.110
om A2006-23 amdt 1.72

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Circumstances in which a community service order may be made

s 409 orig s 409 om Ord1971-2 s 8
prev s 409 (prev s 556J) ins Ord1985-11 s 4
am A1994-97 sch
renum R9 LA (see A2001-63 s 43)
om A2006-23 amdt 1.72

Obligations of offender and consequences of failure to comply

s 410 orig s 410 om Ord1971-2 s 8
prev s 410 (prev s 556K) ins Ord1985-11 s 4
am Ord1986-57 s 13; A1994-97 sch
renum R9 LA (see A2001-63 s 43)
am A2002-49 amdt 3.46
om A2006-23 amdt 1.72

Community service order to cease to have effect after 12 months except if period extended

s 411 orig s 411 renum as s 290
prev s 411 (prev s 556L) ins Ord1985-11 s 4
am A1994-97 sch
renum R9 LA (see A2001-63 s 43)
om A2006-23 amdt 1.72

Revocation and variation of community service order and variation of nature of work

s 412 orig s 412 om Ord1971-2 s 8
prev s 412 (prev s 556M) ins Ord1985-11 s 4
am A1994-97 sch; A1998-29 s 7
renum R9 LA (see A2001-63 s 43)
om A2006-23 amdt 1.72

Power of court if offender convicted of further offence

s 413 orig s 413 om Ord1971-2 s 8
prev s 413 (prev s 556N) ins Ord1985-11 s 4
am Ord1985-67 sch; A1992-9 s 13
renum R9 LA (see A2001-63 s 43)
om A2006-23 amdt 1.72

Apprehension of offender about to leave ACT

s 414 orig s 414 renum as s 291
prev s 414 (prev s 556P) ins Ord1985-11 s 4
am Ord1985-67 sch
renum R9 LA (see A2001-63 s 43)
om A2006-23 amdt 1.72

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Power of court in relation to offender about to leave ACT

s 415	orig s 415 om Ord1971-2 s 8 prev s 415 (prev s 556Q) ins Ord1985-11 s 4 am Ord1985-67 sch renum R9 LA (see A2001-63 s 43) om A2006-23 amdt 1.72

Service of documents

s 416	orig s 416 om Ord1983-27 sch 3 prev s 416 (prev s 556S) ins Ord1985-11 s 4 renum R9 LA (see A2001-63 s 43) sub A2002-49 amdt 3.47 om A2006-23 amdt 1.72

Power of court if offender apprehended under pt 19

s 417	orig s 417 renum as s 292 prev s 417 (prev s 556T) ins Ord1985-11 s 4 renum R9 LA (see A2001-63 s 43) om A2006-23 amdt 1.72

Power of court in certain circumstances on revoking community service order

s 418	orig s 418 om Ord1971-2 s 8 prev s 418 (prev s 556U) ins Ord1985-11 s 4 renum R9 LA (see A2001-63 s 43) om A2006-23 amdt 1.72

Discharge of community service order

s 419	orig s 419 om Ord1971-2 s 8 prev s 419 (prev s 556V) ins Ord1985-11 s 4 renum R9 LA (see A2001-63 s 43) om A2006-23 amdt 1.72

Jurisdiction of Supreme Court

s 420	orig s 420 am Ord1983-27 sch 2; Ord1983-55 sch om Ord1985-44 sch prev s 420 (prev s 556W) ins Ord1985-11 s 4 renum R9 LA (see A2001-63 s 43) om A2002-49 amdt 3.48

Inquiries into convictions

pt 20 hdg	(prev pt 17 hdg) ins A2001-63 s 42 renum R9 LA (see A2001-63 s 43)

Preliminary

div 20.1 hdg	(prev div 17.1 hdg) ins A2001-63 s 42 renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Definitions for pt 20

s 421 orig s 421 om Ord1983-55 s 14
pres s 421 (prev s 557A) ins A2001-63 s 42
renum R9 LA (see A2001-63 s 43)
def ***Full Court*** ins A2001-63 No 42
def ***inquiry*** ins A2001-63 No 42
def ***registrar*** ins A2001-63 No 42
def ***relevant proceeding*** ins A2001-63 No 42

How to start inquiry

div 20.2 hdg (prev div 17.2 hdg) ins A2001-63 s 42
renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40)

Grounds for ordering inquiry

s 422 orig s 422 om Ord1983-27 sch 3
pres s 422 (prev s 557B) ins A2001-63 s 42
renum R9 LA (see A2001-63 s 43)

Executive order for inquiry

s 423 orig s 423 renum as s 293
pres s 423 (prev s 557C) ins A2001-63 s 42
renum R9 LA (see A2001-63 s 43)

Order of closing addresses—acquittals

s 423A renum as s 294

Supreme Court order for inquiry

s 424 orig s 424 renum as s 295
pres s 424 (prev s 557D) ins A2001-63 s 42
renum R9 LA (see A2001-63 s 43)

Verdict generally

hdg before s 425 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Rights and duties in relation to orders for inquiry

s 425 orig s 425 renum as s 296
pres s 425 (prev s 557E) ins A2001-63 s 42
renum R9 LA (see A2001-63 s 43)

Inquiry procedure

div 20.3 hdg (prev div 17.3 hdg) ins A2001-63 s 42
renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40)

Application of Inquiries Act

s 426 orig s 426 renum as s 297
pres s 426 (prev s 557F) ins A2001-63 s 42
renum R9 LA (see A2001-63 s 43)

Appointment of board of inquiry

s 427 orig s 427 renum as s 298
pres s 427 (prev s 557G) ins A2001-63 s 42
renum R9 LA (see A2001-63 s 43)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Multiple alternative verdicts

s 427A	renum as s 299

Reserving questions of law

hdg before s 428	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Report by board

s 428	orig s 428 am A1992-9 s 10; A1997-96 sch 1 om A2001-70 amdt 1.6 pres s 428 (prev s 557H) ins A2001-63 s 42 renum R9 LA (see A2001-63 s 43)

Supreme Court orders following inquiry report

div 20.4 hdg	(prev div 17.4 hdg) ins A2001-63 s 42 renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40)

Application

s 428A	ins A1994-46 s 4 sub A1998-71 s 4 om A1999-32 s 4

Interpretation

s 428B	renum as s 300

Limit on detention

s 428C	renum as s 301

Limitation on orders and detention—acquittals

s 428CA	renum as s 302

Limitation on Supreme Court orders

s 428CB	renum as s 303

Limitation on orders and detention—dismissal of charge

s 428CC	renum as s 304

Limitation on orders and detention—Magistrates Court

s 428CD	renum as s 305

Limitation on Magistrates Court orders

s 428CE	renum as s 306

Manner in which relevant court to inform itself

s 428CF	renum as s 307

Criteria for detention

s 428D	renum as s 308

Assessment whether emergency detention required

s 428DA	renum as s 309

Referral to Tribunal

s 428E	renum as s 310

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Person found fit to plead
s 428F renum as s 311

Action pending determination by tribunal
s 428FA renum as s 312

Temporary unfitness to plead—non-serious offences
s 428G renum as s 313

Temporary unfitness to plead—serious offences
s 428H renum as s 314

Special hearings
s 428I renum as s 315

Nature and conduct of a special hearing
s 428J renum as s 316

Verdicts available at special hearings
s 428K renum as s 317

Non-acquittal at special hearing—non-serious offences
s 428L renum as s 318

Non-acquittal at special hearing—serious offences
s 428M renum as s 319

Acquittal on grounds of mental illness
s 428N renum as s 320

Plea of not guilty by reason of mental illness
s 428O renum as s 321

Explanation to jury
s 428P renum as s 322

Court orders following acquittal—non-serious offences
s 428Q renum as s 323

Court orders following acquittal—serious offences
s 428R renum as s 324

Definition
s 428RA renum as s 325

Dismissal on grounds of mental impairment
s 428RB renum as s 326

Plea of not guilty by reason of mental impairment
s 428RC renum as s 327

Magistrates Court orders following dismissal—non-serious offence
s 428RD renum as s 328

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Magistrates Court orders following dismissal—serious offence
s 428RE renum as s 329

Application
s 428S renum as s 330

Referral to Tribunal
s 428T renum as s 331

Application
s 428U renum as s 332

Indictable offences heard and determined summarily
s 428V renum as s 333

Powers of Magistrates Court
s 428W renum as s 334

Fitness to plead—Magistrates Court
s 428WA renum as s 335

Means by which Magistrates Court may be informes
s 428X renum as s 336

Application
s 428XA renum as s 337

Interpretation
s 428XB renum as s 338

Intoxication in relation to offences
s 428XC renum as s 339

Interpretation
s 428Y renum as s 340

Juvenile offenders
hdg before s 429 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Publication of report
s 429 orig s 429 renum as s 341
pres s 429 (prev s 557I) ins A2001-63 s 42
renum R9 LA (see A2001-63 s 43)

