



Australian Capital Territory

# Criminal Code Harmonisation Act 2005

A2005-54

## Contents

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	Page
1 Name of Act	2
2 Commencement	2
3 Legislation amended—sch 1	2
<b>Schedule 1</b>	
<b>Legislation amended</b>	<b>3</b>
<b>Part 1.1</b>	
<b>ACTEW/AGL Partnership Facilitation Act 2000</b>	<b>3</b>
<b>Part 1.2</b>	
<b>Adoption Regulation 1993</b>	<b>4</b>
<b>Part 1.3</b>	
<b>Animal Welfare Act 1992</b>	<b>7</b>
<b>Part 1.4</b>	
<b>Animal Welfare (Amendment) Act 1997</b>	<b>29</b>
<b>Part 1.5</b>	
<b>Animal Welfare Regulation 2001</b>	<b>30</b>
<b>Part 1.6</b>	
<b>Annual Leave Act 1973</b>	<b>31</b>
<b>Part 1.7</b>	
<b>Bail Act 1992</b>	<b>36</b>

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2003 251B

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## Contents

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		Page
<b>Part 1.8</b>	<b>Births, Deaths and Marriages Registration Act 1997</b>	38
<b>Part 1.9</b>	<b>Boxing Control Act 1993</b>	45
<b>Part 1.10</b>	<b>Building and Construction Industry Training Levy Act 1999</b>	49
<b>Part 1.11</b>	<b>Business Names Act 1963</b>	52
<b>Part 1.12</b>	<b>City of Canberra Arms Act 1932</b>	57
<b>Part 1.13</b>	<b>Clinical Waste Act 1990</b>	58
<b>Part 1.14</b>	<b>Community Title Act 2001</b>	62
<b>Part 1.15</b>	<b>Consumer and Trader Tribunal Act 2003</b>	64
<b>Part 1.16</b>	<b>Contractors Debts Act 1897</b>	66
<b>Part 1.17</b>	<b>Coroners Act 1997</b>	67
<b>Part 1.18</b>	<b>Duties Act 1999</b>	72
<b>Part 1.19</b>	<b>Electricity Safety Act 1971</b>	79
<b>Part 1.20</b>	<b>First Home Owner Grant Act 2000</b>	94
<b>Part 1.21</b>	<b>Fisheries Act 2000</b>	99
<b>Part 1.22</b>	<b>Fisheries Regulation 2001</b>	113
<b>Part 1.23</b>	<b>Fuels Control Act 1979</b>	114
<b>Part 1.24</b>	<b>Health Act 1993</b>	120
<b>Part 1.25</b>	<b>Instruments Act 1933</b>	122
<b>Part 1.26</b>	<b>Intoxicated People (Care and Protection) Act 1994</b>	125
<b>Part 1.27</b>	<b>Lakes Act 1976</b>	130
<b>Part 1.28</b>	<b>Legislative Assembly Precincts Act 2001</b>	141
<b>Part 1.29</b>	<b>Listening Devices Act 1992</b>	142
<b>Part 1.30</b>	<b>Major Events Security Act 2000</b>	146
<b>Part 1.31</b>	<b>Mercantile Law Act 1962</b>	151
<b>Part 1.32</b>	<b>Notaries Public Act 1984</b>	152
<b>Part 1.33</b>	<b>Residential Tenancies Act 1997</b>	154

---

<b>Part 1.34</b>	<b>Road Transport (General) Regulation 2000</b>	Page 158
<b>Part 1.35</b>	<b>Road Transport (Third-Party Insurance) Regulation 2000</b>	159
<b>Part 1.36</b>	<b>Uncollected Goods Act 1996</b>	160
<b>Part 1.37</b>	<b>Waste Minimisation Act 2001</b>	162
<b>Part 1.38</b>	<b>Waste Minimisation Regulation 2001</b>	166





Australian Capital Territory

# **Criminal Code Harmonisation Act 2005**

**A2005-54**

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

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

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2003 251B

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

**1 Name of Act**

This Act is the *Criminal Code Harmonisation Act 2005*.

**2 Commencement**

This Act commences on the 28th day after its notification day.

*Note* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

**3 Legislation amended—sch 1**

This Act amends the legislation mentioned in schedule 1.

## **Schedule 1      Legislation amended**

(see s 3)

### **Part 1.1                      ACTEW/AGL Partnership Facilitation Act 2000**

#### **[1.1]      New section 4A**

*insert*

#### **4A              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 all offences against this Act (see Code, pt 2.1).

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.

#### **[1.2]      Section 32 (2)**

*substitute*

- (2) If the members of a partnership contravene subsection (1), each member of the partnership commits an offence.

Maximum penalty: 500 penalty units.





(b) has its approval revoked under the Act, section 85 (Revocation or suspension of approval).

*Note* The chief executive may revoke an agency's approval if—

- the agency asks; or
- the agency is no longer suitable to conduct negotiations and make arrangements about the adoption of children; or
- the agency has contravened a provision of the Act, pt 6 or a regulation.

(2) The person who was the last principal officer of the agency commits an offence if the person does not give the chief executive all adoption records kept by the agency.

Maximum penalty: 5 penalty units.

(3) An offence against this section is a strict liability offence.

## **[1.5] Section 21**

*substitute*

### **21 Private adoption agencies not to breach Cwlth information privacy principles**

(1) A private adoption agency commits an offence if it does something that would, if it were an agency for the *Privacy Act 1988* (Cwlth), breach an information privacy principle within the meaning of that Act.

Maximum penalty: 5 penalty units.

*Note* The information privacy principles are contained in the *Privacy Act 1988* (Cwlth), s 14. They deal with the following issues:

- how and why personal information may be collected
- solicitation of personal information from individual concerned
- solicitation of personal information generally
- storage and security of personal information
- information relating to records kept by record-keeper
- access to records containing personal information

- alteration of records containing personal information
- record-keeper to check accuracy etc of personal information before use
- personal information to be used only for relevant purposes
- limits on use of personal information
- limits on disclosure of personal information.

(2) An offence against this section is a strict liability offence.

**[1.6] New sections 27A and 27B**

*insert*

**27A Offence to destroy etc register**

(1) A person commits an offence if the person destroys, defaces or damages the register of adoptions.

Maximum penalty: 5 penalty units.

(2) An offence against this section is a strict liability offence.

**27B Offence to re-register birth**

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

- (a) obtains the re-registration of the birth of an adopted child; and
- (b) the re-registration is obtained otherwise than in accordance with this regulation.

Maximum penalty: 5 penalty units.

(2) An offence against this section is a strict liability offence.

**[1.7] Section 28 heading**

*substitute*

**28 Obligations of registrar-general**

**[1.8] Section 28 (1)**

*omit*

**Part 1.3 Animal Welfare Act 1992**

**[1.9] New section 3A**

*insert*

**3A 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 all offences against this Act (see Code, pt 2.1).

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.

**[1.10] Section 6A**

*substitute*

**6A Identity cards**

- (1) The chief executive must give an authorised person an identity card stating the person's name and position.
- (2) The identity card must show—
  - (a) a recent photograph of the person; and
  - (b) the card's date of issue and expiry; and
  - (c) anything else prescribed by regulation.

- (3) A person commits an offence if—
- (a) the person stops being an authorised person; and
  - (b) the person does not return the person's identity card to the chief executive as soon as practicable, but no later than 7 days after the day the person stops being an authorised person.

Maximum penalty: 1 penalty unit.

- (4) An offence against this section is a strict liability offence.
- (5) In this section:

*authorised person* means a person holding any of the following positions:

- (a) the authority;
  - (b) a delegate of the authority with any delegated powers of an inspector.
- (6) Subsection (2) applies only in relation to a card given by the chief executive after the commencement of this section.
- (7) Subsection (6) is declared to be a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (8) Subsections (6) and (7) and this subsection expire on the day they commence.

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**[1.11] Part 2**

*substitute*

## **Part 2 Animal welfare offences**

### **7 Cruelty**

A person commits an offence if the person commits an act of cruelty on an animal.

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

### **8 Pain**

- (1) A person commits an offence if the person causes an animal unnecessary pain.

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

- (2) A person in charge of an animal commits an offence if the person—
- (a) fails to provide it with appropriate, and adequate, food, water, shelter or exercise; or
  - (b) fails to take reasonable steps (including, if appropriate, seeking veterinary treatment) to alleviate any pain suffered by the animal; or
  - (c) abandons the animal; or
  - (d) neglects the animal in a way that causes it pain; or
  - (e) kills the animal in a way that causes it unnecessary pain.

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

**9 Confined animals**

- (1) A person in charge of a confined animal commits an offence if the person does not provide the animal with adequate exercise.

Maximum penalty: 10 penalty units.

- (2) An offence against subsection (1) is a strict liability offence.

- (3) A person commits an offence if the person confines an animal in a way that causes injury, pain, or excessive distress to the animal.

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

**10 Alleviation of pain**

- (1) A person (other than a person in charge of an animal) commits an offence if—

- (a) the person injures an animal; and  
(b) the person does not take reasonable steps (including, if appropriate, seeking veterinary treatment) to alleviate any pain suffered by the animal.

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

- (2) A person (other than a person in charge of an animal) commits an offence if—

- (a) the person injures the animal; and  
(b) the person does not take reasonable steps to tell the person in charge of the animal within 24 hours after the injury; and

- (c) if there is no person in charge of the animal or if, after taking the reasonable steps, the person cannot tell the person in charge of the animal—tell the authority, or an inspector, within 72 hours after the injury.

Maximum penalty: 10 penalty units.

**Examples of animals that may have no person in charge**

kangaroos, foxes, galahs

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) An offence against subsection (2) is a strict liability offence.

## **11 Release**

- (1) A person commits an offence if the person releases an animal from custody or control.

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

- (2) A person in charge of an animal commits an offence if the person does not take adequate precautions to prevent the release of the animal from custody or control.

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

- (3) This section does not apply—
- (a) if the person has a reasonable excuse; or
  - (b) to the release of domestic cats in the course of their reasonable management and control.

## **12 Administering poison**

- (1) A person commits an offence if the person administers poison to a domestic or native animal.

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

- (2) This section does not apply if—
- (a) the person has a reasonable excuse; or
  - (b) the administration of the poison to the animal is permitted under a territory law.

## **12A Laying poison**

- (1) A person commits an offence if the person lays a poison with the intention of killing or injuring a domestic or native animal.

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

- (2) A person commits an offence if—
- (a) the person lays a poison; and
  - (b) the person is reckless about causing the death of, or injury to, a domestic or native animal; and
  - (c) the poison causes the death of, or injury to, a domestic or native animal.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) A person commits an offence if—
- (a) the person lays a poison; and



- (b) there is a reasonable likelihood that the poison will kill or injure a domestic or native animal.

Maximum penalty: 10 penalty units.

- (4) An offence against subsection (3) is a strict liability offence.
- (5) It is a defence to a prosecution for an offence against subsection (3) if the defendant proves that the defendant took all reasonable steps to avoid death or injury to domestic and native animals.

### **13 Electrical devices**

A person commits an offence if—

- (a) the person administers an electric shock to an animal; and
- (b) the person administers the shock using an electrical device that is not prescribed by regulation for use on that kind of animal.

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

### **14 Spurs**

- (1) A person must not use spurs with sharpened or fixed rowels on an animal.

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

- (2) A person must not possess—
- (a) a spur or similar device with sharpened or fixed rowels; or
- (b) a cockfighting spur cap.

Maximum penalty: 5 penalty units.

- (3) An offence against subsection (2) is a strict liability offence.
- (4) Subsection (2) does not apply to the possession of a spur, device or cockfighting spur cap kept only—

- (a) for the purpose of display; or
- (b) as a curio or part of a collection.

## **15            Transport and containment**

A person must not transport or contain an animal in circumstances under which the animal is subjected to unnecessary injury, pain or suffering.

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

### **15A          Transport of dogs**

- (1) A person commits an offence if—
  - (a) the person carries a dog in or on a moving vehicle on a road or road related area; and
  - (b) the dog is not being used to work livestock; and
  - (c) the dog is not restrained or enclosed in a way that would prevent the dog from falling or jumping from the vehicle.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) In this section:

*road*—see the *Road Transport (Safety and Traffic Management) Act 1999*, dictionary.

*road-related area*—see the *Road Transport (Safety and Traffic Management) Act 1999*, dictionary.

## **16            Working etc unfit animals**

- (1) A person commits an offence if—
  - (a) the person works, rides, drives or otherwise uses an animal; and

- (b) the person does so—
  - (i) knowing that the animal is unfit for the use; or
  - (ii) negligent about whether the animal is fit for the use.

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

- (2) A person in charge of an animal commits an offence if—
  - (a) the person authorises the working, riding, driving or other use of the animal; and
  - (b) the person does so—
    - (i) knowing that the animal is unfit for the use; or
    - (ii) negligent about whether the animal is fit for the use.

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

## **17 Matches, competitions and baiting**

- (1) A person commits an offence if the person promotes, takes part in or attends as a spectator at a match, competition or any other activity in which an animal is released from captivity for the purpose of being—
  - (a) killed by the use of a firearm or other weapon; or
  - (b) hunted, caught, confined, injured or killed by another animal;  
or
  - (c) used to train or exercise another animal.

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

- (2) A person commits an offence if the person—

- (a) keeps, uses or assists in the management of premises used for—
  - (i) fights between animals; or
  - (ii) the baiting or mistreating of animals; or
- (b) uses or allows an animal in captivity to kill another animal; or
- (c) keeps an animal, or has the custody, care or control of an animal, with the intention of—
  - (i) using the animal as a lure for blooding greyhounds; or
  - (ii) killing the animal for the purpose of blooding greyhounds; or
  - (iii) using the animal in any other way in relation to the training and racing of coursing dogs.

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

- (3) This section does not apply in relation to—
  - (a) the rehabilitation of native animals for release into the wild in a way authorised under a territory law; or
  - (b) the keeping and display of animals whose normal diet includes live food; or
  - (c) the mustering and working of stock within the meaning of the *Stock Act 2005*.

## **18 Rodeos and game parks**

- (1) A person commits an offence if the person conducts or takes part in a rodeo.

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

- (2) A person commits an offence if the person promotes or conducts a game park.

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

- (3) In this section:

*game park* means premises where—

- (a) animals other than fish are confined; and
- (b) the taking and killing of those animals as a sport or recreation is permitted on payment of a fee or other consideration.

*take*, in relation to an animal, includes hunt, shoot, poison, net, snare, spear, pursue, capture and injure the animal.

## **19 Medical and surgical procedures—people other than veterinary surgeons**

- (1) A person who is not a veterinary surgeon commits an offence if the person carries out a medical or surgical procedure on an animal.

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

- (2) This section does not apply to—

- (a) a medical procedure of a prophylactic or therapeutic nature carried out on the animal in accordance with directions given by a veterinary surgeon; or
- (b) a medical or surgical procedure carried out in accordance with accepted animal husbandry practice in relation to—
  - (i) farming and grazing activities; or
  - (ii) the management of a zoo; or
  - (iii) the management of native animals; or

- (c) a medical or surgical procedure carried out in accordance with a licence or authorisation, subject to any written direction of an ethics committee; or
- (d) the removal of a dog's dewclaws within 10 days after its birth.

**19A            Medical and surgical procedures—veterinary surgeons**

- (1) A veterinary surgeon must not do any of the following for a purpose other than a therapeutic purpose:
  - (a) dock a dog's tail;
  - (b) crop a dog's ear;
  - (c) remove a dog's ear;
  - (d) remove a dog's dewclaws after 10 days after its birth;
  - (e) perform a clitoridectomy on a dog;
  - (f) carry out any other procedure prescribed by regulation.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

**20            Exception—approved code of conduct**

This part (other than the following provisions) does not apply if the conduct making up the offence was in accordance with an approved code of practice:

- (a) section 14 (Spurs);
- (b) section 17 (1) or (2) (Matches, competitions and baiting);
- (c) section 18 (1) or (2) (Rodeos and game parks);
- (d) section 19A (Medical and surgical procedures—veterinary surgeons).

---

**[1.12] Section 25**

*substitute*

**25 Research, teaching and breeding**

- (1) A person commits an offence if the person—
- (a) uses or breeds an animal for research or teaching; and
  - (b) the person does not have a licence to do so.

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

- (2) This section does not apply to—
- (a) an authorised person, or a person assisting an authorised person; or
  - (b) a person who uses or breeds an animal in the course of employment or engagement by a licensee; or
  - (c) a person who uses an animal prescribed by regulation for teaching purposes in a preschool or primary school; or
  - (d) an interstate researcher to whom section 49B (1) applies; or
  - (e) a person who uses or breeds an animal in the course of employment or engagement by an interstate researcher to whom section 49B (1) applies.

**[1.13] Section 36**

*substitute*

**36 Return of cancelled and suspended licences**

- (1) A person commits an offence if—
- (a) the person's licence is cancelled or suspended; and

- (b) the person does not return the person's licence to the authority within 7 days after the day the cancellation or suspension takes effect.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

**[1.14] Section 37**

*substitute*

**37 Research and teaching using animals**

- (1) A person employed or engaged by a licensee commits an offence if the person—
  - (a) conducts a program of research using animals and the person does not hold a research authorisation for the research; or
  - (b) conducts a program of teaching using animals and the person does not hold a teaching authorisation for the teaching.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) This section does not apply to—
  - (a) a person providing research or teaching assistance for the program; or
  - (b) an interstate researcher to whom section 49B (1) applies; or
  - (c) a person who uses or breeds an animal in the course of employment or engagement by an interstate researcher to whom section 49B (1) applies.



---

**[1.15] Section 42**

*substitute*

**42 Identity certificate for authorised people**

- (1) The ethics committee must give an authorised person an identity certificate stating the person's name and that the person is an authorised person.

*Note* If a form is approved under s 110A for an identity certificate, the form must be used.

- (2) The identity certificate must show a recent photograph of the person.
- (3) An authorised person commits an offence if—
- (a) an authorised officer asks the person to produce the person's identity certificate; and
  - (b) the person does not produce the certificate.

Maximum penalty: 5 penalty units.

- (3) An offence against this section is a strict liability offence.

**[1.16] Section 49**

*substitute*

**49 Return of cancelled and suspended authorisations**

- (1) A person commits an offence if—
- (a) the person ceases to be an authorised person; and
  - (b) the person does not return the person's authorisation and the person's identity certificate issued under section 42 (1), as soon as practicable, but no later than 7 days after the day the person ceases to be an authorised person, to—
    - (i) the licensee; or

- (ii) if the authorisation ceases to have effect under section 48—the authority.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.

**[1.17] Section 51**

*substitute*

**51 Circuses**

- (1) A person commits an offence if—
- (a) the person conducts a circus; and
  - (b) the circus has performing animals (but is not a travelling zoo); and
  - (c) the person does not have a permit to conduct the circus.

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

- (2) A person commits an offence if the person conducts a circus using a prohibited circus animal.

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

- (3) A person commits an offence if the person imports a prohibited circus animal into the ACT as part of a circus troupe.

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

- (4) For subsection (3), it does not matter whether the animal is imported into the ACT for use in the circus.

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**[1.18] Section 59**

*substitute*

**59 Return of cancelled and suspended circus permits**

- (1) A person commits an offence if—
- (a) the person's circus permit is cancelled or suspended; and
  - (b) the person does not return the permit to the authority within 7 days after the day the cancellation or suspension takes effect.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.

**[1.19] Division 6.1**

*substitute*

**Division 6.1 Trapping offences**

**60 Steel-jawed traps and prohibited traps**

- (1) A person commits an offence if the person sets a steel-jawed trap or prohibited trap with the intention of catching an animal.

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

- (2) A person commits an offence if the person possesses a steel-jawed trap or prohibited trap.

Maximum penalty: 5 penalty units.

- (3) An offence against this section is a strict liability offence.

- (4) Subsection (2) does not apply in relation to the possession of a trap kept only—

- (a) for the purpose of display; or
- (b) as a curio or part of a collection.

- (5) In this section:

*prohibited trap* means a trap prescribed by regulation for this section.

## **61 Restricted traps**

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

- (a) sets a restricted trap with the intention of catching an animal;  
and
- (b) does not hold a trapping permit.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) In this section:

*restricted trap* means a trap prescribed by regulation for this section.

## **62 Trapping—general**

- (1) A person commits an offence if the person sets a trap with the intention of catching an animal.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) This section does not apply in relation to a trap set on premises—

- (a) by the occupier of the premises; or
- (b) with the express permission of the occupier.

- (3) In this section:

*occupier* includes an employee, agent or relative of the occupier.

---

**[1.20] Section 73**

*substitute*

**73 Return of cancelled and suspended trapping permits**

- (1) A person commits an offence if—
- (a) the person's trapping permit is cancelled or suspended; and
  - (b) the person does not return the person's permit to the authority within 7 days after the day the cancellation or suspension takes effect.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.

**[1.21] Section 78**

*substitute*

**78 Identity cards**

- (1) The chief executive must give an authorised person an identity card stating the person's name and position.
- (2) The identity card must show—
- (a) a recent photograph of the person; and
  - (b) the card's date of issue and expiry; and
  - (c) anything else prescribed by regulation.
- (3) A person commits an offence if—
- (a) the person stops being an authorised person; and
  - (b) the person does not return the person's identity card to the chief executive as soon as practicable, but no later than 7 days after the day the person stops being an authorised person.

Maximum penalty: 1 penalty unit.

- (4) An offence against this section is a strict liability offence.
- (5) In this section:  
*authorised person* means a person holding any of the following positions:
  - (a) inspector (other than a police officer);
  - (b) authorised officer.
- (6) Subsection (2) applies only in relation to a card given by the chief executive after the commencement of this section.
- (7) Subsection (6) is declared to be a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (8) Subsections (6) and (7) and this subsection expire on the day they commence.

**[1.22] Section 82 (2)**

*substitute*

- (2) An inspector must not—
  - (a) give a document seized under subsection (1) to someone else (other than the authority); or
  - (b) give a copy of a document inspected or seized under subsection (1) to someone else (other than the authority); or
  - (c) communicate to someone else (other than the authority) the contents of a document inspected or seized under subsection (1).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.
- (3) Subsection (2) does not apply if the document or copy is given, or the communication is made for the purposes of the investigation or prosecution of an offence.

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**[1.23] Section 84 (2)**

*substitute*

- (2) An authorised officer must not—
- (a) give a document seized under subsection (1) to someone else (other than the authority); or
  - (b) give a copy of a document inspected or seized under subsection (1) to someone else (other than the authority); or
  - (c) communicate to someone else (other than the authority) the contents of a document inspected or seized under subsection (1).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) Subsection (2) does not apply if the document or copy is given, or the communication is made for the purposes of the investigation or prosecution of an offence.

**[1.24] Section 85 (6)**

*substitute*

- (6) A person must not contravene a direction given to the person under subsection (5).

Maximum penalty: 50 penalty units.

- (7) An offence against this section is a strict liability offence.

**[1.25]    Division 7.8**

*substitute*

**Division 7.8            Offences in relation to veterinary  
                                 surgeons**

**91            Obstructing etc veterinary surgeon**

A person must not hinder, obstruct, intimidate or resist a veterinary surgeon in the exercise of the veterinary surgeon's functions under this Act.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

*Note*        The Criminal Code, pt 3.6 and pt 3.8 include offences for giving false and misleading statements to, or obstructing, Territory public officials.

**[1.26]    Section 101 (4)**

*substitute*

- (4) A person must not engage in conduct that contravenes an order under subsection (2) or (3).

Maximum penalty (subsection (4)): 50 penalty units, imprisonment for 6 months or both.

**[1.27]    Section 103 (4)**

*substitute*

- (4) A person must not engage in conduct that contravenes an order under subsection (2) or (3).

Maximum penalty (subsection (4)): 50 penalty units, imprisonment for 6 months or both.



**[1.28] Dictionary, new definition**

*insert*

*engage in conduct* means—

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

**[1.29] Dictionary, definitions of *prohibited trap* and *restricted trap***

*omit*

**Part 1.4                      Animal Welfare (Amendment) Act  
1997**

**[1.30] Section 4, new section 9A**

*substitute*

**9A                      Battery hens**

A person commits an offence if—

- (a) the person keeps hens for egg production; and
- (b) the hens are kept in a battery cage system.

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

**[1.31] Section 5**

*substitute*

**5                      New section 20 (a)**

*before section 20 (a), insert*

- (a) section 9A (Battery hens)

**5A            Section 20 (a) to (d) (as amended)**

*renumber as section 20 (a) to (e)*

## **Part 1.5                            Animal Welfare Regulation 2001**

**[1.32]        New section 4A**

*insert*

**4A            Offences against regulation—application of Criminal Code etc**

Other legislation applies in relation to offences against this regulation.

*Note 1    Criminal Code*

The Criminal Code, ch 2 applies to all offences against this regulation (see Code, pt 2.1).

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.

**[1.33]        Section 8 (1)**

*substitute*

- (1) A person commits an offence if—
- (a) the person keeps a domestic fowl (*Gallus gallus*) for producing eggs; and
  - (b) the cage in which the fowl is kept does not have enough floor space.

Maximum penalty: 10 penalty units.

(1A) An offence against this section is a strict liability offence.

**[1.34] Section 8 (1A) to (5) (as amended)**

*renumber as section 8 (2) to (6)*

## **Part 1.6 Annual Leave Act 1973**

**[1.35] Section 2 (1), new definition of *registrar***

*insert*

*registrar* means the Registrar of Annual Leave under section 14A.

**[1.36] New sections 2A and 2B**

*insert*

### **2A Notes**

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

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

### **2B 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 all offences against this Act (see Code, pt 2.1).

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.

**[1.37]    Section 7 (5)**

*substitute*

- (5) An employer commits an offence if, not later than 4 weeks before the day the employee becomes entitled to annual leave under this Act, the employer does not give to the employee a written notice setting out—
- (a) the date the employee will become entitled to the annual leave; and
  - (b) the date the period of 6 months mentioned in subsection (2) ends.

Maximum penalty: 50 penalty units.

- (5A) An offence against this section is a strict liability offence.

**[1.38]    Section 7 (5A) and (6) (as amended)**

*renumber as section 7 (6) and (7)*

**[1.39]    Section 13**

*substitute*

**13        Annual leave records**

- (1) An employer must keep a record for each of the employer's employees that includes—
- (a) the name, occupation and classification of the employee; and
  - (b) whether the employee is full-time, part-time or casual; and
  - (c) the employee's ordinary remuneration (including the gross and net amounts paid), the base rate of pay and any loading payable to the employee, and the purpose of the loading; and
  - (d) the number of hours worked each week by the employee; and
  - (e) the date when the employee started service; and

- (f) the period of any annual leave taken by the employee; and
- (g) each other occasion when the employee has been absent from the employment; and
- (h) if the employee has ceased to be employed by the person—the date when, and how, the employment ceased; and
- (i) the date of birth of the employee as provided by the employee; and
- (j) the name of each award or agreement under which the employee has entitlements; and
- (k) if overtime may be paid to the employee under an award or agreement—
  - (i) the number of hours worked by the employee during each day; and
  - (ii) when the employee started and ceased work.

Maximum penalty: 20 penalty units.

- (2) An employer must keep a record mentioned in subsection (1) for 2 years after the day when the employee to whom the record relates ceases to be employed by the employer.