Matters to which court to have regard
s 429A renum as s 342

Victim impact statements
s 429AB renum as s 343

Matters not to be taken into account
s 429B renum as s 344

Restriction on imposing sentences of imprisonment
s 429C renum as 345

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Sentences of death

hdg before s 430	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Action on report by Supreme Court

s 430	orig s 430 am Ord1968-4 s 16 om Ord1983-27 sch 3 prev s 430 renum as s 346 pres s 430 (prev s 557J) ins A2001-63 s 42 renum R9 LA (see A2001-63 s 43) am A2006-23 amdt 1.73; A2013-11 amdt 1.5

Nature of Supreme Court proceedings

s 431	orig s 431 om Ord1968-4 s 17 prev s 431 renum as s 347 pres s 431 (prev s 557K) ins A2001-63 s 42 renum R9 LA (see A2001-63 s 43) om A2014-40 s 4

Fines

s 431A	renum as s 348

Application to earlier convictions

div 20.5 hdg	(prev div 17.5 hdg) ins A2001-63 s 42 renum R9 LA (see A2001-63 s 43 and A2001-90 amdt 1.40)

Sentences of imprisonment—hard labour—solitary confinement—and sureties

hdg before s 432	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Inquiries about earlier convictions

s 432	orig s 432 om Ord1983-27 sch 3 prev s 432 renum as s 349 pres s 432 (prev s 557L) ins A2001-63 s 42 renum R9 LA (see A2001-63 s 43)

Grant of pardon and remission of penalties

pt 21 hdg	(prev pt 15B hdg) ins A1991-90 s 5 renum R9 LA (see A2001-63 s 43) om A2006-23 amdt 1.74

Grant of pardon

s 433	orig s 433 om Ord1983-27 sch 3 prev s 433 (prev s 557) ins A1991-90 s 5 renum R9 LA (see A2001-63 s 43) om A2006-23 amdt 1.74

Sentences of whipping or irons

hdg before s 434	om Ord1974-17 s 5

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Remission of penalties

s 434	orig s 434 om Ord1974-17 s 5 prev s 434 (prev s 558) ins A1991-90 s 5 renum R9 LA (see A2001-63 s 43) om A2006-23 amdt 1.74

Miscellaneous

pt 22 hdg	(prev pt 16 hdg) renum R9 LA (see A2001-63 s 43)

Application of certain sections of Commonwealth Crimes Act to territory laws

s 434A	ins A2002-11 amdt 2.25

Joinder of charges

s 434B	ins A2002-11 amdt 2.25

Aggravated offence may allege more than 1 factor of aggravation

s 434C	ins A2022-13 s 74

Protection of persons acting under Act

s 435	orig s 435 om Ord1974-17 s 5 pres s 435 (prev s 563) am A1997-96 sch 1 renum R9 LA (see A2001-63 s 43)

No court fees to be taken in criminal cases

s 436	orig s 436 om Ord1974-17 s 5 prev s 436 (prev s 564) am Ord1983-55 sch; A1992-9 s 14 renum R9 LA (see A2001-63 s 43) om A2006-23 amdt 1.75

Order for payment of compensation

hdg before s 437	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Power of courts to bring detainees before them

s 437	orig s 437 renum as s 350 pres s 437 (prev s 565) am Ord1983-27 sch 2 renum R9 LA (see A2001-63 s 43) sub A2006-23 amdt 1.76

Order for restitution of property stolen etc

hdg before s 438	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Witnesses neglecting to attend trial and captured under warrant may be admitted to bail

s 438	orig s 438 om Ord1985-44 sch pres s 438 (prev s 566) am Ord1983-27 sch 2 renum R9 LA (see A2001-63 s 43)

Disposal of insane persons

hdg before s 439	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Offence of criminal defamation

s 439	orig s 439 om A1994-46 s 5 prev s 439 (prev s 567) am Ord1983-27 sch 2; A2001-44 amdt 1.1004, amdt 1.1005 renum R9 LA (see A2001-63 s 43) om A2004-60 amdt 1.111 pres s 439 ins A2006-1 amdt 1.2 am A2011-48 amdt 1.18; ss renum R79 LA

Sentences for statutory offences

hdg before s 440	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Prosecutions for blasphemy

s 440	orig s 440 om Ord1983-27 sch 3 pres s 440 (prev s 574) renum R9 LA (see A2001-63 s 43)

Deferred sentences

hdg before s 441	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Retrospective repeal of limitation period on criminal proceeding for particular sexual offences

s 441	**orig s 441** renum as s 351 **prev s 441** (prev s 575) am Ord1983-27 sch 2 om Ord1985-44 sch **prev s 441** ins A1997-117 s 5 renum R9 LA (see A2001-63 s 43) am A2005-20 amdt 3.105; A2006-23 amdt 1.77; A2007-22 amdt 1.22 om A2008-6 s 12 **pres s 441** ins A2013-50 s 7

Criminal proceedings not allowed by section 441

s 441A	**orig s 441A** renum as s 352 **pres s 441A** ins A2013-50 s 7

Retrospective application of repealed alternative verdict provision for carnal knowledge

s 441B	ins A2019-6 s 9

Reduction of sentence ;or fine below term or amount fixed

hdg before s 442	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Change of venue

s 442	orig s 442 renum as s 353 pres s 442 (prev s 577) renum R9 LA (see A2001-63 s 43)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Review of operation of child sexual abuse reporting offence

s 442A	ins A2019-6 s 10 exp 1 September 2022 (s 442A (3))

Review of operation of offences against frontline community service providers

s 442B	ins A2020-18 s 7 exp 10 June 2023 (s 442B (3))

Review of operation of offences of abuse of vulnerable people

s 442C	ins A2020-41 s 6 exp 20 April 2024 (s 442C (3))

Review—pt 3

s 442D	ins A2022-7 s 7 exp 12 May 2025 (s 442D (4))

Additional and cumulative sentences

hdg before s 443	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Approved forms

s 443	orig s 443 renum as s 354 pres s 443 (prev s 578) ins A1991-90 s 6 sub A2001-44 amdt 1.1006 renum R9 LA (see A2001-63 s 43) (4)-(7) exp 12 September 2002 (s 443 (7)) am A2011-52 amdt 3.60

Regulation-making power

s 444	orig s 444 am Ord1983-27 s 22 om Ord1986-57 s 8 prev s 444 renum as s 355 pres s 444 (prev s 579) ins A2001-44 amdt 1.1006 renum R9 LA (see A2001-63 s 43)

Transitional

pt 23 hdg	ins A2002-11 amdt 2.26 om R16 LA

Operation and meaning of s 434A

s 445	om Ord1971-2 s 8 ins A2002-11 amdt 2.26 exp 27 November 2002 (s 445 (2))

Previous sentences to be noted in new sentence

s 446	renum as s 356

Sentences on two or more counts may be cumulative

s 447	om Ord1986-57 s 9

Execution of sentence

hdg before s 448	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Capital sentences
hdg before s 448 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Outstanding charges may be taken into account when passing sentence
s 448 orig s 448 om Ord1983-27 sch 3
prev s 448 renum as s 357

Appeal where promised cooperation not forthcoming
s 449 orig s 449 om Ord1983-27 sch 3
prev s 449 renum as s 358

Court to explain sentence
s 450 orig s 450 om Ord1983-27 sch 3
prev s 450 renum as s 359

Time held in custody to count
s 451 orig s 451 om Ord1983-27 sch 3
prev s 451 renum as s 360

Sentence to be adjusted if no remission laws apply
s 452 orig s 452 om Ord1983-27 sch 3
prev s 452 renum as s 361

Penal servitude sentences
hdg before s 453 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Interpretation
s 453 orig s 453 om Ord1974-17 s 7
prev s 453 renum as s 362

Court may order pre-sentence reports
s 454 orig s 454 om Ord1974-17 s 7
prev s 454 renum as s 363

Whipping sentences
hdg before s 455 om Ord1974-17 s 8

Contents of pre-sentence reports
s 455 orig s 455 om Ord1974-17 s 8
prev s 455 renum as s 364

Circulation of the report
s 456 orig s 456 om Ord1974-17 s 8
prev s 456 renum as s 365

Enforcing payment of compensation
hdg before s 457 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Right of cross-examination
s 457 renum as s 366

Sentences of courts-martial
hdg before s 458 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Sentences by courts-martial under Imperial Acts
s 458 om Ord1983-27 sch 3

Mitigation of sentences
hdg before s 459 am Ord1974-17 s 9
om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Cases of rape etc
s 459 am Ord1968-4 s 18
om Ord1974-17 s 10

On commutation judge to make order accordingly
s 460 om Ord1974-17 s 10

General regulations for remission of sentences
s 461 om Ord1983-27 sch 3

Remission on recognizances
s 462 om Ord1983-27 sch 3

Tickets-of-leave
s 463 om Ord1983-27 sch 3

Remissions where more than one sentence
s 464 renum as 367

Consequences etc of conviction for felony
hdg before s 465 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Forfeiture in felonies abolished
s 465 renum as 368

Disabilities of felony
s 466 renum as 369

Position of wife of felon
s 467 om Ord1983-27 sch 3

Effect of reversing judgment in such cases
s 468 renum as s 370

Sequestration of offender's property
s 469 om Ord1983-27 sch 3

Appeals
hdg before s 470 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Questions reserved
hdg before s 470 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Proceedings when question reserved
s 470 am A1992-9 s 11; A1997-96 sch 1
om A2001-70 amdt 1.6

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Writs of error
hdg before s 471 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Writ of error how obtained
s 471 om Ord1983-27 sch 3

General provisions as to informalities
hdg before s 472 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

What not sufficient to stay or reverse judgment
s 472 renum as s 371

Pronouncing proper judgment
s 473 renum as s 372

New trials
hdg before s 474 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

New trials in misdemeanours regulated
s 474 renum as s 373

Enquiry subsequent to conviction
hdg before s 475 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Executive or judge may direct inquiry
s 475 am Ord1983-27 sch 2; Ord1990-5 sch 2
om A2001-63 s 37

Extent of jurisdiction
hdg before s 476 om Ord1951-14 s 11

Summary offences
s 476 renum as s 374

Offences and punishment
hdg before s 477 om Ord1951-14 s 11

List of offence within this jurisdiction
s 477 renum as s 375

Common law offences may be dealt with summarily by consent
s 477A ins Ord1983-27 s 25
om Ord1985-40 s 4

Certain offences not to be dealt with summarily
s 478 sub Ord1951-14 s 11; Ord1974-17 s 11
om Ord1985-40 s 4

Procedure in such cases
hdg before s 479 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Accused to have option of summary disposal of case or of trial by jury
s 479 renum as s 376

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Certificate of dismissal
s 480 renum as s 377

Summary conviction or dismissal a bar to indictment
s 481 renum as s 378

Definition
s 482 orig s 482 om Ord1974-17 s 12
prev s 482 renum as s 379

Certain first offences by boys or youths
s 483 om Ord1974-17 s 12

Certain other first offences by youths
s 484 om Ord1974-17 s 12

The like offences by boys or youths after previous conviction
s 485 om Ord1974-17 s 12

The like offences by adults
s 486 om Ord1974-17 s 12

Number of strokes
s 487 om Ord1974-17 s 12

Sentence to specify number of strokes etc
s 488 om Ord1974-17 s 12

Time of whipping—where no appeal
s 489 om Ord1974-17 s 12

Time of whipping—where appeal and conviction confirmed
s 490 om Ord1974-17 s 12

Kind of instrument and manner of use to be prescribed by Comptroller-General
s 491 om Ord1974-17 s 12

Surgeon may remit whipping in certain cases
s 492 om Ord1974-17 s 12

Assaults
hdg before s 493 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Common assaults
s 493 renum as s 380

Aggravated assaults
s 494 renum as s 381

Assaults respecting the sale of grain
s 495 orig s 495 am Ord1983-27 sch 2
om Ord1987-3 s 8
prev s 495 renum as s 382

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Assaults obstructing workmen

s 496	orig s 496 am Ord1983-27 sch 2 om Ord1987-3 s 8 prev s 496 renum as s 383

Where jurisdiction excludes

s 497	orig s 497 am Ord1983-27 sch 2; Ord1983-55 sch om Ord1985-40 s 8 prev s 497 renum as s 384

Certificate of dismissal

s 498	am Ord1983-27 sch 2 om Ord1987-3 s 8

Certificate or conviction a bar to other proceedings

s 499	sub Ord1963-11 s 25 om Ord1987-3 s 8

Exception from jurisdiction

s 500	am Ord1983-27 sch 2 om Ord1987-3 s 8

Larceny and similar offences

hdg before s 501	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Larceny and unlawful taking etc of animals

hdg before s 501	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Unlawfully driving, using, marking or possessing cattle

s 501	am Ord1983-27 sch 2 sub Ord1983-55 s 17 om Ord1985-44 sch

Possession of skin etc of stolen cattle

s 502	am Ord1983-27 sch 2 om Ord1985-44 sch

Stealing dogs

s 503	am Ord1983-27 sch 2 om Ord1985-44 sch

Possessing stolen dog or skin

s 504	am Ord1983-27 sch 2 om Ord1985-44 sch

Stealing animals etc ordinarily kept in confinement

s 505	am Ord1983-27 sch 2 om Ord1985-44 sch

Stealing animals etc ordinarily kept in confinement. Second offence

s 506	am Ord1983-27 sch 2 om Ord1985-44 sch

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Possession of stolen animals etc
s 507 am Ord1983-27 sch 2
om Ord1985-44 sch

Possession of stolen animals etc. Second offence
s 508 am Ord1983-27 sch 2
om Ord1985-44 sch

Restoration of such stolen animals etc
s 509 am Ord1983-27 sch 2
om Ord1985-44 sch

Setting engine for deer etc
s 510 am Ord1983-27 sch 2
om Ord1985-44 sch

Laying of poison
s 510A renum as s 385

Killing pigeons
s 511 am Ord1983-27 sch 2
om Ord1985-44 sch

Taking fish in waters on private property
s 512 am Ord1983-27 sch 2
om Ord1985-44 sch

Larceny of things attached to land
hdg before s 513 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Stealing shrubs etc of the value of 1 shilling
s 513 am Ord1983-27 sch 2; Ord1983-55 sch
om Ord1985-44 sch

The like—second offence
s 514 am Ord1983-27 sch 2
om Ord1985-44 sch

Stealing etc live or dead fence etc
s 515 am Ord1983-27 sch 2; Ord1983-55 sch
om Ord1985-44 sch

The like—second offence
s 516 am Ord1983-55 sch
om Ord1985-44 sch

Unlawful possession of trees, fence etc
s 517 am Ord1983-27 sch 2; Ord1983-55 sch
om Ord1985-44 sch

Stealing dead wood
s 518 am Ord1983-27 sch 2; Ord1983-55 sch
om Ord1985-44 sch

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

The like—second offence

s 519	am Ord1983-27 sch 2 om Ord1985-44 sch

Stealing plants etc in gardens

s 520	am Ord1983-27 sch 2 om Ord1985-44 sch

Stealing plants etc not growing in gardens

s 521	am Ord1983-27 sch 2 om Ord1985-44 sch

Larceny of shipwrecked goods

hdg before s 522	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Possession of shipwrecked goods

s 522	am Ord1983-27 sch 2; Ord1983-55 sch om Ord1985-44 sch

Offering shipwrecked goods for sale

s 523	am Ord1983-55 sch om Ord1985-44 sch

Seizure of such goods

s 524	am Ord1983-27 sch 2 om Ord1985-44 sch

Larceny from a public library etc

hdg before s 525	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Stealing or damaging books etc in public library etc

s 525	am Ord1983-27 sch 2 om Ord1985-44 sch

Term *public library*

s 526	om Ord1985-44 sch

Unlawfully using vehicle or boat

s 526A	ins Ord1963-11 s 26 am Ord1983-27 sch 2 om Ord1985-44 sch

Fraudulently appropriating or retaining property

hdg before s 527	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Fraudulently appropriating or retaining property

s 527	am Ord1983-27 sch 2 om Ord1985-44 sch

Unlawful possession

s 527A	renum as s 386

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Making a false invoice
s 527B renum as s 387

Offering rewards for stolen property
hdg before s 528 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Advertising reward for return of stolen property
s 528 am Ord1983-27 sch 2
om Ord1985-44 sch

Receivers
hdg before s 529 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Receivers punishable summarily
s 529 am Ord1983-27 sch 2
om Ord1985-44 sch

Malicious injuries to property
hdg before s 530 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Declaratory clauses
hdg before s 530 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Ownership and possession of property injured
s 530 om Ord1985-44 sch

Actual malice—certain acts not malicious
s 531 am Ord1983-27 sch 2
om Ord1985-44 sch

Injuries to trees, shrubs, vegetable produce, fences etc
hdg before s 532 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Damaging trees etc to amount of one shilling
s 532 am Ord1983-27 sch 2; Ord1983-55 sch
om Ord1985-44 sch

The like—second offence
s 533 am Ord1983-27 sch 2
om Ord1985-44 sch

Destroying fruit or vegetable produce in a garden
s 534 am Ord1983-27 sch 2
om Ord1985-44 sch

Destroying cultivated roots etc not in a garden
s 535 am Ord1983-27 sch 2
om Ord1985-44 sch

The like—second offence
s 536 am Ord1983-27 sch 2
om Ord1985-44 sch

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Destroying any fence, wall, stile or gate
s 537 am Ord1983-27 sch 2
om Ord1985-44 sch

The like—second offence
s 538 am Ord1983-27 sch 2
om Ord1985-44 sch

Injuries to certain animals
hdg before s 539 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Killing or maiming animals not being cattle
s 539 am Ord1983-27 sch 2
om Ord1985-44 sch

The like—second offence
s 540 am Ord1983-27 sch 2
om Ord1985-44 sch

Injuries not otherwise provided for
hdg before s 541 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Injuring property not previously provided for
s 541 am Ord1983-27 sch 2
om Ord1985-44 sch

The like—second offence
s 542 am Ord1983-27 sch 2
om Ord1985-44 sch

Application of compensation
hdg before s 543 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Application of compensation
s 543 renum as s 388