Maximum penalty: 20 penalty units.

- (3) If an authorised officer asks to inspect a record kept by an employer under subsection (1), the employer must make the record available for inspection by the authorised officer during ordinary business hours at the employer's place of business.

Maximum penalty: 50 penalty units.

- (4) An offence against this section is a strict liability offence.

**[1.40] Section 14C**

*substitute*

**14C Identity cards**

- (1) The chief executive must give an authorised person an identity card stating the person's name and position.
- (2) The identity card must show—
  - (a) a recent photograph of the person; and
  - (b) the card's date of issue and expiry; and
  - (c) anything else prescribed by regulation.
- (3) A person commits an offence if—
  - (a) the person stops being an authorised person; and
  - (b) the person does not return the person's identity card to the chief executive as soon as practicable, but no later than 7 days after the day the person stops being an authorised person.

Maximum penalty: 1 penalty unit.

- (4) An offence against this section is a strict liability offence.
- (5) In this section:

***authorised person*** means a person holding any of the following positions:

- (a) registrar;
  - (b) delegate of the registrar with any delegated powers of an authorised officer;
  - (c) authorised officer.
- (6) Subsection (2) applies only in relation to a card given by the chief executive after the commencement of this section.

- (7) Subsection (6) is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (8) Subsections (6) and (7) and this subsection expire on the day they commence.

**[1.41] Section 14F**

*substitute*

**14F Notice to comply with Act**

- (1) If an authorised officer is satisfied that an employer is not complying with this Act, the authorised officer may give the employer a written notice requiring the employer to comply with the Act within the period stated in the notice.
- (2) The period stated in the notice must not be less than 28 days after the day the employer is given the notice.
- (3) An employer must comply with a requirement made of the employer under subsection (1).  
Maximum penalty: 50 penalty units.
- (4) An offence against this section is a strict liability offence.

**[1.42] Section 14J**

*omit*

**[1.43] Section 15**

*substitute*

**15 Amount payable by employer—offence**

- (1) An employer commits an offence if—
  - (a) an amount is payable by the employer to a person under this Act; and





(b) fails to carry out the undertaking.

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

- (2) The court may issue a warrant to arrest the person and to bring the person before the court.
- (3) Subsection (1) does not apply if the person has a reasonable excuse for failing to carry out the undertaking.

**[1.46] Section 51**

*substitute*

**51 Indemnification of sureties**

- (1) A person commits an offence if the person indemnifies, or agrees to indemnify, anyone else against a liability the other person incurs or may incur as surety for an accused person.

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

- (2) A person commits an offence if the person is indemnified, or agrees to be indemnified, by someone else against a liability the person incurs or may incur as surety for an accused person.

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

- (3) For this section, it does not matter whether—
- (a) the agreement is for compensation in money or anything else; or
- (b) the agreement is made before or after the person indemnified, or agreed to be indemnified, becomes a surety; or
- (c) the person indemnified, or agreed to be indemnified, becomes a surety.

## Part 1.8 Births, Deaths and Marriages Registration Act 1997

### [1.47] New section 4A

*in part 1, insert*

#### 4A 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 all offences against this Act (see Code, pt 2.1).

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.

### [1.48] Section 5

*substitute*

#### 5 Notification of births

- (1) If a child is born in the ACT, the responsible person must give the registrar-general written notice of the birth in accordance with subsection (2).

Maximum penalty: 5 penalty units.

- (2) The notice must—
- (a) include the particulars prescribed by regulation and be accompanied by any certificate required to be given to or by the relevant doctor under subsection (4); and

- (b) be given to the registrar-general within—
- (i) for a child born alive—7 days after the day of the birth;  
or
  - (ii) for a stillbirth—48 hours after the birth.
- (3) In subsection (1):
- responsible person** means—
- (a) if the child was born in a hospital or brought to a hospital within 24 hours after the birth—the chief executive officer of the hospital; or
  - (b) in any other case—the doctor or midwife responsible for the professional care of the mother at the birth.
- (4) If the birth is a stillbirth, a relevant doctor must, within 48 hours after the birth, give a certificate of the cause of foetal death to—
- (a) if the stillbirth was in a hospital or the body of the stillborn child was brought to a hospital within 24 hours after the birth—the chief executive of the hospital; or
  - (b) in any other case—the doctor or midwife responsible for the professional care of the mother at the birth.

Maximum penalty: 5 penalty units.

*Note* If a form is approved under s 69 for a certificate, the form must be used.

- (5) In subsection (4):
- relevant doctor** means—
- (a) the doctor responsible for the professional care of the mother at the birth; or
  - (b) a doctor who examined the body of the stillborn child after the birth.
- (6) An offence against this section is a strict liability offence.

- (7) Subsection (4) does not apply if the relevant doctor believed, on reasonable grounds, that another doctor had given the required certificate.

**[1.49]      New section 9 (5)**

*insert*

- (5) The registrar-general must not refuse to accept a birth registration statement only because it is not lodged within 60 days after the day of the birth.

**[1.50]      Section 10**

*substitute*

**10            Obligation to have birth registered**

- (1) A person responsible for having the birth of a child registered must lodge a birth registration statement acceptable to the registrar-general with the registrar-general within 60 days after the day of the birth.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.

**[1.51]      Section 28**

*substitute*

**28            Use of old birth certificate to deceive**

- (1) A person commits an offence if—
- (a) the person produces a birth certificate to someone else that shows a transsexual person's sex before the record was altered; and

(b) the person produces the certificate with intent to deceive.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(2) It is not a defence to a prosecution for an offence against this section that the document in relation to which the prosecution is brought refers to the defendant.

(3) In this section:

*birth certificate* includes—

(a) a copy of a birth certificate; and

(b) an extract from a birth certificate.

**[1.52] Section 35**

*substitute*

**35 Notification of deaths by doctors**

(1) A doctor must give the registrar-general written notice of the death and cause of death of a person within 48 hours after the death if the doctor—

(a) was responsible for the deceased person's medical care immediately before the death; or

(b) examined the body of the deceased person after the death.

Maximum penalty: 5 penalty units.

*Note* If a form is approved under s 69 for a notice, the form must be used.

(2) An offence against this section is a strict liability offence.

(3) This section does not apply if the doctor believed, on reasonable grounds, that—

(a) another doctor had given the required notice; or

- (b) the death had been reported to a coroner under the *Coroners Act 1997*.

**[1.53] Section 37**

*substitute*

**37 Notification by funeral directors etc**

- (1) If a funeral director or someone else arranges for the disposal of human remains in the ACT, the person must, within 7 days after the day the remains are disposed, give the registrar-general a written statement containing as much of the following information as the person knows or can reasonably find out:
- (a) the name and last home address of the deceased person;
  - (b) if the death was reported to a coroner—that fact;
  - (c) where and how the remains were disposed of;
  - (d) any other information required by regulation.

Maximum penalty: 5 penalty units.

- (2) If a funeral director or someone else arranges for human remains (other than cremated remains) to be removed from the ACT, the person must, within 28 days after the day the remains are disposed of outside the ACT, give the registrar-general a written statement containing as much of the following information as the person knows or can reasonably find out:
- (a) the name and last home address of the deceased person;
  - (b) if the death was reported to a coroner—that fact;
  - (c) where and how the remains were disposed of;
  - (d) any other information required by regulation.

Maximum penalty: 50 penalty units.

- (3) If a funeral director or someone else has the custody of human remains that have not been disposed of within 30 days after the day of the death, the person must give the registrar-general a written statement containing as much of the following information as the person knows or can reasonably find out:
- (a) the name and last home address of the deceased person;
  - (b) if the death was reported to a coroner—that fact;
  - (c) any other information required by regulation.

Maximum penalty: 10 penalty units

- (4) An offence against this section is a strict liability offence.
- (5) In this section:

***disposal***, in relation to human remains, means—

- (a) cremation; or
- (b) burial, including burial at sea; or
- (c) placing the remains in a mausoleum or other permanent resting place; or
- (d) placing the remains in the custody of an educational or scientific institution for the purpose of medical education or research; or
- (e) removal from the ACT, unless the remains have been cremated.

***funeral director*** means a person who carries on the business of arranging for the disposal of human remains.

***human remains*** includes the remains of a stillborn child.

**[1.54]      Section 41 (3)**

*substitute*

- (3) A person commits an offence if the person fails to comply with a notice given to the person under subsection (2).

Maximum penalty: 50 penalty units.

*Note*      The Legislation Act, s 170 and s 171 deals with the application of the privilege against selfincrimination and client legal privilege.

- (4) An offence against this section is a strict liability offence.

**[1.55]      Section 50**

*substitute*

**50            Unauthorised access to, or interference with, register**

A person commits an offence if the person—

- (a) does any of the following:
- (i) obtains access to the register, records maintained under section 47 or information contained in the register or those records;
  - (ii) makes, alters or deletes an entry in the register or those records;
  - (iii) interferes with the register or those records in any other way; and
- (b) does so without the registrar-general's authority.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.



**[1.56] Section 51 (3)**

*substitute*

- (3) A person commits an offence if the person fails to comply with a requirement made of the person, or a notice given to the person, under subsection (2).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

*Note* The Legislation Act, s 170 and s 171 deals with the application of the privilege against selfincrimination and client legal privilege.

**[1.57] Section 52 (3)**

*substitute*

- (3) A person commits an offence if the person fails to comply with a notice given to the person under subsection (2).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

*Note* The Legislation Act, s 170 and s 171 deals with the application of the privilege against selfincrimination and client legal privilege.

## **Part 1.9 Boxing Control Act 1993**

**[1.58] New sections 3A and 3B**

*in part 1, insert*

**3A Notes**

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

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

### **3B 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 all offences against this Act (see Code, pt 2.1).

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.

#### **[1.59] Section 5**

*substitute*

### **5 Boxing contests**

A person commits an offence if—

- (a) the person conducts a boxing contest; and
- (b) an approval under section 8 is not in force for the contest.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

#### **[1.60] Section 8 (7)**

*substitute*

- (7) A person must not contravene a condition of an approval given to the person.

Maximum penalty: 50 penalty units.

- (8) An offence against this section is a strict liability offence.

---

**[1.61] Sections 10 to 13**

*substitute*

**10 Boxing officials**

- (1) A person commits an offence if the person—
- (a) participates in a professional boxing contest otherwise than as a boxer; and
  - (b) is not registered for that participation.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) In this section:

*registered* means registered under the New South Wales Act, section 20 (Determination of application) or section 25 (Determination of application).

**11 Professional boxers**

- (1) A male commits an offence if he—
- (a) engages in a professional boxing contest involving a particular style of boxing; and
  - (b) is not registered as a boxer of the class that is appropriate to that style.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) In this section:

*registered* means registered under the New South Wales Act, section 9 (Determination of application) or section 13 (Determination of application).

## 12 Amateur boxers

- (1) A person commits an offence if—
- (a) the person—
    - (i) engages in an amateur boxing contest (other than a kick boxing contest) as a boxer; or
    - (ii) participates in an amateur boxing contest (other than a kick boxing contest) as a boxing official; and
  - (b) the person is not a member of Boxing Australia Incorporated or an affiliated body.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person commits an offence if—
- (a) the person—
    - (i) engages in an amateur kick boxing contest as a kick boxer; or
    - (ii) participates in an amateur kick boxing contest as a kick boxing official; and
  - (b) a written approval by an approved body is not in force for the contest.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) In this section:

*approved body* means a body approved under section 13.

## 13 Approval of certain bodies for s 12

- (1) The Minister may, in writing, approve a body for section 12 (2).

- (2) An approval is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

### **13A Female boxing contests**

A female commits an offence if—

- (a) she engages in a professional boxing contest; and
- (b) an approval under section 14 is not in force for the contest.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

#### **[1.62] Section 18 (1) (e)**

*substitute*

- (e) to refuse to approve an organisation under section 13 (Approval of certain bodies for s 12); or

## **Part 1.10 Building and Construction Industry Training Levy Act 1999**

#### **[1.63] New section 3A**

*in part 1, insert*

### **3A 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 all offences against this Act (see Code, pt 2.1).

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.

**[1.64] Section 20 (2)**

*substitute*

- (2) A project owner must not contravene subsection (1).  
Maximum penalty: 50 penalty units.
- (3) An offence against this section is a strict liability offence.

**[1.65] Section 30**

*substitute*

**30 Identity cards**

- (1) The authority must give an inspector an identity card stating the person's name and that the person is an inspector.
- (2) The identity card must show—
  - (a) a recent photograph of the person; and
  - (b) the card's date of issue and expiry; and
  - (c) anything else prescribed by regulation.
- (3) A person commits an offence if—
  - (a) the person stops being an inspector; and
  - (b) the person does not return the person's identity card to the authority as soon as practicable, but no later than 7 days after the day the person stops being an inspector.

Maximum penalty: 1 penalty unit.
- (4) An offence against this section is a strict liability offence.

- 
- (5) Subsection (2) applies only in relation to a card given by the authority after the commencement of this section.
- (6) Subsection (5) is declared to be a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (7) Subsections (5) and (6) and this subsection expire on the day they commence.
- (8) If this section commences before the *Financial Management Legislation Amendment Act 2005* commences, a reference in this section to the authority is taken to be a reference to the board.
- (9) Subsection (8) and this subsection expire on the later of—
- (a) the commencement of this section; and
  - (b) the commencement of the *Financial Management Legislation Amendment Act 2005*.

**[1.66] Section 35**

*substitute*

**35 Contravention of requirement by inspector**

A person must take all reasonable steps to comply with a requirement made of the person under section 34 (1) (b), (d) or (e).

Maximum penalty: 50 penalty units.