Coinage offences
hdg before s 544 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Obstruction of stream etc
s 544 renum as s 389

Entrance to cellars etc
s 545 renum as s 390

Fighting
s 545A renum as s 391

Abettors
hdg before s 546 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Defacing premises

s 546	om Ord1983-27 sch 3 ins Ord1983-55 s 20 om Ord1985-44 sch

Offensive behaviour

s 546A	renum as s 392

Indecent exposure

s 546B	renum as s 393

Noise abatement directions

s 546C	renum as s 394

Bogus advertisements

s 546D	renum as s 395

Public mischief

s 546E	renum as s 396

Apprehended violence or injury

hdg before s 547	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Apprehended violence or injury—recognizance to keep the peace

s 547	renum as s 397

Alternative methods of procedure

hdg before s 548	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Alternative methods of proceeding before Justices

s 548	renum as s 398

Enforcing appearance

hdg before s 549	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Offenders may be summoned under existing Acts

s 549	om Ord1983-27 sch 3

Certain averments

hdg before s 550	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Where not necessary to allege particular ownership

s 550	am Ord1983-27 sch 2 om Ord1985-44 sch

General averment of intent to defraud or injure

s 551	renum as s 399

Discharge of juvenile first offenders

hdg before s 552	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Discharge of juvenile first offenders

s 552	am Ord1983-27 sch 2 om A1991-18 s 4

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Reduction of sentence below fixed term
hdg before s 553 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Sentence may be for less term or fine of less amount than that fixed herein
s 553 renum as s 400

Sentence to hard labour
hdg before s 554 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Hard or light labour
s 554 sub Ord1951-14 s 12
am Ord1963-11 s 27; Ord1983-27 sch 2; Ord1985-67 sch
om Ord1986-57 s 9

Penalties etc—application
hdg before s 555 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Application of forfeitures and penalties
s 555 renum as s 401

Summary conviction etc a bar
hdg before s 556 om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Summary conviction a bar to further proceedings
s 556 am Ord1983-27 sch 2; Ord1984-78 s 25
om A1991-18 s 4

Conditional release of offenders without proceeding to conviction
s 556A orig s 556A ins Ord1942-12 s 4
om Ord1971-2 s 6
prev s 556A renum as s 402

Conditional release of offenders
s 556B renum as s 403

Failure to comply with condition of recognizance or release
s 556C renum as s 404

Power to discharge or vary conditions of recognizance
s 556D renum as s 405

Recovery of amounts where recognizances estreated
s 556E renum as s 406

Interpretation
s 556F renum as s 407

Directions to perform work
s 556G renum as s 408

Effect of payment of fine etc where community service order made
s 556H ins Ord1985-11 s 4
am Ord1985-67 sch pt 1
om A1998-29 s 6

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Circumstances in which a community service order may be made
s 556J renum as s 409

Obligations of offender and consequences of failure to comply
s 556K renum as s 410

Community service order to cease to have effect after 12 months except where period extended
s 556L renum as s 411

Revocation and variation of community service order and variation of nature of work
s 556M renum as s 412

Power of court where offender convicted of further offence
s 556N renum as s 413

Apprehension of offender about to leave Territory
s 556P renum as s 414

Power of court re offender about to leave Territory
s 556Q renum as s 415

Effect of compliance with, or revocation of, certain community service orders
s 556R ins Ord1985-11 s 4
am Ord1985-67 sch pt 1
om A1998-29 s 8

Service of documents
s 556S renum as s 416

Power of court where offender apprehended under this part
s 556T renum as s 417

Power of court in certain circumstances upon revoking community service order
s 556U renum as s 418

Discharge of community service order
s 556V renum as s 419

Jurisdiction of Supreme Court
s 556W renum as s 420

Interpretation
s 557 orig s 557 om Ord1971-2 s 7
prev s 557 renum as s 433
def ***court*** om Ord1971-2 s 7
def ***minor offence*** om Ord1971-2 s 7
def ***offender*** om Ord1971-2 s 7

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Suspension of punishment on first conviction
s 558 orig s 558 om Ord1971-2 s 7
prev s 558 renum as s 434

Order for restitution or payment of compensation may be made by court
s 559 am Ord1951-14 s 13
om Ord1971-2 s 7

Offender discharged to report himself
s 560 om Ord1971-2 s 7

Forfeiture of recognizance etc
s 561 sub Ord1951-14 s 14
om Ord1971-2 s 7

Otherwise to be discharged and conviction not to be deemed a previous conviction
s 562 om Ord1971-2 s 7

Protection of persons acting under this Act
s 563 renum as s 435

No court fees to be taken in criminal cases
s 564 renum as s 436

Power of Courts to bring prisoners before them
s 565 renum as s 437

Witnesses neglecting to attend trial and captured under warrant may be admitted to bail
s 566 renum as s 438

Supreme Court Judges may prescribe forms of indictments etc
s 567 renum as s 439

Every Court of General Sessions etc to be called a Court of Quarter Sessions
s 568 om Ord1983-27 sch 3

Governor to establish abolish Courts of quarter Sessions, fix times places and districts at and for which they shall be held
s 569 om Ord1983-27 sch 3

Appointment of chairman
s 570 om Ord1983-27 sch 3

Adjournment of such courts when chairman absent
s 571 om Ord1983-27 sch 3

Governor may appoint persons to prosecute at Quarter Sessions
s 572 om Ord1983-27 sch 3

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Provision for wife where husband convicted of aggravated assault
s 573 om Ord1983-27 sch 3

Prosecutions for blasphemy
s 574 renum as s 440

Misappropriation of corn etc by servants
s 575 orig s 575 am Ord1983-27 sch 2
om Ord1985-44 sch
prev s 575 renum as s 441

Indecent exposure of the person
s 576 om Ord1983-55 s 21

Change of venue
s 577 renum as s 442

Approved forms
s 578 renum as s 443

Regulation-making power
s 579 renum as s 444

Expiry—Motor Traffic Act
s 580 ins A1999-79 s 5 sch 3
renum A2001-44 amdt 1.1007
sub A2001-90 amdt 1.34
exp 27 March 2002 (see s 580)

Transitional—Crimes Legislation Amendment Act 2008
pt 30 hdg ins A2008-44 amdt 1.43
exp 30 May 2010 (s 602)

Application of amendments
s 600 ins A2008-44 amdt 1.43
mod SL2009-21 s 3 (mod lapsed on rep of SL2009-21 (4 September 2009))
am A2009-24 amdt 1.7
exp 30 May 2010 (s 602)

Transitional regulations
s 601 ins A2008-44 amdt 1.43
exp 30 May 2010 (s 602)

Expiry—pt 30
s 602 ins A2008-44 amdt 1.43
exp 30 May 2010 (s 602)

Transitional—Courts Legislation Amendment Act 2011
pt 31 hdg ins A2011-13 amdt 1.9
exp 25 July 2012 (s 612)

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Application of amendments

s 610	ins A2011-13 amdt 1.9 exp 25 July 2012 (s 612)

Transitional regulations

s 611	ins A2011-13 amdt 1.9 exp 25 July 2012 (s 612)

Expiry—pt 31

s 612	ins A2011-13 amdt 1.9 exp 25 July 2012 (s 612)

Transitional—Crimes Amendment Act 2014

pt 32 hdg	ins A2014-40 s 5 exp 7 August 2014 (s 621)

Effect of amendment on earlier reports under div 20.4

s 620	ins A2014-40 s 5 exp 7 August 2014 (s 621)

Expiry—pt 32

s 621	ins A2014-40 s 5 exp 7 August 2014 (s 621)

Repeal of Acts

hdg before sch 1	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Anabolic steroids

sch 1	orig sch 1 om A2001-8 amdt 1.13 prev sch 1 (prev sch 2) ins A1997-23 s 9 sub A2001-90 amdt 1.35 renum R9 LA (see A2001-63 s 43) am A2002-51 amdt 1.16 om A2005-13 amdt 1.25 ins as mod SL2008-42 mod 10.2 (as ins by SL2009-27 s 7) mod lapsed 21 December 2010 (SL2008-42 mod 10.2 om by A2010-50 amdt 1.14) pres sch 1 ins A2010-50 amdt 1.2

Parts and sections in force, so far as their provisions are applicable, with respect to all offences and courts

hdg before sch 2	om Ord1983-27 s 3 (as am by Ord1985-16 s 6)

Domestic violence offences under Crimes Act 1900

sch 2	om Ord1985-44 s 13 ins A1997-23 sch

Third schedule

sch 3	am Ord1990-5 sch 2 om A2001-44 amdt 1.1008

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

As to allegation of property

sch 4 om Ord1985-44 s 13

Forms

sch 5 om Ord1983-55 s 22
ins Ord1985-11 s 5
am Ord1985-67 sch pt 1; Ord1990-5 sch 2; A1995-2 sch; A1998-29 s 9
om A2001-44 amdt 1.1008

Form of list of other offences charged

sch 6 om Ord1974-17 s 13
ins Ord1983-27 s 28
am Ord1985-16 s 5; Ord1985-67 sch pt 1
om A2001-44 amdt 1.1008

Certificate and declaration at executions

sch 7 om Ord1983-27 s 28

Dictionary

dict ins A2001-8 amdt 1.14
defs reloc from s 4 A2001-8 amdt 1.4
am A2002-49 amdt 3.49; A2003-14 amdt 1.33; A2004-28 amdt 3.12; A2006-23 amdt 1.78; A2006-22 amdt 1.26 (A2006-22 rep before commenced by disallowance (see Cwlth Gaz 2006 No S93)); A2006-46 amdt 2.5; A2008-14 amdt 1.20; A2008-36 amdt 1.244; A2010-10 amdt 2.22; A2011-22 amdt 1.121; A2012-40 amdt 3.28; A2013-39 amdt 2.14 (A2013-39 never effective (see *Commonwealth v Australian Capital Territory* [2013] HCA 55)); A2015-50 amdt 3.61; A2016-33 amdt 1.8; A2016-52 amdt 1.53; A2020-18 s 8
def ***ACAT*** ins A2008-36 amdt 1.245
am A2015-50 amdt 3.62
def ***accused*** ins A2015-50 amdt 3.63
def ***actual bodily harm*** ins A2006-5 s 21
def ***agent*** ins A2003-55 s 6
om A2021-19 amdt 1.5
def ***aggravated offence*** ins A2001-8 amdt 1.14
sub A2015-50 amdt 3.64; A2022-13 s 75
def ***alternative offence*** ins A2015-50 amdt 3.65
sub A2022-13 s 75
def ***anabolic steroid*** ins A2015-50 amdt 3.65
def ***applied provisions*** ins A2022-13 s 76
def ***appropriate authority*** ins A2015-50 amdt 3.65
def ***assisting officer*** ins A2015-50 amdt 3.65
def ***bail undertaking*** ins A1992-9 s 5
reloc from s 4 A2001-8 amdt 1.4
om A2004-14 amdt 2.3

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

def ***banker*** reloc from s 4 A2001-8 amdt 1.4
def ***breasts*** ins A2017-22 s 6
def ***causes*** ins A2003-55 s 6
om A2021-19 amdt 1.5
def ***child*** ins A1997-23 s 4
reloc from s 4 A2001-8 amdt 1.4
sub A2015-50 amdt 3.66
def ***child***, for sdiv 10.7.2 ins A2008-19 amdt 1.20
om A2015-50 amdt 3.66
def ***commissioner for OH&S*** ins A2003-55 s 6
om A2009-28 amdt 2.7
def ***committed*** ins A2008-19 amdt 1.20
def ***Commonwealth Crimes Act*** ins A2015-50 amdt 3.67
def ***compliance period*** ins A2018-5 s 6
def ***conduct*** ins A2003-55 s 6
sub A2015-50 amdt 3.68; A2021-19 amdt 1.6
def ***consent*** ins A2022-7 s 8
def ***contaminate*** ins A2015-50 amdt 3.69
def ***conveyance*** ins A2015-50 amdt 3.69
def ***corrections officer*** ins A2006-23 amdt 1.79
om A2007-15 amdt 1.1
def ***corresponding law*** ins A2015-50 amdt 3.69
def ***crime scene*** ins A2017-45 s 7
def ***crime scene power*** ins A2017-45 s 7
def ***daily care responsibility*** ins A2008-19 amdt 1.20
def ***deal*** ins A2015-50 amdt 3.69
def ***death*** ins A2003-55 s 6
om A2021-19 amdt 1.7
def ***de facto spouse*** ins A1997-23 s 4
reloc from s 4 A2001-8 amdt 1.4
om A2003-14 amdt 1.34
def ***defendant*** ins A2015-50 amdt 3.69
def ***detention during pleasure*** ins A2015-50 amdt 3.69
def ***Director of Public Prosecutions*** ins Ord1990-5 sch 2
reloc from s 4 A2001-8 amdt 1.4
def ***distribute*** ins A2017-22 s 6
def ***document of title to land*** reloc from s 4 A2001-8 amdt 1.4
om A2002-49 amdt 3.50
def ***document of title to goods*** reloc from s 4 A2001-8 amdt 1.4
def ***domestic partner*** ins A2003-14 amdt 1.35

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

def ***domestic violence offence*** ins A1997-23 s 4
am A1999-79 sch 3
reloc from s 4 A2001-8 amdt 1.4
am A2001-70 amdt 1.5
par (ca) exp 1 January 2002 (s 580)
pars renum R9 LA
sub A2001-90 amdt 1.36
par (e) exp 27 March 2002 (see s 580 and A2001-90 amdt 1.34)
am A2002-51 amdt 1.17
om A2005-13 amdt 1.26
def ***drug*** am Ord1990-5 sch 2
reloc from s 4 A2001-8 amdt 1.4
def ***economic loss*** ins A2015-50 amdt 3.69
def ***employee*** ins A2003-55 s 6
om A2021-19 amdt 1.7
def ***employer*** ins A2003-55 s 6
om A2021-19 amdt 1.7
def ***engage in conduct*** ins A2015-50 amdt 3.69
def ***engaged in a private act*** ins A2017-22 s 6
def ***evidential material*** ins A2015-50 amdt 3.69
def ***exclusion direction*** ins A2016-48 s 12
def ***exclusion period*** ins A2016-48 s 12
def ***exclusion zone*** ins A2016-48 s 12
def ***executing officer*** ins A2015-50 amdt 3.69
def ***family violence*** ins A2022-13 s 76
def ***fault element*** ins A2022-13 s 76
def ***female genital mutilation*** ins A2015-50 amdt 3.69
def ***fortification*** ins A2018-5 s 6
def ***fortification inspection order*** ins A2018-5 s 6
def ***fortification offence*** ins A2018-5 s 6
def ***fortification removal order*** ins A2018-5 s 6
def ***frisk search*** ins A2015-50 amdt 3.69
def ***Full Court*** ins A2015-50 amdt 3.69
def ***genital or anal region*** ins A2017-22 s 6
def ***goods*** ins A2015-50 amdt 3.69
def ***government*** ins A2003-55 s 6
om A2021-19 amdt 1.7
def ***government entity*** ins A2003-55 s 6
om A2021-19 amdt 1.7
def ***government or non-government school*** ins A2022-10 amdt 1.4
def ***grievous bodily harm*** ins Ord1983-55 s 3
reloc from s 4 A2001-8 amdt 1.4
sub A2006-5 s 22

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

def ***harm*** ins A2006-5 s 22
om A2015-50 amdt 3.70
def ***household member*** ins A1997-23 s 4
reloc from s 4 A2001-8 amdt 1.4
om A2001-90 amdt 1.37
def ***identification material*** ins A2015-36 s 11
def ***impaired state*** ins A2015-36 s 11
def ***independent contractor*** ins A2003-55 s 6
om A2021-19 amdt 1.7
def ***indictment*** reloc from s 4 A2001-8 amdt 1.4
def ***inquiry*** ins A2015-50 amdt 3.71
def ***intimate image*** ins A2017-22 s 6
def ***issuing officer*** ins A2015-50 amdt 3.71
def ***knife*** ins A1998-22 s 4
reloc from s 4 A2001-8 amdt 1.4
sub A2015-50 amdt 3.72
def ***lawful custody*** ins A2015-50 amdt 3.73
om A2018-43 amdt 1.1
def ***light rail*** ins A2017-21 amdt 1.13
def ***light rail vehicle*** ins A2017-21 amdt 1.13
def ***loaded arms*** ins Ord1983-55 s 3
reloc from s 4 A2001-8 amdt 1.4
def ***long-term care responsibility*** ins A2008-19 amdt 1.20
def ***Magistrates Court*** ins A2008-19 amdt 1.20
am A2015-50 amdt 3.74
def ***medical practitioner*** ins A1995-50 s 4
reloc from s 4 A2001-8 amdt 1.4
om A2002-49 amdt 3.51
def ***mental health order*** ins A2015-50 amdt 3.75
def ***mental impairment*** ins A2006-14 amdt 1.40
def ***motor vehicle*** ins Ord1985-40 s 3
am Ord1990-5 sch 2
sub A1999-79 sch 3
reloc from s 4 A2001-8 amdt 1.4
sub A2015-50 amdt 3.76
def ***night*** ins A2015-50 amdt 3.77
def ***occupier*** ins A2018-5 s 6
def ***offence*** ins A2015-50 amdt 3.77
def ***offence to which this Act applies*** ins A2015-50 amdt 3.77
def ***offensive weapon*** ins Ord1983-55 s 3
sub A2000-85 s s4
reloc from s 4 A2001-8 amdt 1.4