*Note* The Legislation Act, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

## Part 1.11                            Business Names Act 1963

### [1.67]    New sections 4A and 4B

*insert*

#### 4A            Notes

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

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

#### 4B            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 all offences against this Act (see Code, pt 2.1).

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.

### [1.68]    Section 5 (1)

*substitute*

- (1) A person must not, alone or with anyone else, carry on business in the ACT under a business name if—
  - (a) the business name is not registered under this Act for each person carrying on the business; or



(b) section 12 (Notification of changes in particulars relating to registered business names etc) has not been complied with.

Maximum penalty: 50 penalty units.

(1A) An offence against this section is a strict liability offence.

(1B) Subsection (1) does not apply if the business name consists of the name of each person carrying on the business, without any addition.

**[1.69] Section 5 (1A) to (5) (as amended)**

*renumber as section 5 (2) to (7)*

**[1.70] Section 12 (11)**

*omit*

**[1.71] Section 12 (12) and (13)**

*renumber as section 12 (11) and (12)*

**[1.72] New section 12A**

*insert*

**12A Failing to lodge statements—offence**

- (1) A person commits an offence if—
- (a) a statement is required by section 12 (Notification of changes in particulars relating to registered business names etc) to be lodged with the registrar-general; and
  - (b) the person is required or authorised by that section to sign the statement; and
  - (c) the statement—
    - (i) is not lodged in accordance with that section; or

(ii) does not comply with that section.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant took reasonable steps to comply with section 12.

**[1.73] Section 13**

*substitute*

**13 Duty to give information**

- (1) The registrar-general may, by written notice given to a person, require the person to give information the registrar-general reasonably needs to find out whether a person—
- (a) is carrying on business, alone or with anyone else, under a business name that is required to be registered under this Act; or
- (b) has failed to lodge with the registrar-general a statement required to be lodged under this Act.
- (2) The information must be given within the period stated in the notice or, if the registrar-general allows a longer period, the longer period.
- (3) The period stated in the notice must be not less than 28 days after the day the notice is given to the person.
- (4) A person commits an offence if—
- (a) the person is required to give information to the registrar-general under subsection (1); and

- (b) the person does not take all reasonable steps to comply with the requirement within the period applying under subsection (2).

Maximum penalty: 50 penalty units.

- (5) An offence against this section is a strict liability offence.
- (6) The person cannot rely on the common law privileges against selfincrimination and exposure to the imposition of a civil penalty to refuse to give the information.

*Note* The Legislation Act, s 171 deals with client legal privilege.

- (7) However, any information obtained, directly or indirectly, because of the giving of the information, is not admissible in evidence against the person in a criminal proceeding, other than a proceeding for—
- (a) an offence against this section; or
- (b) any offence in relation to the falsity or the misleading nature of the information.

**[1.74] Section 20**

*substitute*

**20 Use and display of business name**

- (1) A person commits an offence if—
- (a) the person, alone or with anyone else, carries on business under a business name registered under this Act; and
- (b) the person—
- (i) issues or signs any document for the business that does not display the business name in legible characters; or
- (ii) does not display the business name in a conspicuous place outside each place of business; or

- (iii) does not display the certificate of registration of the business name in a conspicuous place at the place of business or, if the business is carried on at more than 1 place, the main place of business.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant took reasonable steps to comply with this section.

**[1.75] Section 26**

*substitute*

**26 Invitations to public to make deposits or loans**

- (1) A person commits an offence if—
  - (a) a business is carried on in the ACT under a business name that is registered or required to be registered under this Act; and
  - (b) the person—
    - (i) uses or refers to the business name in an invitation to the public, or advertisement inviting the public, to deposit money with or lend money to the person, or the firm, who is carrying on the business; or
    - (ii) uses or refers to the business name in relation to any deposit or loan.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) This section does not apply to an invitation to the public made by a public company in accordance with the Corporations Act.

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## **Part 1.12 City of Canberra Arms Act 1932**

### **[1.76] Section 4**

*substitute*

#### **4 Notes**

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

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

#### **5 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 all offences against this Act (see Code, pt 2.1).

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.

#### **6 Unauthorised use of City of Canberra Arms**

- (1) A person commits an offence if the person uses in relation to any trade, business, calling or profession—
  - (a) the City of Canberra Arms; or
  - (b) arms or a device or design that is likely to be taken to be the City of Canberra Arms.

Maximum penalty: 30 penalty units.

- (2) An offence against this section is a strict liability offence.

- (3) This section does not apply in relation to a use authorised by the Minister.
- (4) If, in a prosecution for an offence against this section, it is proved that the City of Canberra Arms or the other arms, device or design was displayed on any goods manufactured, produced, sold or offered for sale by the defendant, it is presumed, unless the contrary is proved, that the defendant used it in relation to a trade, business, calling or profession.

## Part 1.13                      Clinical Waste Act 1990

### [1.77]    New sections 2A and 2B

*insert*

#### 2A            Notes

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

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

#### 2B            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 all offences against this Act (see Code, pt 2.1).

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.

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**[1.78] Section 10**

*substitute*

**10 Identity cards**

- (1) The chief executive must give an authorised person an identity card stating the person's name and position.
- (2) The identity card must show—
  - (a) a recent photograph of the person; and
  - (b) the card's date of issue and expiry; and
  - (c) if the person is only authorised to exercise functions under particular provisions of this Act—the provisions; and
  - (d) anything else prescribed by regulation.
- (3) A person commits an offence if—
  - (a) the person stops being an authorised person; and
  - (b) the person does not return the person's identity card to the chief executive as soon as practicable, but no later than 7 days after the day the person stops being an authorised person.

Maximum penalty: 1 penalty unit.

- (4) An offence against this section is a strict liability offence.
- (5) In this section:

***authorised person*** means a person holding any of the following positions:

- (a) the controller;
- (b) a delegate of the controller with any delegated powers of an inspector;
- (c) an inspector mentioned in section 9 (3) (a).

- (6) Subsection (2) applies only in relation to a card given by the chief executive after the commencement of this section.
- (7) Subsection (6) is declared to be a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (8) Subsections (6) and (7) and this subsection expire on the day they commence.

**[1.79]    Section 26**

*substitute*

**26        Return of licence**

- (1) If the controller varies, suspends or cancels a licence, the licensee must return the licence to the controller within 7 days after the day the variation, suspension or cancellation takes effect.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) If the licence has been varied, the controller must endorse the variation on the licence and return the licence to the licensee.

**[1.80]    Sections 28 to 30**

*substitute*

**28        Handling—general**

A person commits an offence if the person—

- (a) stores, transports or disposes of clinical waste; and



- (b) is negligent about whether the way in which the waste is stored, transported or disposed of would cause injury or disease to someone dealing with the waste.

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

**29 Handling—regulated premises**

- (1) A person commits an offence if—
- (a) the person stores, transports or disposes of clinical waste; and
  - (b) the waste is derived from regulated premises; and
  - (c) the person does not store, transport or dispose of the waste in accordance with the manual.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) An offence against this section is a strict liability offence.

**30 Unlicensed transport**

- (1) A person commits an offence if the person—
- (a) conducts a business of transporting clinical waste; and
  - (b) is not licensed to conduct the business.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) An offence against this section is a strict liability offence.

**[1.81]    Section 34**

*omit*

An inspector

*substitute*

- (1) An inspector

**[1.82]    New section 34 (2)**

*insert*

- (2) A person must take all reasonable steps to comply with a requirement made of the person under subsection (1) (h), (i) or (j).

Maximum penalty: 50 penalty units.

*Note*    The Legislation Act, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

**[1.83]    Section 38**

*omit*

## **Part 1.14            Community Title Act 2001**

**[1.84]    New section 4A**

*in part 1, insert*

### **4A            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 all offences against this Act (see Code, pt 2.1).

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.

**[1.85] Section 58**

*substitute*

**58 Failure to give certificate or access—offence**

- (1) A person commits an offence if—
- (a) the person is a member of the committee of management of a body corporate; and
  - (b) the body corporate fails to comply with a request under section 56 (Community title certificate and access to body corporate records) for a community title certificate or access to books, records or documents held by the body corporate.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) It is a defence to a prosecution for an offence against this section if the defendant proves that—
- (a) the person making the request, when asked by someone acting for the body corporate, did not give the body corporate reasonable grounds to believe that the person was an eligible person; or
  - (b) the defendant took reasonable steps to ensure that the request was complied with; or
  - (c) the failure to comply with the request happened without the defendant's knowledge.

**[1.86]      Section 95**

*substitute*

**95            Notice of intention not to proceed to enforce mortgage**

- (1) A mortgagee in possession of a lot included in a community title scheme commits an offence if the mortgagee—
- (a) decides not to enforce the mortgage; and
  - (b) fails to immediately give written notice of the decision to the body corporate.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) On giving the written notice, the mortgagee ceases to be a mortgagee in possession of the lot and is not the owner of the lot under this Act.

## **Part 1.15                      Consumer and Trader Tribunal Act 2003**

**[1.87]      Section 59**

*substitute*

**59            Secrecy**

- (1) In this section:
- court* includes any entity with power to require the production of documents or the answering of questions.
- divulge* includes communicate.
- person to whom this section applies* means anyone who is, or has been—
- (a) a tribunal member; or

- (b) a member of the staff of the tribunal; or
- (c) acting under the direction or authority of the tribunal; or
- (d) providing advice or expertise to the tribunal.

*produce* includes allow access to.

*protected information* means information about a person that is disclosed to, or obtained by, a person to whom this section applies because of the exercise of a function under this Act by the person or someone else.

- (2) A person to whom this section applies commits an offence if—
  - (a) the person—
    - (i) makes a record of protected information about someone else; and
    - (ii) is reckless about whether the information is protected information about someone else; or
  - (b) the person—
    - (i) does something that divulges protected information about someone else; and
    - (ii) is reckless about whether—
      - (A) the information is protected information about someone else; and
      - (B) doing the thing would result in the information being divulged.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) This section does not apply if the record is made, or the information is divulged—
  - (a) under this Act or another territory law; or

- (b) in relation to the exercise of a function, as a person to whom this section applies, under this Act or another territory law.
- (4) Subsection (2) does not apply to the divulging of protected information about someone with the person's consent.
- (5) A person to whom this section applies need not divulge protected information to a court, or produce a document containing protected information to a court, unless it is necessary to do so for this Act or another territory law.

## Part 1.16                      Contractors Debts Act 1897

### [1.88]    New sections 2A and 2B

*insert*

#### 2A            Notes

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

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

#### 2B            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 all offences against this Act (see Code, pt 2.1).

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.

**[1.89] Section 12**

*substitute*

**12 Contractor to give information about contractees**

- (1) If the worker or tradesperson obtains a certificate of the cause of debt, the contractor must, if asked in writing by the worker or tradesperson, give the worker or tradesperson a written statement of the name and address of each contractee of the contractor.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

**Part 1.17 Coroners Act 1997**

**[1.90] Section 3 (1), new definition**

*insert*

*engage in conduct* means—

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

**[1.91] New sections 3A and 3B**

*in part 1, insert*

**3A Notes**

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

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

### **3B            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 all offences against this Act (see Code, pt 2.1).

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.

#### **[1.92]       Section 40 (3)**

*substitute*

- (3) A person commits an offence if the person engages in conduct that contravenes an order.

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

#### **[1.93]       Section 65 (2)**

*substitute*

- (2) A person commits an offence if the person enters or interferes with an area to which access is restricted under subsection (1).

Maximum penalty: 100 penalty units.

- (3) An offence against this section is a strict liability offence.
- (4) This section does not apply to a police officer, a member of an emergency service or a person assisting the coroner unless the coroner orders otherwise.



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**[1.94] Section 77**

*substitute*

**77 Obligation to report death**

- (1) A person commits an offence if the person—
- (a) knows that a death has happened; and
  - (b) has reasonable grounds to believe that—
    - (i) a coroner would have jurisdiction to hold an inquest in relation to the death; and
    - (ii) the death has not been reported to a coroner or a police officer; and
  - (c) does not report the death to a coroner or a police officer as soon as practicable after becoming aware of it and having the reasonable grounds mentioned in paragraph (b).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A police officer commits an offence if the police officer—
- (a) knows that a death has happened; and
  - (b) has reasonable grounds to believe that—
    - (i) a coroner would have jurisdiction to hold an inquest in relation to the death; and
    - (ii) the death has not been reported to a coroner; and
  - (c) does not report the death to a coroner as soon as practicable after becoming aware of it and having the reasonable grounds mentioned in paragraph (b).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**[1.95]    Section 78**

*substitute*

**78        Death in custody—obligation to report**

A custodial officer commits an offence if the custodial officer—

- (a) knows of a death in custody; and
- (b) has reasonable grounds to believe that the death has not been reported to a coroner; and
- (c) does not report the death to a coroner as soon as practicable after becoming aware of it and having the reasonable grounds mentioned in paragraph (b).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**[1.96]    Section 83**

*substitute*

**83        Improper dealing with body or ashes of dead person**

A person commits an offence if—

- (a) the person has reasonable grounds to believe that a post mortem examination of the body, or an analysis of the ashes, of a dead person has been, or may be, ordered under this Act; and
- (b) the person interferes with or removes the body or ashes of the dead person with the intention of preventing or hindering the holding of a post-mortem examination of the body, or an analysis of the ashes, being conducted under this Act.

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

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**[1.97] Section 100**

*substitute*

**100 Deaths in institutions—retention of records of dead person**

- (1) If a person dies while the person is a patient in a hospital or other institution in circumstances in which a coroner has jurisdiction to hold an inquest, the person in charge of the hospital or institution must ensure that all records relating to the person who died are kept for at least 3 years after the day of the death.

Maximum penalty: 50 penalty units.

- (2) If a person dies in custody, the responsible person must ensure that all records relating to the person who died are kept for at least 7 years after the day of the death.

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.