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

def ***officer*** orig def ins Ord1984-78 s 3
reloc from s 4 A2001-8 amdt 1.4
new def ins A2003-55 s 6
am R24 LA
sub A2021-19 amdt 1.8
def ***ordinary search*** ins A2015-50 amdt 3.77
def ***outworker*** ins A2003-55 s 6
om A2021-19 amdt 1.9
def ***owner*** ins A2015-50 amdt 3.77
def ***police station*** ins A2015-50 amdt 3.77
def ***premises*** ins A2015-50 amdt 3.77
def ***private premises*** ins A2017-45 s 7
def ***proceeds of crime*** ins A2015-50 amdt 3.77
def ***property*** ins A2015-50 amdt 3.77
def ***provide services*** ins A2003-55 s 6
om A2021-19 amdt 1.9
def ***public place*** ins A2016-48 s 12
sub A2017-45 s 8
def ***railway*** ins A2017-21 amdt 1.13
def ***recently used conveyance*** ins A2015-50 amdt 3.77
def ***reciprocating State*** ins A2015-50 amdt 3.77
def ***registrar*** ins A2015-50 amdt 3.77
def ***relative*** ins A1997-23 s 4
reloc from s 4 A2001-8 amdt 1.4
sub A2001-90 amdt 1.38; sub A2003-14 amdt 1.36
om A2006-22 amdt 1.27 (A2006-22 rep before commenced by disallowance (see Cwlth Gaz 2006 No S93))
om A2008-14 amdt 1.21
def ***relevant person*** ins A2001-90 amdt 1.39
am A2003-14 amdt 1.37, amdt 1.38
om A2005-13 amdt 1.27
def ***relevant proceeding*** ins A2015-50 amdt 3.77
def ***school*** ins A1998-22 s 4
reloc from s 4 A2001-8 amdt 1.4
sub A2004-17 amdt 2.8; A2015-50 amdt 3.78
def ***search warrant*** ins A2015-50 amdt 3.79
def ***seizable item*** ins A2015-50 amdt 3.79
def ***senior officer*** ins A2003-55 s 6
om A2021-19 amdt 1.9
def ***serious harm*** ins A2003-55 s 6
sub A2006-5 s 23; A2015-50 amdt 3.80
om A2021-19 amdt 1.9
def ***serious offence*** ins A2015-50 amdt 3.81
am A2017-45 s 9; pars renum R115 LA

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

def ***sexual act*** ins A2022-7 s 8
def ***sexual intercourse*** ins A2015-50 amdt 3.81
def ***sexual services*** ins A2001-8 amdt 1.14
def ***sexual servitude*** ins A2001-8 amdt 1.14
def ***simple offence*** ins A2022-13 s 76
def ***special hearing*** ins A2015-50 amdt 3.81
def ***spouse*** ins A1997-23 s 4
    reloc from s 4 A2001-8 amdt 1.4
    om A2003-14 amdt 1.39
def ***strip search*** ins A2015-50 amdt 3.81
def ***tainted property*** ins A2003-8 amdt 1.14
def ***take*** ins A2015-36 s 11
def ***target material*** ins A2003-8 amdt 1.14
def ***telegraph*** reloc from s 4 A2001-8 amdt 1.4
def ***telephone*** ins A2015-50 amdt 3.81
def ***thing relevant to*** ins A2015-50 amdt 3.81
def ***trustee*** reloc from s 4 A2001-8 amdt 1.4
def ***trust fund*** ins A1991-104 s 4
    reloc from s 4 A2001-8 amdt 1.4
    om A2003-8 amdt 1.15
def ***under restraint*** ins A2008-19 amdt 1.20
def ***unlawful activity*** ins A2015-50 amdt 3.81
def ***vessel*** reloc from s 4 A2001-8 amdt 1.4
def ***volunteer*** ins A2003-55 s 6
    om A2021-19 amdt 1.9
def ***warrant*** ins A2015-50 amdt 3.81
def ***warrant premises*** ins A2015-50 amdt 3.81
def ***worker*** ins A2003-55 s 6
    om A2021-19 amdt 1.9
def ***young person*** ins A2008-19 amdt 1.20

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R0A 23 May 1963	23 May 1963– 14 Mar 1968	Ord1963-11	republication for amendments by Ord1942-12, Ord1944-1, Ord1951-14 and Ord1963-11
R0A (RI) 29 May 2009	23 May 1963– 14 Mar 1968	Ord1963-11	reissue of printed version
R0B 18 Nov 1983	18 Nov 1983– 18 Dec 1984	Ord1983-55	republication for amendments by Ord1968-4, Ord1970-40, Ord1971-2, Ord1974-17, Ord1978-45, Ord1979-1, Ord1983-27, Ord1983-45 and Ord1983-55
R0B (RI) 29 May 2009	18 Nov 1983– 18 Dec 1984	Ord1963-11	reissue of printed version

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Republication No and date	Effective	Last amendment made by	Republication for
R0C 11 Feb 1987	11 Feb 1987– 26 July 1988	Ord1987-3	republication for amendments by Ord1984-32, Ord1984-78, Ord1985-11, Ord1985-16, Ord1985-40, Ord1985-44, Ord1985-62, Ord1985-67, Ord1985-75, Ord1986-14, Ord1986-15, Ord1986-27 (as amended by Ord1986-37), Ord1986-53, Ord1986-57 (as amended by Ord1987-3), Ord1986-74 and Ord1987-3
R0C (RI) 7 June 2006	11 Feb 1987– 26 July 1988	Ord1987-3	reissue of printed version
R0D 1 July 1990	1 July 1990– 5 Feb 1991	Ord1990-5	republication for amendments by Ord1988-44, Ord1988-75, Ord1990-1, Ord1990-2, Ord1990-4 and Ord1990-5
R0D (RI) 7 June 2006	1 July 1990– 5 Feb 1991	Ord1990-5	reissue of printed version
R1 8 July 1992	8 July 1992– 27 Nov 1992	A1992-35	first republication after self-government
R1 (RI) 18 June 2003	8 July 1992– 27 Nov 1992	A1992-35	reissue of printed version

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

5 Earlier republications

Republication No and date	Effective	Last amendment made by	Republication for
R1A 18 June 2003	28 Nov 1992– 23 Dec 1992	A1992-35	amendments by A1992-9
R1B 18 June 2003	24 Dec 1992– 28 Feb 1993	A1992-35	amendments by A1992-76
R1C 18 June 2003	1 Mar 1993– 1 June 1993	A1993-3	amendments by A1993-3
R1D 18 Mar 2003	1 June 1993– 14 Nov 1993	A1993-3	amendments by A1992-65
R1E 18 Mar 2003	15 Nov 1993– 16 Dec 1993	A1993-73	amendments by A1993-73
R2 31 Jan 1994	17 Dec 1993– 30 June 1994	A1993-91	amendments by A1993-91
R2 (RI) 18 Mar 2003	17 Dec 1993– 30 June 1994	A1993-91	reissue of printed version
R2A 18 Feb 2003	1 July 1994– 30 Nov 1994	A1994-38	amendments by A1994-38
R2B 17 Feb 2003	1 Dec 1994– 14 Dec 1994	A1994-75	amendments by A1994-75
R2C 12 Dec 2002	15 June 1995– 18 June 1995	A1994-98	amendments by A1994-84 and A1994-86
R2D 2 Dec 2002	19 June 1995– 31 Aug 1995	A1995-3	amendments by A1995-2
R2E 2 Dec 2002	1 Sept 1995– 17 June 1996	A1995-3	amendments by A1995-3
R2F 28 Nov 2002	18 June 1996– 30 June 1996	A1995-50	amendments by A1995-49
R2G 27 Nov 2002	1 July 1996– 9 July 1996	A1996-31	amendments by A1996-31
R3 30 Nov 1996	10 July 1996– 15 May 1997	A1996-36	amendments by A1996-36
R3 (RI) 21 Nov 2002	10 July 1996– 15 May 1997	A1996-36	reissue of printed version

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Republication No and date	Effective	Last amendment made by	Republication for
R3A 21 Nov 2002	17 May 1997– 29 May 1997	A1997-10	amendments by A1997-10
R3B 21 Nov 2002	30 May 1997– 30 Nov 1997	A1997-86	amendments by A1997-23
R3C 20 Nov 2002	1 Dec 1997– 10 Dec 1997	A1997-96	amendments by A1995-50
R3D 19 Nov 2002	11 Dec 1997– 23 Dec 1997	A1997-96	amendments by A1997-86
R4 1 June 1998	1 June 1998– 9 June 1998	A1997-117	amendments by A1997-96
R4 (RI) 19 Nov 2002	1 June 1998– 9 June 1998	A1997-117	reissue of printed version
R5 28 Feb 1999	1 Jan 1999– 24 June 1999	A1998-71	amendments by A1998-29, A1998-67 and A1998-71
R5 (RI) 19 Nov 2002	1 Jan 1999– 24 June 1999	A1998-71	reissue of printed version
R6 10 Nov 1999	6 Oct 1999– 14 Dec 1999	A1999-64	amendments by A1999-60
R6 (RI) 19 Nov 2002	6 Oct 1999– 14 Dec 1999	A1999-64	reissue of printed version
R6A 19 Nov 2002	15 Dec 1999– 23 Dec 1999	A1999-71	amendments by A1999-71
R6B 19 Nov 2002	1 Mar 2000– 8 Mar 2000	A1999-91	amendments by A1999-79
R6C 15 Nov 2002	10 May 2000– 4 Oct 2000	A2000-3	amendments by A1999-64 and A2000-3
R6D 15 Nov 2002	5 Oct 2000– 20 Dec 2000	A2000-58	amendments by A2000-58
R6E 15 Nov 2002	1 Jan 2001– 7 Mar 2001	A2000-85	amendments by A2000-66 and A2000-85

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

5 Earlier republications

Republication No and date	Effective	Last amendment made by	Republication for
R7 (RI) 23 June 2003	12 Sept 2001– 13 Sept 2001	A2002-9	amendments by A2001-44 and A2001-56 reissue for textual correction in s 448
R8 (RI) 23 June 2003	14 Sept 2001– 26 Sept 2002	A2002-9	amendments by A2001-70 and A2001-75 reissue for textual correction in s 448
R9* 7 Jan 2002	7 Jan 2002– 13 Mar 2002	A2001-90	commenced expiry and general renumbering
R9 (RI) 23 June 2003	7 Jan 2002– 13 Mar 2002	A2001-90	reissue for textual correction in s 357
R10 (RI) 23 June 2003	14 Mar 2002– 26 Mar 2002	A2002-9	amendments by A2002-3 reissue for textual correction in s 357
R11 (RI) 23 June 2003	27 Mar 2002– 13 May 2002	A2002-9	amendments by A2001-90 and commenced expiry reissue for textual correction in s 357

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Republication No and date	Effective	Last amendment made by	Republication for
R12 (RI) 23 June 2003	14 May 2002– 27 May 2002	A2002-9	amendments by A2002-9 reissued for textual correction in s 357
R13 (RI) 23 June 2003	28 May 2002– 8 Sept 2002	A2002-11	amendments by A2002-11 reissued for textual correction in s 357
R14 (RI) 23 June 2003	9 Sept 2002– 12 Sept 2002	A2002-24	amendments by A2002-24 reissued for textual correction in s 357
R15 (RI) 23 June 2003	13 Sept 2002– 27 Nov 2002	A2002-24	commenced expiry reissue for textual correction in s 357
R16 (RI) 23 June 2003	28 Nov 2002– 9 Dec 2002	A2002-24	commenced expiry reissue for textual correction in s 357
R17 (RI) 23 June 2003	10 Dec 2002– 20 Dec 2002	A2002-24	commenced expiry reissue for textual correction in s 357

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

5 Earlier republications

Republication No and date	Effective	Last amendment made by	Republication for
R18 (RI) 23 June 2003	21 Dec 2002– 31 Dec 2002	A2002-51	amendments by A2002-50 reissue for textual correction in s 357
R19 (RI) 23 June 2003	1 Jan 2003– 16 Jan 2003	A2002-51	amendments by A2002-51 reissue for textual correction in s 357
R20 (RI) 23 June 2003	17 Jan 2003– 19 Mar 2003	A2002-51	amendments by A2002-49 reissue for textual correction in s 357
R21 20 Mar 2003	20 Mar 2003– 27 Mar 2003	A2002-51	amendments by A2002-50
R22* 28 Mar 2003	28 Mar 2003– 14 Aug 2003	A2003-14	amendments by A2003-14
R23 15 Aug 2003	15 Aug 2003– 29 Feb 2004	A2003-14	amendments by A2003-8
R24 1 Mar 2004	1 Mar 2004– 16 Mar 2004	A2004-2	amendments by A2003-55
R25 17 Mar 2004	17 Mar 2004– 21 Mar 2004	A2004-16	amendments by A2004-16
R26 22 Mar 2004	22 Mar 2004– 8 Apr 2004	A2004-16	amendments by A2004-2
R27 9 Apr 2004	9 Apr 2004– 17 June 2004	A2004-16	amendments by A2004-15
R28 18 June 2004	18 June 2004– 25 June 2004	A2004-17	commenced expiry
R29 26 June 2004	26 June 2004– 30 June 2004	A2004-17	amendments by A2004-14

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Republication No and date	Effective	Last amendment made by	Republication for
R30 1 July 2004	1 July 2004- 7 July 2004	A2004-28	amendments by A2004-28
R31 8 July 2004	8 July 2004- 12 July 2004	A2004-32	amendments by A2004-30
R32* 13 July 2004	13 July 2004– 31 Dec 2004	A2004-32	amendments by A2004-32
R33 1 Jan 2005	1 Jan 2005– 9 Jan 2005	A2004-65	amendments by A2004-17
R34 10 Jan 2005	10 Jan 2005– 30 Jan 2005	A2004-65	amendments by A2004-60
R35 31 Jan 2005	31 Jan 2005– 23 Feb 2005	A2004-65	amendments by A2004-65
R36 24 Feb 2005	24 Feb 2005– 24 Mar 2005	A2005-7	amendments by A2005-7
R37 25 Mar 2005	25 Mar 2005– 1 June 2005	A2005-13	amendments by A2005-13
R38 2 June 2005	2 June 2005– 6 July 2005	A2005-20	amendments by A2005-20
R39 7 July 2005	7 July 2005– 31 Aug 2005	A2005-20	updated endnotes
R40 1 Sept 2005	1 Sept 2005– 6 Sept 2005	A2005-20	amendment to commencement of A2004-61 by A2005-43
R41 7 Sept 2005	7 Sept 2005– 7 Sept 2005	A2005-48	amendments by A2005-48
R42 8 Sept 2005	8 Sept 2005– 22 Nov 2005	A2005-48	amendments by A2005-44
R43 23 Nov 2005	23 Nov 2005– 16 Jan 2006	A2005-53	amendments by A2005-53
R44 17 Jan 2006	17 Jan 2006– 22 Feb 2006	A2005-53	amendments by A2004-39
R45 23 Feb 2006	23 Feb 2006– 15 Mar 2006	A2006-1	amendments by A2006-1

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

5 Earlier republications

Republication No and date	Effective	Last amendment made by	Republication for
R46 16 Mar 2006	16 Mar 2006– 6 Apr 2006	A2006-5	amendments by A2006-5
R47* 7 Apr 2006	7 Apr 2006– 1 June 2006	A2006-14	amendments by A2006-14
R48 2 June 2006	2 June 2006– 17 Nov 2006	A2006-23	amendments by A2006-23
R49 18 Nov 2006	18 Nov 2006– 27 Mar 2007	A2006-46	amendments by A2006-46
R50 28 Mar 2007	28 Mar 2007– 5 Sept 2007	A2006-46	amendments by A2006-38
R51 6 Sept 2007	6 Sept 2007– 22 Nov 2007	A2007-22	amendments by A2007-22
R52 23 Nov 2007	23 Nov 2007– 17 Dec 2007	A2007-37	amendments by A2007-37
R53 18 Dec 2007	18 Dec 2007– 15 Apr 2008	A2007-37	amendments by A2007-15
R54 16 Apr 2008	16 Apr 2008– 18 May 2008	A2008-6	amendments by A2008-6
R55 19 May 2008	19 May 2008– 26 Aug 2008	A2008-14	amendments by A2008-14
R56 27 Aug 2008	27 Aug 2008– 1 Feb 2009	A2008-29	amendments by A2008-29
R57 2 Feb 2009	2 Feb 2009– 13 Feb 2009	A2008-46	amendments by A2008-36
R58 14 Feb 2009	14 Feb 2009– 26 Feb 2009	A2008-46	amendments by A2008-26
R59 27 Feb 2009	27 Feb 2009– 29 Mar 2009	A2008-46	amendments by A2008-19 and A2008-20
R60 30 Mar 2009	30 Mar 2009– 29 May 2009	A2008-46	amendments by A2008-46

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Republication No and date	Effective	Last amendment made by	Republication for
R61 30 May 2009	30 May 2009– 5 June 2009	SL2009-21	amendments by A2008-44 and modifications by SL2009-21
R62 6 June 2009	6 June 2009– 3 Sept 2009	SL2009-27	modifications by SL2008-42 as amended by SL2009-27
R63 4 Sept 2009	4 Sept 2009– 30 Sept 2009	A2009-24	amendments by A2009-24
R64 1 Oct 2009	1 Oct 2009– 13 Dec 2009	A2009-32	amendments by A2009-28
R65 14 Dec 2009	14 Dec 2009– 30 May 2010	A2009-32	amendments by A2009-32
R66 31 May 2010	31 May 2010– 30 June 2010	A2010-10	commenced expiry
R67 1 July 2010	1 July 2010– 8 July 2010	A2010-10	amendments by A2010-10
R68* 9 July 2010	9 July 2010– 30 Nov 2010	A2010-25	amendments by A2010-25
R69 1 Dec 2010	1 Dec 2010– 20 Dec 2010	A2010-47	amendments by A2010-43 and A2010-47
R70 21 Dec 2010	21 Dec 2010– 16 Mar 2011	A2010-50	amendments by A2010-50
R71 17 Mar 2011	17 Mar 2011– 12 May 2011	A2011-7	amendments by A2011-7
R72 13 May 2011	13 May 2011– 30 June 2011	A2011-15	amendments by A2011-15
R73 1 July 2011	1 July 2011– 6 July 2011	A2011-22	amendments by A2011-22
R74 7 July 2011	7 July 2011– 24 July 2011	A2011-22	amendments by A2011-20
R75 25 July 2011	25 July 2011– 23 Nov 2011	A2011-22	amendments by A2011-13