- (4) In subsection (2):

*responsible person*, in relation to a person who died in custody, means—

- (a) if the person died in a hospital or other institution—the person in charge of the hospital or institution; or
- (b) in any other case—the person in charge of the custodial agency in whose custody the person was when the person died.

## Part 1.18                            Duties Act 1999

### [1.98]    **New section 2C**

*insert*

#### **2C            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 all offences against this Act (see Code, pt 2.1).

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.

### [1.99]    **Section 24 (6) and (7)**

*substitute*

- (6) A person commits an offence if the person—
- (a) is a transferee in relation to dutiable transactions aggregated under this section; and
  - (b) fails to give the commissioner, in writing, no later than the time when an instrument or statement relating to the transactions is lodged for stamping, details known to the person of—
    - (i) each item or part of, or interest in, the dutiable property included or to be included in the arrangement mentioned in subsection (1); and

- (ii) the consideration for each item or part of, or interest in, the dutiable property.

Maximum penalty: 50 penalty units.

- (7) An offence against this section is a strict liability offence.

- (8) In this section:

*dutiable property* does not include marketable securities.

**[1.100] Section 144 (7)**

*substitute*

- (7) A lessor commits an offence if the lessor fails to give the commissioner, within 1 month after each estimate date, a stamped part of the lease instrument and a statutory declaration stating—

- (a) the amount of each cost component dealt with under this section that was paid between the last estimate and the date of the current estimate; and
- (b) the rate at which the cost component is payable as at the date of the current estimate.

Maximum penalty: 50 penalty units.

- (7A) An offence against this section is a strict liability offence.

**[1.101] Section 144 (7A) to (9) (as amended)**

*renumber as section 144 (8) to (10)*

**[1.102] Section 162 (5)**

*substitute*

- (5) A hirer of goods commits an offence if the hirer—
- (a) makes a statement to the person who hires out the goods, or to anyone acting for the person, that the goods will be used solely or predominantly outside the ACT; and

(b) knows that the statement is false.

Maximum penalty (subsection (5)): 50 penalty units, imprisonment for 6 months or both.

**[1.103] Section 165**

*substitute*

**165 Commercial hire business to be registered**

- (1) This section applies to a commercial hire business if—
  - (a) the business is not registered under this part; and
  - (b) the total amount of the hiring charges received by the business in a month exceeds \$6 000.
- (2) The commercial hire business commits an offence if it does not apply for registration within 21 days after the end of the month.  
Maximum penalty: 50 penalty units.
- (3) An offence against this section is a strict liability offence.

**[1.104] Section 167 (1)**

*substitute*

- (1) This section applies if a registered commercial hire business stops hiring out goods as a business.
- (1A) The commercial hire business commits an offence if it fails to—
  - (a) give written notice to the commissioner that it has stopped hiring out goods as a business; or
  - (b) lodge the return required to be lodged under this part; or

- (c) pay the duty payable in relation to the return by the 21st day of the month after the month in which the notice is given.

Maximum penalty: 50 penalty units.

- (1B) An offence against this section is a strict liability offence.

**[1.105] Section 167 (1A) to (5) (as amended)**

*renumber as section 167 (2) to (7)*

**[1.106] Section 189**

*substitute*

**189 Insurers to be registered**

An insurer commits an offence if the insurer does not register under this part.

Maximum penalty: 250 penalty units.

**[1.107] Section 192**

*substitute*

**192 Insurer stopping writing insurance business**

- (1) A registered insurer commits an offence if—
- (a) the insurer stops writing insurance business in the ACT; and
  - (b) the insurer fails to—
    - (i) give written notice to the commissioner that the insurer has stopped writing insurance business in the ACT; or
    - (ii) lodge the return required to be lodged under this part; or

- (iii) pay the duty payable in relation to the return by the 21st day of the month after the month in which the notice is given.

Maximum penalty: 250 penalty units.

- (2) If a registered insurer stops writing business in the ACT, the insurer's registration is cancelled on the day when the notice mentioned in subsection (1) (b) (i) is received by the commissioner.

**[1.108] Section 241**

*substitute*

**241 Offence to stamp without authority**

A person other than the commissioner commits an offence if the person—

- (a) impresses a stamp on an instrument in an approved style; or
- (b) impresses a stamp on an instrument in a style that resembles or purports to be an approved style.

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

**[1.109] Section 244**

*substitute*

**244 Stamping of instruments after execution**

- (1) This section applies to a person liable to duty in relation to an instrument chargeable with duty or a dutiable transaction.
- (2) The person commits an offence if the person fails to have the instrument, or an instrument that effects or evidences the transaction—
  - (a) stamped within 6 months after it is first executed; or



- (b) marked 'Interim stamp only' within 6 months after it is first executed.

Maximum penalty: 50 penalty units.

*Note* An instrument may be stamped as mentioned in par (b) under s 49 (Interim payment of duty). Also, the stamp is required under s 147 (Interim stamping of lease instrument).

- (3) An offence against this section is a strict liability offence.
- (4) For this section, an instrument that is a written statement is taken to be first executed when the transaction to which the statement relates happens.

**[1.110] Sections 247 to 249**

*substitute*

**247 Registration of instruments**

- (1) A person commits an offence if—
- (a) the person registers in a register of legal or beneficial interests in dutiable property a dutiable transaction, an instrument that effects a dutiable transaction or an instrument chargeable with duty; and
- (b) the transaction or instrument is not—
- (i) stamped; or
- (ii) marked by the commissioner or in a way approved by the commissioner; or
- (iii) endorsed in accordance with an approval under the Taxation Administration Act, division 6.2 (Special arrangements for making returns and paying tax).

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

## **248            Registration of transfers of shares**

- (1) This section applies to—
  - (a) a transfer of shares on which duty is charged; or
  - (b) a transfer made as a consequence of a sale or purchase of shares on which duty is charged.
- (2) A corporation, company or society commits an offence if it enters the transfer in its records without receiving a transfer instrument that—
  - (a) bears any of the following:
    - (i) an impressed stamp;
    - (ii) an endorsement in accordance with an approval under the Taxation Administration Act, division 6.2 (Special arrangements for making returns and paying tax);
    - (iii) an exempt stamp;
    - (iv) a current foreign resident declaration; or
  - (b) is accompanied by a current exemption certificate.

Maximum penalty: 250 penalty units.
- (3) An offence against this section is a strict liability offence.

## **249            Registration of transfers of units**

- (1) This section applies to—
  - (a) a transfer of units on which duty is charged; or
  - (b) a transfer made as a consequence of a sale or purchase of units on which duty is charged.
- (2) A trustee or manager of a unit trust scheme commits an offence if the trustee or manager enters the transfer in the records of the scheme without receiving a transfer instrument that—

- (a) bears any of the following:
- (i) an impressed stamp;
  - (ii) an endorsement in accordance with an approval under the Taxation Administration Act, division 6.2 (Special arrangements for making returns and paying tax);
  - (iii) an exempt stamp;
  - (iv) a current foreign resident declaration; or
- (b) is accompanied by a current exemption certificate.

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.

## **Part 1.19 Electricity Safety Act 1971**

### **[1.111] Section 3**

*substitute*

#### **3 Notes**

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

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

#### **3A 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 all offences against this Act (see Code, pt 2.1).

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.

**[1.112]    Sections 4 to 7**

*substitute*

**4            Connecting electrical installations to network—  
inspections**

- (1) A person commits an offence if—
- (a) the person connects a new electrical installation to an electricity network; and
  - (b) the installation has not been inspected, tested and passed by an inspector.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) This section does not apply in circumstances prescribed by regulation.

**5            Compliance with AS/NZS 3000**

- (1) A person commits an offence if—
- (a) the person carries out electrical wiring work; and
  - (b) the work does not comply with AS/NZS 3000 as in force—
    - (i) when the work is completed; or
    - (ii) if the work is not completed—when the work is carried out.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) This section does not apply to—

- (a) electrical wiring work that consists only of—
    - (i) the disconnection of an appliance or a fitting; or
    - (ii) the disconnection and reconnection of an appliance or a fitting if the electrical load is not increased; or
    - (iii) the replacement of an appliance or a fitting if the electrical load is not increased; or
  - (b) electrical wiring work prescribed by regulation; or
  - (c) electrical wiring work carried out in circumstances prescribed by regulation.
- (4) In this section:  
*fitting* means a switch, lighting point or socket outlet.

## **6 Testing and reporting of electrical work**

- (1) A person who carries out electrical wiring work commits an offence if—
- (a) the person does not ensure that the work—
    - (i) is tested in accordance with AS/NZS 3017 as in force when the test is carried out; and
    - (ii) complies with AS/NZS 3000 when the test is carried out; or
  - (b) within 14 days after the day the test is carried out, the person does not give the construction occupations registrar, or the owner of the installation for which the work was done, a report of the test in a form approved by the registrar under section 65.

Maximum penalty: 5 penalty units.

- (2) Subsection (1) does not apply to—
- (a) electrical wiring work prescribed by regulation; or

- (b) electrical wiring work carried out in circumstances prescribed by regulation.
  - (3) A person who has given the construction occupations registrar a report under subsection (1) (b) commits an offence if—
    - (a) the registrar asks the person, in writing and within 2 years after receiving the report, for a copy of the report; and
    - (b) the person does not give a copy of the report to the registrar within 14 days after the day the request is made.
- Maximum penalty: 5 penalty units.
- (4) An offence against this section is a strict liability offence.

**[1.113] Section 8 (4)**

*substitute*

- (4) A person must not engage in conduct that contravenes a direction under subsection (2).
- Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**[1.114] Sections 12 and 13**

*substitute*

**12 Sale or installation of prescribed articles**

- (1) An approved first seller commits an offence if—
  - (a) the seller—
    - (i) sells a prescribed article of electrical equipment (a *prescribed article*); or
    - (ii) installs a prescribed article in, or connects a prescribed article to, an electrical installation; and

- (b) the seller is reckless about whether the article is a prescribed article and—
  - (i) a declaration of compliance in relation to the article is not registered under section 16 or the corresponding law of a State or another Territory; or
  - (ii) a direction under section 30 (Directions about unsafe articles) has been given to the seller in relation to articles of the same brand and model.

Maximum penalty: 200 penalty units.

- (2) A person, other than an approved first seller, commits an offence if—
  - (a) the person—
    - (i) sells a prescribed article; or
    - (ii) installs a prescribed article in, or connects a prescribed article to, an electrical installation; and
  - (b) the person is reckless about whether the article is a prescribed article and—
    - (i) a declaration of compliance in relation to the article had never been registered under section 16 or the corresponding law of a State or another Territory; or
    - (ii) the person has received from someone else a notice under section 30 in relation to the recall of articles of the same brand and model.

Maximum penalty: 200 penalty units.

### **13 Sale or installation of noncomplying prescribed articles**

A person commits an offence if—

- (a) the person—

- (i) sells a prescribed article of electrical equipment (a *prescribed article*); or
- (ii) installs a prescribed article in, or connects a prescribed article to, an electrical installation; and
- (b) the prescribed article does not comply with the standards mentioned in the relevant declaration of compliance; and
- (c) the person is reckless about whether the prescribed article complies.

Maximum penalty: 200 penalty units.

**[1.115] Section 14 (6)**

*substitute*

- (6) An approved first seller commits an offence if—
  - (a) there is a change in the prescribed particulars mentioned in subsection (2) in relation to the seller; and
  - (b) the seller fails to give written notice of the change to the construction occupations registrar within 7 days after the day of the change.

Maximum penalty: 20 penalty units.

**[1.116] Section 19 (2)**

*substitute*

- (2) A person commits an offence if—
  - (a) the person—
    - (i) sells or lets on hire a prescribed article of electrical equipment (a *prescribed article*); or
    - (ii) exposes or advertises for sale or hire a prescribed article; or



- (iii) installs a prescribed article in, or connects a prescribed article to, an electrical installation; and
- (b) the prescribed article has not been marked, stamped or labelled in accordance with subsection (1) or a corresponding law of a State or another Territory; and
- (c) the person is reckless about whether the prescribed article has been marked, stamped or labelled.

Maximum penalty: 200 penalty units.

**[1.117] Section 22 (3)**

*substitute*

- (3) An approved first seller must comply with a requirement of a notice given to the seller under subsection (2).

Maximum penalty: 200 penalty units.

**[1.118] Section 23**

*substitute*

**23 False representation**

A person commits an offence if the person falsely represents that a declaration of compliance is registered under this Act or the corresponding law of a State or another Territory.

Maximum penalty: 200 penalty units.

**[1.119] Section 26 (1)**

*substitute*

- (1) A person commits an offence if—
  - (a) the person—
    - (i) sells an article of electrical equipment; or

- (ii) installs an article of electrical equipment in, or connects an article of electrical equipment to, an electrical installation; and
- (b) the person is reckless about whether the article complies with the standard.

Maximum penalty: 200 penalty units.

**[1.120] Section 27 (1) to (4)**

*substitute*

- (1) A trader must not sell an article of electrical equipment that does not comply with the relevant energy efficiency standard.  
Maximum penalty: 50 penalty units.
- (2) A trader must not sell an article of electrical equipment that is not labelled with an energy efficiency label in accordance with a regulation.  
Maximum penalty: 10 penalty units.
- (3) A person must not attach an energy efficiency label to an article of electrical equipment that does not have the energy efficiency rating indicated by the label.  
Maximum penalty: 30 penalty units.
- (4) A person must not attach to an article of electrical equipment anything that falsely appears to be an energy efficiency label.  
Maximum penalty: 30 penalty units.
- (4A) An offence against this section is a strict liability offence.