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

5 Earlier republications

Republication No and date	Effective	Last amendment made by	Republication for
R76 24 Nov 2011	24 Nov 2011– 11 Dec 2011	A2011-50	amendments by A2011-50
R77 12 Dec 2011	12 Dec 2011– 31 Dec 2011	A2011-52	amendments by A2011-52
R78* 1 Jan 2012	1 Jan 2012– 29 Feb 2012	A2011-55	amendments by A2011-55
R79 1 Mar 2012	1 Mar 2012– 25 July 2012	A2011-55	amendments by A2011-48
R80 26 July 2012	26 July 2012– 10 Sept 2012	A2011-55	expiry of transitional provision (pt 31)
R81 11 Sept 2012	11 Sept 2012– 3 Apr 2013	A2012-40	amendments by A2012-40
R82 4 Apr 2013	4 Apr 2013– 23 Apr 2013	A2013-11	amendments by A2013-11
R83 24 Apr 2013	24 Apr 2013– 30 June 2013	A2013-12	amendments by A2013-12
R84* 1 July 2013	1 July 2013– 6 Nov 2013	A2013-12	amendments by A2013-3
R85 7 Nov 2013	never effective	A2013-39 (never effective)	amendments by A2013-39
R85 (RI) 24 Feb 2014	7 Nov 2013– 9 Dec 2013	A2013-39 (never effective)	reissue because of High Court decision in relation to A2013-39
R86 10 Dec 2013	never effective	A2013-50	amendments by A2013-50
R86 (RI) 24 Feb 2014	10 Dec 2013– 25 July 2014	A2013-50	reissue because of High Court decision in relation to A2013-39

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Republication No and date	Effective	Last amendment made by	Republication for
R87 26 July 2014	26 July 2014– 28 July 2014	A2013-50	expiry of provision (s 374 (9), (10))
R88 29 July 2014	29 July 2014– 6 Aug 2014	A2013-50	modifications by SL2014-16
R89 7 Aug 2014	7 Aug 2014– 7 Aug 2014	A2014-40	amendments by A2014-40
R90 8 Aug 2014	8 Aug 2014– 19 Nov 2014	A2014-40	expiry of transitional provisions (pt 32)
R91 20 Nov 2014	20 Nov 2014– 2 Mar 2015	A2014-40	amendments by A2014-14
R92 3 Mar 2015	3 Mar 2015– 21 Aug 2015	A2015-3	amendments by A2015-3
R93 22 Aug 2015	22 Aug 2015– 1 Oct 2015	A2015-30	amendments by A2015-30
R94 2 Oct 2015	2 Oct 2015– 7 Oct 2015	A2015-36	amendments by A2015-35 and A2015-36
R95 8 Oct 2015	8 Oct 2015– 4 Nov 2015	A2015-36	updated endnotes as amended by A2015-38
R96 5 Nov 2015	5 Nov 2015– 30 Nov 2015	A2015-40	amendmens by A2015-40
R97 1 Dec 2015	1 Dec 2015– 8 Dec 2015	A2015-40	amendments by A2015-29
R98 9 Dec 2015	9 Dec 2015– 24 Feb 2016	A2015-50	amendments by A2015-50
R99 25 Feb 2016	25 Feb 2016– 29 Feb 2016	A2016-3	amendments by A2016-3
R100 1 Mar 2016	1 Mar 2016– 1 Mar 2016	A2016-3	amendments by A2014-51 and A2015-38

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

5 Earlier republications

Republication No and date	Effective	Last amendment made by	Republication for
R101 2 Mar 2016	2 Mar 2016– 31 Mar 2016	A2016-4	amendments by A2016-4
R102 1 Apr 2016	1 Apr 2016– 20 June 2016	A2016-13	amendments by A2016-13
R103 21 June 2016	21 June 2016– 22 June 2016	A2016-33	amendments by A2016-33
R104 23 June 2016	23 June 2016– 28 June 2016	A2016-36	amendments by A2016-36
R105 29 June 2016	29 June 2016– 23 Aug 2016	A2016-37	amendments by A2016-37
R106 24 Aug 2016	24 Aug 2016– 31 Aug 2016	A2016-48	amendments by A2016-48
R107 1 Sept 2016	1 Sept 2016– 30 Apr 2017	A2016-52	amendments by A2016-52
R108 1 May 2017	1 May 2017– 14 Aug 2017	A2017-10	amendments by A2016-42 and A2017-10
R109 15 Aug 2017	15 Aug 2017– 29 Aug 2017	A2017-21	amendments by A2017-21
R110 30 Aug 2017	30 Aug 2017– 28 Sept 2017	A2017-22	amendments by A2017-22
R111 29 Sept 2017	29 Sept 2017– 15 Nov 2017	A2017-31	amendments by A2017-31
R112 16 Nov 2017	16 Nov 2017– 7 Dec 2017	A2017-38	amendments by A2017-38
R113 8 Dec 2017	8 Dec 2017– 1 Mar 2018	A2017-45	amendments by A2017-45
R114 2 Mar 2018	2 Mar 2018– 6 Mar 2018	A2018-6	amendments by A2018-6
R115 7 Mar 2018	7 Mar 2018– 24 Apr 2018	A2018-6	amendments by A2017-45

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Republication No and date	Effective	Last amendment made by	Republication for
R116 25 Apr 2018	25 Apr 2018– 31 Aug 2018	A2018-12	amendments by A2018-12
R117 1 Sept 2018	1 Sept 2018– 22 Oct 2018	A2018-12	amendments by A2018-5
R118 23 Oct 2018	23 Oct 2018– 7 Nov 2018	A2018-33	amendments by A2018-33
R119 8 Nov 2018	8 Nov 2018– 8 Nov 2018	A2018-40	amendments by A2018-40
R120 9 Nov 2018	9 Nov 2018– 4 Dec 2018	A2018-43	amendments by A2018-43
R121 5 Dec 2018	5 Dec 2018– 14 Aug 2019	A2018-46	amendments by A2018-46
R122 15 Aug 2019	15 Aug 2019– 31 Aug 2019	A2019-23	amendments by A2019-23
R123 1 Sept 2019	1 Sept 2019– 9 Oct 2019	A2019-23	amendments by A2019-6
R124 10 Oct 2019	10 Oct 2019– 6 Dec 2019	A2019-32	amendments by A2019-32
R125 7 Dec 2019	7 Dec 2019– 13 May 2020	A2019-43	amendments by A2019-43
R126 14 May 2020	14 May 2020– 9 June 2020	A2020-14	amendments by A2020-14
R127 10 June 2020	10 June 2020– 1 July 2020	A2020-18	amendments by A2020-18
R128 2 July 2020	2 July 2020– 31 Aug 2020	A2020-18	expiry of modifications by SL2014-16
R129 1 Sept 2020	1 Sept 2020– 19 Feb 2021	A2020-31	amendments by A2020-31
R130 20 Feb 2021	20 Feb 2021– 25 Feb 2021	A2021-1	amendments by A2021-1
R131 26 Feb 2021	26 Feb 2021– 7 Mar 2021	A2021-3	amendments by A2021-3

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Republication No and date	Effective	Last amendment made by	Republication for
R132 8 Mar 2021	8 Mar 2021– 19 Apr 2021	A2021-3	expiry of provision (s 210M)
R133 20 Apr 2021	20 Apr 2021– 13 Oct 2021	A2021-3	amendments by A2020-41
R134 14 Oct 2021	14 Oct 2021– 10 Nov 2021	A2021-24	amendments by A2021-23 and A2021-24
R135 11 Nov 2021	11 Nov 2021– 11 May 2022	A2021-24	amendments by A2021-19
R136 12 May 2022	12 May 2022– 16 Aug 2022	A2022-7	amendments by A2022-7
R137 17 Aug 2022	17 Aug 2022– 1 Sept 2022	A2022-13	amendments by A2022-13
R138 2 Sept 2022	2 Sept 2022– 19 Dec 2022	A2022-13	expiry of provision (s 442A)

6 Expired transitional or validating provisions

This Act may be affected by transitional or validating provisions that have expired. The expiry does not affect any continuing operation of the provisions (see *Legislation Act 2001*, s 88 (1)).

Expired provisions are removed from the republished law when the expiry takes effect and are listed in the amendment history using the abbreviation ‘exp’ followed by the date of the expiry.

To find the expired provisions see the version of this Act before the expiry took effect. The ACT legislation register has point-in-time versions of this Act.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

7 Renumbered provisions

This Act was renumbered under the *Legislation Act 2001*, in R9 (see *Crimes Legislation Amendment Act 2001* A2001-63 pt 4). Details of renumbered provisions are shown in endnote 4 (Amendment history). For a table showing the renumbered provisions, see R9.

© Australian Capital Territory 2022

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au