**[1.121] Section 27 (4A) to (8) (as amended)**

*renumber as section 27 (5) to (9)*

**[1.122] Section 29**

*substitute*

**29 Sale or installation of prohibited articles**

A person commits an offence if—

- (a) the person—
  - (i) sells an article of electrical equipment; or
  - (ii) installs an article in, or connects an article to, an electrical installation; and
- (b) the article is prohibited; and
- (c) the person is reckless about whether the article is prohibited.

Maximum penalty: 200 penalty units.

**[1.123] Section 30 (4)**

*substitute*

- (4) A person must not engage in conduct that contravenes a direction given to the person under this section.

Maximum penalty: 200 penalty units.

**[1.124] Sections 33 to 35**

*substitute*

**33 Reporting by occupiers and electrical contractors**

- (1) An occupier of premises commits an offence if—
  - (a) a serious electrical accident happens at the premises; and

- (b) the occupier fails to tell the relevant distributor about the accident, by telephone, immediately after the occupier becomes aware of the accident.

Maximum penalty: 50 penalty units.

- (2) An electrical contractor commits an offence if—
  - (a) a serious electrical accident happens in, or in relation to, an electrical installation on which the contractor is carrying out work; and
  - (b) the contractor fails to tell the relevant distributor about the accident, by telephone, immediately after the contractor becomes aware of the accident.

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.
- (4) This section does not apply if the defendant had reasonable grounds to believe that the relevant distributor had been told about the accident.

### **34                      Reporting by electricity distributor**

- (1) An electricity distributor commits an offence if—
  - (a) a serious accident happens—
    - (i) in relation to the distributor's electricity network; or
    - (ii) in the distributor's distribution area; and
  - (b) the distributor fails to tell the construction occupations registrar about the accident, by telephone, immediately after the distributor becomes aware of the accident.

Maximum penalty: 200 penalty units.

- (2) An offence against this section is a strict liability offence.

- (3) This section does not apply if the defendant had reasonable grounds to believe that the relevant distributor had been told about the accident.

**35 Interference with site of serious electrical accident**

- (1) A person must not disturb or interfere with the site of a serious electrical accident before it has been inspected by an inspector.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) This section does not apply to anything done—
- (a) to make the site safe; or
  - (b) by an authorised person; or
  - (c) except if paragraph (d) applies, more than 24 hours after the accident; or
  - (d) if, within 24 hours after the accident, the construction occupations registrar extends the period and tells the person of the extension—after the extended period ends.
- (3) In this section;
- authorised person*** means—
- (a) an inspector; or
  - (b) a person acting in accordance with an inspector’s directions; or
  - (c) a person giving emergency medical assistance to an injured person; or
  - (d) a member of the ambulance service, the fire brigade, the rural fire service or the SES.

**[1.125]    Section 40**

*substitute*

**40            Contravention of requirement by planning and land authority**

A person commits an offence if the person engages in conduct that contravenes a requirement made of the person under section 39.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**[1.126]    Section 42**

*substitute*

**42            Identity cards**

- (1) The construction occupations registrar must give an inspector an identity card stating the person's name and that the person is an inspector.
- (2) The identity card must show—
  - (a) a recent photograph of the person; and
  - (b) the card's date of issue and expiry; and
  - (c) anything else prescribed by regulation.
- (3) A person commits an offence if—
  - (a) the person stops being an inspector; and
  - (b) the person does not return the person's identity card to the construction occupations registrar as soon as practicable, but no later than 7 days after the day the person stops being an inspector.

Maximum penalty: 1 penalty unit.

- (4) An offence against this section is a strict liability offence.
- (5) Subsection (2) applies only in relation to a card given by the construction occupations registrar after the commencement of this section.
- (6) Subsection (5) is declared to be a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (7) Subsections (5) and (6) and this subsection expire on the day they commence.

**[1.127] Section 48 (3)**

*substitute*

- (3) A person must take all reasonable steps to comply with a requirement made of the person under subsection (1) (e).  
Maximum penalty: 50 penalty units.
- (4) An offence against this section is a strict liability offence.

**[1.128] Section 50 (3)**

*substitute*

- (3) A person commits an offence if the person engages in conduct that contravenes a direction given to the person under this section.  
Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**[1.129] Section 51 (2)**

*substitute*

- (2) A person commits an offence if—
  - (a) an article of electrical equipment labelled under subsection (1) has not been repaired or made safe to use; and

- (b) the person—
  - (i) uses the article; or
  - (ii) removes or interferes with the label.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**[1.130] Section 52**

*substitute*

**52 Power to require name and address**

- (1) An inspector may require a person to state the person's name and home or business address if the inspector believes, on reasonable grounds, that the person is committing or has just committed an offence against this Act.

*Note*     A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see Legislation Act, s 104).

- (2) The inspector must tell the person the reason for the requirement and, as soon as practicable, record the reason.
- (3) The person may ask the inspector to produce his or her identity card for inspection by the person.
- (4) A person must comply with a requirement made of the person under subsection (1) if the inspector—
  - (a) tells the person the reason for the requirement; and
  - (b) complies with any request made by the person under subsection (3).

Maximum penalty: 10 penalty units.



(5) An offence against this section is a strict liability offence.

(6) In this section:

*home address*, of a person, means the address of the place where the person usually lives.

**[1.131] Section 53 (5)**

*substitute*

(5) A person commits an offence if—

- (a) the person interferes with a thing to which access has been restricted under subsection (4); or
- (b) the person does not have the construction occupations registrar's approval to interfere with the thing.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**[1.132] Dictionary, new definition**

*insert*

*engage in conduct* means—

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

## Part 1.20            First Home Owner Grant Act 2000

### [1.133]    New section 3A

*insert*

#### **3A            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 all offences against this Act (see Code, pt 2.1).

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.

### [1.134]    Section 20 (4)

*substitute*

- (4) If a first home owner grant is paid to a person on the condition mentioned in subsection (2), the person must comply with the condition.

Maximum penalty: 50 penalty units.

- (5) An offence against this section is a strict liability offence.

**[1.135] Section 21 (4)**

*substitute*

- (4) If a first home owner grant is paid to a person on a condition imposed by the commissioner under this section or another provision of this Act, the person must comply with the condition.

Maximum penalty: 50 penalty units.

- (5) An offence against this section is a strict liability offence.

**[1.136] Section 36 (3)**

*substitute*

- (3) If an administration agreement with a financial institution or anyone else includes a condition prescribed by regulation, the financial institution or other person must comply with the condition.

Maximum penalty: 50 penalty units.

- (3A) An offence against this section is a strict liability offence.

**[1.137] Section 36 (3A) and (4) (as amended)**

*renumber as section 36 (4) and (5)*

**[1.138] Section 39 (3)**

*substitute*

- (3) A person commits an offence if the person—
- (a) fails to comply with the requirements of a notice under this section within the period stated in the notice or any further period allowed by the commissioner; or
  - (b) fails to comply with any other requirement of the commissioner about the giving of evidence or how information or evidence is to be provided or given under this section.

Maximum penalty: 50 penalty units.

- (4) Subsection (3) does not apply if the person has a reasonable excuse for failing to comply with the requirement.
- (5) An offence against this section is a strict liability offence.

**[1.139] Section 43**

*substitute*

**43 Privileges against selfincrimination and exposure to civil penalty**

- (1) This section applies if a person is required to answer a question, give information or produce a document under section 39.
- (2) The person cannot rely on the common law privileges against selfincrimination and exposure to the imposition of a civil penalty to refuse to answer the question, give the information or produce the document.

*Note*     The Legislation Act, s 171 deals with client legal privilege.

- (3) However, any information, document or other thing obtained, directly or indirectly, because of the answering of the question, giving of the information or producing of the document, is not admissible in evidence against the person in a criminal proceeding, other than a proceeding for—
  - (a) an offence in relation to the failure to answer the question, give the information or produce the document; or
  - (b) any offence in relation to the falsity or the misleading nature of the answer, information or document.

**[1.140] Section 45 (1)**

*substitute*

- (1) A person must comply with a requirement made of the person by an authorised officer under this division.

Maximum penalty: 50 penalty units.

- (1A) An offence against this section is a strict liability offence.

**[1.141] Section 45 (1A) and (2) (as amended)**

*renumber as section 45 (2) and (3)*

**[1.142] Section 50**

*substitute*

**50 Secrecy**

- (1) In this section:

*person to whom this section applies* means a person who—

- (c) is, or has been, engaged in work related to the administration of this Act; or
- (d) has obtained access to protected information (directly or indirectly) from a person who is, or has been, engaged in work related to the administration of this Act.

*protected information* means information about an applicant for a first home owner grant that is disclosed to, or obtained by, a person to whom this section applies in the course of work related to the administration of this Act.

- (2) A person to whom this section applies commits an offence if the person—
- (a) does something that discloses protected information about someone else; and

- (b) is reckless about whether—
  - (i) the information is protected information about someone else; and
  - (ii) doing the thing would result in the information being disclosed.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) This section does not apply if the information is disclosed—
  - (a) under this Act or another territory law; or
  - (b) in relation to the exercise of a function, as a person to whom this section applies, under this Act or another territory law; or
  - (c) in relation to the administration or enforcement of—
    - (i) a corresponding law; or
    - (ii) a law of the Commonwealth, a State or another Territory for the assessment or imposition of a tax; or
  - (d) with the consent of the person to whom the information relates or a person acting for that person; or
  - (e) for the purpose of a legal proceeding; or
  - (f) as authorised by regulation.

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## **Part 1.21 Fisheries Act 2000**

### **[1.143] New sections 4A and 4B**

*in part 1, insert*

#### **4A Notes**

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

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

#### **4B 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 all offences against this Act (see Code, pt 2.1).

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.

### **[1.144] Section 37**

*substitute*

#### **37 Fish dealers to be registered**

- (1) A person commits an offence if—
- (a) the person receives, within the period prescribed by regulation, more than the prescribed number of fish; and
  - (b) the person is not registered as a fish dealer under this Act; and
  - (c) the person does not receive the fish from a person who is—

- (i) registered as a fish dealer under this Act; or
- (ii) registered or licensed as a fish dealer under a corresponding law.

Maximum penalty: 50 penalty units.

- (2) This section does not apply to the person if—
  - (a) the fish are received for retail sale; or
  - (b) the fish are received for purposes other than sale.
- (3) An offence against this section is a strict liability offence.
- (4) In this section:  
*fish* does not include oysters.

**[1.145] Section 45**

*substitute*

**45 Sale of fish by commercial fishers**

- (1) The holder of a commercial fishing licence under this Act or a corresponding law must not sell in a day more than the quantity of fish prescribed by regulation.  
Maximum penalty: 100 penalty units.
- (2) Subsection (1) does not apply in relation to any quantity of fish sold to a person who is registered or licensed as a fish dealer under this Act or a corresponding law.
- (3) In this section:  
*fish* does not include oysters.



**[1.146] Sections 46 to 48**

*substitute*

**46 Commercial fishers and fish dealers to make records**

- (1) The holder of a commercial fishing licence must—
- (a) make a record of all fish the holder takes or sells; and
  - (b) if a direction is in force under subsection (4) in relation to the record—make the record in accordance with the direction.

Maximum penalty: 10 penalty units.

- (2) A fish dealer must—
- (a) make a record of all fish the dealer receives, processes or sells; and
  - (b) if a direction is in force under subsection (4) in relation to the record—make the record in accordance with the direction.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.
- (4) The conservator may, in writing, give directions about how records under subsection (1) or (2) must be made.
- (5) An instrument under subsection (4) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

**47 Keeping of records by commercial fishers and fish dealers**

- (1) If a person makes a record as required under section 46 (1), the person must keep the record for at least 5 years.

Maximum penalty: 10 penalty units.

- (2) If a person makes a record as required under section 46 (2), the person must keep the record for at least 5 years.

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.

#### **48            Production of records to conservation officers**

- (1) If a person who is required under section 47 to keep a record is asked to produce the record by a conservation officer, the person must produce the record to the conservation officer.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

#### **[1.147]    Section 49 (3)**

*substitute*

- (3) If a person is given a notice under subsection (1) or (2), the person must give the conservator the information stated in the notice within the time stated in the notice.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

*Note*        The Legislation Act, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

- (4) Subsection (3) does not apply if the person has a reasonable excuse.  
(5) An offence against this section is a strict liability offence.

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**[1.148] Section 61 (2)**

*substitute*

- (2) A person must take all reasonable steps to comply with a requirement made of the person under subsection (1) (f).

Maximum penalty: 50 penalty units.

*Note* The Legislation Act, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

**[1.149] Section 64**

*substitute*

**64 Power to require name and address**

- (1) A conservation officer may require a person to state the person's name and home or business address if the conservation officer believes, on reasonable grounds, that the person is committing or has just committed an offence against this Act.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

- (2) The conservation officer must tell the person the reason for the requirement and, as soon as practicable, record the reason.
- (3) The person may ask the conservation officer to produce his or her identity card for inspection by the person.
- (4) A person must comply with a requirement made of the person under subsection (1) if the conservation officer—
- (a) tells the person the reason for the requirement; and
  - (b) complies with any request made by the person under subsection (3).

Maximum penalty: 10 penalty units.

- (5) An offence against this section is a strict liability offence.

(6) In this section:

*home address*, of a person, means the address of the place where the person usually lives.

**[1.150] Section 65 (2)**

*substitute*

(2) A person must comply with a requirement made of the person by a conservation officer under subsection (1) if the conservation officer complies with any request made by the person under subsection (3).

Maximum penalty: 50 penalty units.

(2A) An offence against this section is a strict liability offence.

**[1.151] Section 65 (2A) and (3) (as amended)**

*renumber as section 65 (3) and (4)*

**[1.152] Part 8**

*substitute*

## **Part 8                            Offences**

### **Division 8.1                Unauthorised activities**

#### **74                    Taking fish for sale without licence etc**

(1) A person who does not hold a commercial fishing licence commits an offence if the person takes fish from public waters with the intention of—

- (a) selling the fish; or
- (b) processing the fish for sale.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) The holder of a commercial fishing licence commits an offence if—
- (a) the holder takes fish for processing or sale; and
  - (b) taking the fish is not permitted by the licence.

Maximum penalty: 50 penalty units.

- (3) Subsection (2) does not apply if—
- (a) the licence holder unintentionally takes the fish; and
  - (b) except for taking the fish, the licence holder's conduct does not contravene this Act; and
  - (c) the licence holder immediately returns the fish to the waters from which it was taken with the least possible injury.
- (4) An offence against subsection (2) is a strict liability offence.

## **75 Taking fish contrary to scientific licence**

- (1) The holder of a scientific licence commits an offence if—
- (a) the holder takes fish for the scientific or other purposes stated in the licence; and
  - (b) taking the fish is not authorised by the licence.

Maximum penalty: 10 penalty units.

- (2) Subsection (1) does not apply if—
- (a) the licence holder unintentionally takes the fish; and
  - (b) except for taking the fish, the licence holder's conduct does not contravene this Act; and
  - (c) the licence holder immediately returns the fish to the waters from which it was taken with the least possible injury.
- (3) An offence against this section is a strict liability offence.

**76 Importing or exporting live fish without authority**

- (1) A person commits an offence if—
- (a) the person imports a live fish into, or exports a live fish from, the ACT; and
  - (b) the person does not—
    - (i) hold an import and export licence authorising the import or export ; or
    - (ii) have the conservator’s written approval for the import or export.

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

- (2) A person commits an offence if—
- (a) the person is the holder of an import and export licence; and
  - (b) the person imports a live fish into, or exports a live fish from, the ACT; and
  - (c) the import or export is not authorised by the licence.

Maximum penalty: 100 penalty units.

- (3) This section does not apply to fish bought from a registered fish dealer for human consumption.
- (4) An offence against subsection (2) is a strict liability offence.

**77 Possessing fish obtained illegally**

A person commits an offence if—

- (a) the person possesses a fish; and
- (b) the fish was—
  - (i) imported into the ACT in contravention of section 76; or

- (ii) taken in contravention of a law of the Commonwealth, a State or another Territory.

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

**78 Noxious fish**

A person commits an offence if—

- (a) the person possesses a noxious fish; and
- (b) the person does not have the conservator's written approval to possess the fish.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**79 Release of fish**

- (1) A person commits an offence if—

- (a) the person releases a live fish into public waters; and
- (b) the person does not have the conservator's written approval to release the fish.

- (2) This section does not apply to the release if the fish was taken from the part of the public waters into which it is released.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.

**Division 8.2 General offences**

**80 Fishing closure offences**

- (1) A person commits an offence if the person takes fish in contravention of a fishing closure.

Maximum penalty: 50 penalty units.

- (2) Subsection (1) does not apply if—
- (a) the person unintentionally takes the fish; and
  - (b) except for taking the fish, the person's conduct does not contravene this Act; and
  - (c) the person immediately returns the fish to the waters from which it was taken with the least possible injury.
- (3) A person commits an offence if—
- (a) the person possesses fish; and
  - (b) the fish was taken in contravention of a fishing closure.
- Maximum penalty: 50 penalty units.
- (4) An offence against this section is a strict liability offence.

## **81 Prohibited size and weight offences**

- (1) A person commits an offence if—
- (a) the person takes a fish from public waters; and
  - (b) the fish is of size or weight that is prohibited under a declaration under section 15 (Declaration of fish of prohibited size and weight).
- Maximum penalty: 50 penalty units, imprisonment for 6 months or both.
- (2) Subsection (1) does not apply if—
- (a) except for taking the fish, the person's conduct does not contravene this Act; and
  - (b) the person immediately returns the fish to the waters from which it was taken with the least possible injury.
- (3) A person commits an offence if the person possesses a fish that—
- (a) was taken from public waters; and



- (b) is of size or weight that is prohibited under a declaration under section 15.

Maximum penalty: 30 penalty units.

- (4) An offence against subsection (3) is a strict liability offence.

## **82 Quantity of fish offences**

- (1) This section applies to a species of fish if a declaration under section 16 (Declaration of fish quantity) is in force in relation to the species.

- (2) A person commits an offence if the person takes, in a day, more fish of the species than the quantity allowed under the declaration.

Maximum penalty: 30 penalty units.

- (3) An offence against this section is a strict liability offence.

## **83 Beheading or filleting fish**

- (1) A person must not behead or fillet a fish in or beside public waters.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

- (3) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant beheaded or filleted the fish for immediate consumption.

## **84 Use of live fin fish as bait etc**

- (1) A person must not—

(a) use live fin fish as bait; or

(b) be in or beside public waters in possession of live fin fish for use as bait.

Maximum penalty: 30 penalty units.

- (2) An offence against this section is a strict liability offence.

### **Division 8.3            Offences in relation to fishing gear**

#### **85            Use of fishing gear generally**

- (1) A person commits an offence if—
- (a) the person uses fishing gear to take fish from public waters; and
  - (b) any of the following applies:
    - (i) the person is not within 10m of the gear;
    - (ii) the person cannot see the gear at all times;
    - (iii) the person is not permitted to take fish under this Act from waters using the fishing gear.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

#### **86            Non-permitted fishing gear**

- (1) A person commits an offence if—
- (a) the person uses fishing gear in or beside public waters; and
  - (b) the use of the fishing gear is not permitted by a declaration under section 17 (Declaration of fishing gear).

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if—
- (a) the person is in or beside any public waters in possession of fishing gear; and

- (b) the use of the fishing gear is not permitted by a declaration under section 17.

Maximum penalty: 30 penalty units.

- (3) An offence against this section is a strict liability offence.

## **87 Use and possession of commercial fishing gear**

- (1) A person commits an offence if—

- (a) the person is not the holder of a commercial fishing licence; and
- (b) the person uses commercial fishing gear in or beside public waters.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if—

- (a) the person is not the holder of a commercial fishing licence; and
- (b) the person is in possession of commercial fishing gear in or beside public waters.

Maximum penalty: 30 penalty units.

- (3) An offence against this section is a strict liability offence.

- (4) For this section, a person is taken to *use* or *be in possession* of commercial fishing gear if, but only if, the person uses or is in possession of—

- (a) a number of lines more than the number determined by the Minister in writing; or
- (b) a number of nets more than the number determined by the Minister in writing; or
- (c) a net larger than the size determined by the Minister in writing; or

(d) other equipment determined by the Minister in writing.

(5) A determination under subsection (4) is a disallowable instrument.

*Note*     A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

## **Division 8.4            Protection of aquatic habitats**

### **88            Spawning areas**

A person commits an offence if—

- (a) the person does something that disturbs or damages spawn or spawning fish in public waters; and
- (b) the person is not authorised by a scientific licence to do the thing; and
- (c) the person does not have the conservator’s written approval to do the thing.

Maximum penalty: 30 penalty units.

### **[1.153]    Section 112**

*substitute*

### **112            Production of licences**

- (1) If a conservation officer asks a licensee to produce his or her licence for inspection at the conservator’s office, the licensee must comply with the request within 2 working days after the day the licensee is asked.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.

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## Part 1.22 Fisheries Regulation 2001

### [1.154] New sections 2 and 2A

*insert*

#### 2 Notes

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

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

#### 2A Offences against regulation—application of Criminal Code etc

Other legislation applies in relation to offences against this regulation.

*Note 1* *Criminal Code*

The Criminal Code, ch 2 applies to all offences against this regulation (see Code, pt 2.1).

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.

### [1.155] Section 5

*substitute*

#### 5 Hoop nets

- (1) This section applies if the Minister declares under the Act, section 17 (Declaration of fishing gear) that hoop nets are fishing gear that may be used for taking fish (or a particular kind of fish).

- (2) A person must not use a hoop net other than by lowering it into the water and drawing it out by hand vertically.

Maximum penalty: 5 penalty units.

- (3) An offence against this section is a strict liability offence.

## Part 1.23                      Fuels Control Act 1979

### [1.156]    New sections 2A and 2B

*insert*

#### 2A            Notes

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

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

#### 2B            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 all offences against this Act (see Code, pt 2.1).

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.

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**[1.157] Section 5A**

*substitute*

**5A Identity cards**

- (1) The chief executive must give an inspector an identity card stating the person's name and that the person is an inspector.
- (2) The identity card must show—
  - (a) a recent photograph of the person; and
  - (b) the card's date of issue and expiry; and
  - (c) anything else prescribed by regulation.
- (3) A person commits an offence if—
  - (a) the person stops being an inspector; and
  - (b) the person does not return the person's identity card to the chief executive as soon as practicable, but no later than 7 days after the day the person stops being an inspector.

Maximum penalty: 1 penalty unit.

- (4) An offence against this section is a strict liability offence.
- (5) Subsection (2) applies only in relation to a card given by the chief executive after the commencement of this section.
- (6) Subsection (5) is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (7) Subsections (5) and (6) and this subsection expire on the day they commence.

**[1.158]    Sections 7 and 8**

*substitute*

**7            Person carrying on prescribed business must give controller notice**

- (1) A person who carries on a prescribed business must give the controller a written notice setting out—
  - (a) the person's name; and
  - (b) the address and telephone number of each place where the person carries on the business; and
  - (c) the kinds of fuel that can be stored at each place; and
  - (d) the quantity of each kind of fuel that can be stored at each place.
- (2) The person must give the notice not later than 14 days after the day the person starts to carry on the prescribed business.
- (3) If a person has given a notice under subsection (1), the person must give the controller written notice of a change in any of the particulars stated in the notice not later than 14 days after the day the change happens.
- (4) If a person stops carrying on a prescribed business, the person must, not later than 14 days after the day the person stops carrying on the business, give the controller a written notice stating—
  - (a) that the person has stopped carrying on the business; and
  - (b) the date the person stopped carrying on the business.
- (5) A person commits an offence if—
  - (a) the person is required to give a notice to the controller under this section; and



- (b) the person does not give the notice in accordance with this section.

Maximum penalty: 5 penalty units.

- (6) An offence against this section is a strict liability offence.

## **8 Controller may require information**

- (1) The controller may, by written notice, require a person who carries on a prescribed business to give to the controller, in writing and as soon as practicable (but no later than 14 days after the day the person is given the notice), for each kind of fuel stated in the notice, particulars of—

- (a) the quantity of fuel held by the person; and  
(b) the quantity of fuel sold by the person during the period stated in the notice.

*Note* For how a notice may be served, see the Legislation Act, pt 19.5.

- (2) A person commits an offence if the person does not comply with a requirement made of the person under subsection (1).

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.

### **[1.159] Section 9 (2) and (3)**

*substitute*

- (2) A person commits an offence if—  
(a) the person fails to take reasonable steps to comply with a requirement made of the person by an inspector under subsection (1); and

- (b) the inspector complies with any request made under subsection (4) (a).

Maximum penalty: 50 penalty units.

*Note*     The Legislation Act, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

- (3) An offence against this section is a strict liability offence.
- (4) An inspector who enters premises under this section is not authorised to remain on the premises if—
- (a) the occupier, or the person in charge, of the premises asks the inspector to produce the inspector’s identity card; and
- (b) the inspector does not produce the identity card.

**[1.160] Section 10 (1), new note**

*insert*

*Note*     For how a notice may be served, see the Legislation Act, pt 19.5.

**[1.161] Section 10 (2) and (3)**

*substitute*

- (2) A person commits an offence if the person does not comply with a requirement made of the person under subsection (1).
- Maximum penalty: 50 penalty units.
- (3) An offence against this section is a strict liability offence.

**[1.162] Section 10 (5)**

*renumber as section 10 (4)*

**[1.163] Section 12 (2)**

*substitute*

- (2) A person commits an offence if the person fails to comply with a requirement made of the person under subsection (1).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) An offence against this section is a strict liability offence.

**[1.164] Section 15 (3)**

*substitute*

- (3) The driver of a vehicle commits an offence if the driver fails to comply with a requirement made of the driver by an inspector under this section.

Maximum penalty: 50 penalty units.

- (4) An offence against this section is a strict liability offence.

**[1.165] Section 16**

*substitute*

**16 Control of disposal etc of certain fuel brought into ACT**

- (1) A person commits an offence if—
- (a) the person brings declared fuel into the ACT; and
  - (b) the person—
    - (i) disposes of the fuel in the ACT; or
    - (ii) removes the fuel from the ACT; and

- (c) the disposal or removal of the fuel is not in accordance with the directions of the controller.

Maximum penalty: 50 penalty units.

- (2) This section does not apply in relation to the fuel if a requirement has been made of the person under section 12 in relation to the fuel.
- (3) An offence against this section is a strict liability offence.

**[1.166] Section 19**

*omit*

## **Part 1.24                            Health Act 1993**

**[1.167] New section 3A**

*insert*

### **3A            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 all offences against this Act (see Code, pt 2.1).

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.

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**[1.168] Section 13**

*substitute*

**13 Nondisclosure of identity—approved public sector committee member**

- (1) A member or former member of an approved public sector committee commits an offence if the person—
- (a) does something that divulges the identity of a person to whom a health service was provided on behalf of the Territory (a **health service receiver**); and
  - (b) is reckless about whether doing the thing would result in the identity of the health service receiver being divulged.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) This section does not apply if the health service receiver's identity is divulged—
- (a) with the health service receiver's written consent; or
  - (b) to a member of the committee or another approved public sector committee.
- (3) In this section:  
**divulge** includes communicate.

**[1.169] Section 22**

*substitute*

**22 Nondisclosure of identity—approved private sector committee member**

- (1) A member or former member of an approved private sector committee commits an offence if the person—

- (a) does something that divulges the identity of a person to whom a health service was provided by the prescribed body that established the committee (a *health service receiver*); and
- (b) is reckless about whether doing the thing would result in the identity of the health service receiver being divulged.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) This section does not apply if the health service receiver's identity is divulged—
  - (a) with the health service receiver's written consent; or
  - (b) to a member of the committee or another approved private sector committee established by the prescribed body that established the committee.
- (3) In this section:  
*divulge* includes communicate.

## Part 1.25                            Instruments Act 1933

### [1.170]    New sections 2 and 3

*in part 1, insert*

#### 2                            Notes

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

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

### **3 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 all offences against this Act (see Code, pt 2.1).

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.

#### **[1.171] Section 24**

*substitute*

### **24 Protection of lienee—lien on crop**

- (1) A lienor of a crop must not do something that directly or indirectly defeats, invalidates or impairs the lienee's property rights in the crop.

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

**Example of conduct**

selling the crop subject to the lien

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) This section does not apply to conduct if the lienee has consented in writing to the conduct.

**[1.172] Section 34**

*substitute*

**34 Protection of lienee—preferable lien on wool**

- (1) A grantor of a preferable lien on wool under this part must not do something that directly or indirectly defeats, invalidates or impairs the lienee's property rights in the wool.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**Examples of conduct for s (1)**

- 1 selling wool subject to the lien
- 2 killing sheep growing wool subject to the lien

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) This section does not apply to conduct if the lienee has consented in writing to the conduct.

**35 Protection of mortgagee—stock mortgage**

- (1) A mortgagor of stock must not do something that directly or indirectly defeats, invalidates or impairs the mortgagee's property rights in the stock.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**Examples of conduct for s (1)**

- 1 selling stock subject to the mortgage
- 2 killing stock subject to the mortgage

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).



- (2) This section does not apply to conduct if the mortgagee has consented in writing to the conduct.
- (3) In this section:  
*stock* includes stock increase and progeny.

## **Part 1.26 Intoxicated People (Care and Protection) Act 1994**

### **[1.173] New section 3A**

*in part 1, insert*

#### **3A 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 all offences against this Act (see Code, pt 2.1).

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.

### **[1.174] Section 14**

*substitute*

#### **14 Care services must be licensed**

- (1) A person commits an offence if—
- (a) the person provides a caring service; and

(b) the person is not licensed under this Act to provide the service.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(2) An offence against this section is a strict liability offence.

**[1.175] Section 25**

*substitute*

**25 Return of licence on cancellation**

(1) A licensee commits an offence if—

(a) the licensee receives a notice under section 34 (1) of the cancellation of the licence for a place; and

(b) the licensee does not return the licence to the Minister within 14 days after the day the licensee receives the notice.

Maximum penalty: 5 penalty units.

(2) If the licence is for 2 or more places, and the licence is cancelled for some, but not all, of the places, the Minister must—

(a) amend any licence returned under subsection (1) to reflect the cancellation; and

(b) return the amended licence to the licensee.

(3) An offence against this section is a strict liability offence.

**[1.176] Section 26**

*omit*

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**[1.177] Section 28**

*substitute*

**28 Identity cards**

- (1) The chief executive must give an inspector an identity card stating the person's name and that the person is an inspector.
- (2) The identity card must show—
  - (a) a recent photograph of the person; and
  - (b) the card's date of issue and expiry; and
  - (c) anything else prescribed by regulation.
- (3) A person commits an offence if—
  - (a) the person stops being an inspector; and
  - (b) the person does not return the person's identity card to the chief executive as soon as practicable, but no later than 7 days after the day the person stops being an inspector.

Maximum penalty: 1 penalty unit.

- (4) An offence against this section is a strict liability offence.
- (5) Subsection (2) applies only in relation to a card given by the chief executive after the commencement of this section.
- (6) Subsection (5) is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (7) Subsections (5) and (6) and this subsection expire on the day they commence.

**[1.178] Section 30**

*substitute*

**30 Failing to comply with requirement of inspector**

- (1) A person must take all reasonable steps to comply with a requirement made of the person by an inspector under section 29 (1) (c).

Maximum penalty: 50 penalty units.

*Note*     The Legislation Act, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

- (2) An offence against this section is a strict liability offence.

**[1.179] Section 36**

*substitute*

**36 Secrecy**

- (1) In this section:

*divulge* includes communicate.

*person to whom this section applies* means anyone who is exercising, or has exercised, a function under this Act.

*protected information* means information about a person that is disclosed to, or obtained by, a person to whom this section applies because of the exercise of a function under this Act by the person or someone else.

- (2) A person to whom this section applies commits an offence if—

(a) the person—

- (i) makes a record of protected information about someone else; and

- (ii) is reckless about whether the information is protected information about someone else; or
- (b) the person—
  - (i) does something that divulges protected information about someone else; and
  - (ii) is reckless about whether—
    - (A) the information is protected information about someone else; and
    - (B) doing the thing would result in the information being divulged.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) This section does not apply if the record is made, or the information is divulged—
  - (a) under this Act or another territory law; or
  - (b) in relation to the exercise of a function, as a person to whom this section applies, under this Act or another territory law.
- (4) Subsection (2) does not apply to the divulging of protected information about someone with the person's consent.

## Part 1.27                            Lakes Act 1976

### [1.180]    **New section 4**

*insert*

#### **4            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 all offences against this Act (see Code, pt 2.1).

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.

### [1.181]    **Section 4B (1)**

*substitute*

- (1) The following provisions do not bind the Territory:
  - (a) section 16 (General restrictions on boats);
  - (b) section 17 (Restrictions on bathing, swimming and diving);
  - (c) section 18 (Interference etc with signs);
  - (d) section 19 (Approved buoys, wharves and jetties);
  - (e) section 20 (Restrictions on mooring);
  - (f) section 21 (Prohibition of use of lake area or parts of lake);
  - (g) section 22 (Closing of parts of lake for certain events);
  - (h) section 24 (Anchoring boats at night);

- (i) section 25 (Mooring of boats);
- (j) section 27 (Restrictions on use of power boats);
- (k) section 29 (Restriction on use of hovercraft);
- (l) section 32 (Camping and caravanning).

**[1.182] Section 8**

*substitute*

**8 Identity cards**

- (1) The chief executive must give an inspector (other than a police officer) an identity card stating the person's name and that the person is an inspector.
- (2) The identity card must show—
  - (a) a recent photograph of the person; and
  - (b) the card's date of issue and expiry; and
  - (c) anything else prescribed by regulation.
- (3) A person commits an offence if—
  - (a) the person stops being an inspector; and
  - (b) the person does not return the person's identity card to the chief executive as soon as practicable, but no later than 7 days after the day the person stops being an inspector.

Maximum penalty: 1 penalty unit.

- (4) An offence against this section is a strict liability offence.

**[1.183] Section 10**

*substitute*

**10 Contravention of inspector's direction**

A person must take all reasonable steps to comply with a direction given to the person by an inspector.

Maximum penalty: 50 penalty units.

**[1.184] Sections 16 to 18**

*substitute*

**16 General restrictions on boats**

- (1) A person must not—
- (a) put a boat in a lake, or take a boat from a lake, at a place that is not a launching area under section 15; or
  - (b) moor a boat on a lake at a place that is not in a mooring area under section 15; or
  - (c) beach, clean or repair a boat in a lake area at a place that is not a beaching area under section 15; or
  - (d) embark on, or disembark from, a boat on a lake in contravention of a sign under section 15; or
  - (e) land a boat on a lake shore, or an island in a lake, in contravention of a sign under section 15.

Maximum penalty: 30 penalty units.

- (2) An offence against this section is a strict liability offence.

**17 Restrictions on bathing, swimming and diving**

- (1) A person must not—
- (a) bathe or swim in a lake directly under a bridge; or



- (b) dive into a lake from, or directly under, a bridge; or
- (c) bathe or swim in a lake, or dive into a lake, in contravention of a sign under section 15.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.

## **18 Interference etc with signs**

- (1) A person commits an offence if the person interferes with, changes or removes a sign under section 15.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.

### **[1.185] Section 19 (2) and (3)**

*substitute*

- (2) A person commits an offence if—
  - (a) the person anchors a buoy in a lake; and
  - (b) the anchoring is not approved under subsection (1).

Maximum penalty: 5 penalty units.

- (3) A person commits an offence if—
  - (a) the person erects a wharf or jetty in a lake area; and
  - (b) the erection is not approved under subsection (1).

Maximum penalty: 5 penalty units.

- (4) A person commits an offence if—
  - (a) the person moors a boat in a mooring area under section 15; and
  - (b) the boat is moored to something other than—

- (i) a buoy anchored in accordance with an approval under subsection (1); or
- (ii) a wharf or jetty erected in accordance with an approval under subsection (1).

Maximum penalty: 5 penalty units.

- (5) An offence against this section is a strict liability offence.

**[1.186] Section 20**

*substitute*

**20 Restrictions on mooring**

- (1) The Minister may, by a sign installed at or near a wharf or jetty in a lake area, restrict the mooring of boats to the wharf or jetty to boats of a kind indicated by the sign.
- (2) A person must not moor a boat to a wharf or jetty in contravention of a sign under subsection (1).

Maximum penalty: 5 penalty units.

- (3) An offence against this section is a strict liability offence.

**[1.187] Section 21 (5) to (8)**

*substitute*

- (5) A person commits an offence if—
  - (a) the person enters, or remains in, a lake area; and
  - (b) entry to the area is prohibited under subsection (1); and
  - (c) an inspector has told the person that entry to the area is prohibited.

Maximum penalty: 50 penalty units.

- (6) A person commits an offence if—

- (a) the person enters, or remains in, a prohibited area of a lake; and
- (b) an inspector has told the person that—
  - (i) the area is a prohibited area; and
  - (ii) the person must not enter, or remain in, the area.

Maximum penalty: 50 penalty units.

- (7) An offence against this section is a strict liability offence.

**[1.188] Section 22 (3) and (4)**

*substitute*

- (3) A person commits an offence if—
  - (a) the person enters the closed area during the period stated in the notice; and
  - (b) if subsection (2) applies—the entry is not authorised by the entity authorised by the notice.

Maximum penalty: 50 penalty units.

- (4) An offence against this section is a strict liability offence.

**[1.189] Section 24**

*substitute*

**24 Anchoring boats at night**

- (1) A person must not anchor a boat on a lake at night.  
Maximum penalty: 50 penalty units.
- (2) An offence against this section is a strict liability offence.
- (3) It is a defence to a prosecution for an offence against this section if the defendant proves that—
  - (a) the boat was anchored to allow fishing by a hand-held rod and line; and

- (b) the defendant or someone else was fishing by a hand-held rod and line for most of the time the boat was anchored.

**[1.190] Section 25**

*substitute*

**25 Mooring of boats**

- (1) The Minister may give a person a written permit to moor a boat in a mooring area under section 15.

*Note 1* A fee may be determined under s 54 for this provision.

*Note 2* If a form is approved under s 55 for this provision, the form must be used.

- (2) The permit remains in force for the period, no longer than 12 months, stated in the permit.
- (3) A person commits an offence if the person—
  - (a) moors a boat on a lake; and
  - (b) does not have a permit for the mooring.

Maximum penalty: 50 penalty units.

- (4) An offence against this section is a strict liability offence.

**[1.191] Section 27**

*substitute*

**27 Restrictions on use of power boats**

- (1) A person commits an offence if—
  - (a) the person is in charge or in control of a power boat on a lake; and

(b) the use of the boat on the lake is not authorised under section 25A or section 26.

Maximum penalty: 50 penalty units.

(2) A person commits an offence if—

(a) the person is a passenger in a power boat on a lake; and

(b) the use of the boat on the lake is not authorised under section 25A or section 26.

Maximum penalty: 10 penalty units.

(3) An offence against this section is a strict liability offence.

**[1.192] Section 29 (2)**

*substitute*

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

(a) uses a hovercraft in or over a lake area; and

(b) does not have a permit for the use.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**[1.193] Section 31**

*substitute*

**31 Houseboats prohibited**

(1) A person must not use a boat as a houseboat or place of living in a lake area.

Maximum penalty: 30 penalty units.

(2) An offence against this section is a strict liability offence.

**[1.194] Section 32**

*substitute*

**32 Camping and caravanning**

- (1) A person must not camp, or keep a caravan, in a lake area at night.  
Maximum penalty: 30 penalty units.
- (2) An offence against this section is a strict liability offence.

**[1.195] Section 34**

*substitute*

**34 Commercial activities in lake area**

- (1) A person commits an offence if—
  - (a) the person undertakes a commercial activity in a lake area; and
  - (b) the activity is not undertaken in accordance with an agreement under section 33.Maximum penalty: 30 penalty units.
- (2) An offence against this section is a strict liability offence.

**[1.196] New section 36**

*in division 5.1, insert*

**36 Meaning of operator for div 5.1**

In this division:

*operator*, of a boat, means—

- (a) the person in charge of the boat; or
- (b) if no-one is in charge of the boat—each person in the boat; or
- (c) if no-one is in the boat—the owner.

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**[1.197] Section 37**

*substitute*

**37 Compliance with lighting rules**

- (1) The operator of a boat that is under way, or anchored, on a lake at night must ensure that the boat shows a light as required under this division.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

**[1.198] Section 40**

*substitute*

**40 Emergency lights**

- (1) The operator of a boat that is under way, or anchored, on a lake at night must—

- (a) carry an electric torch or ignited lantern ready for immediate use; and
- (b) if a light required to be shown under this division fails—show the light of the torch or lantern instead of the failed light.

Maximum penalty: 30 penalty units.

- (2) An offence against this section is a strict liability offence.

**[1.199] Section 48**

*substitute*

**48 Reckless or negligent operation of boat**

- (1) A person commits an offence if—

- (a) the person operates, or takes part in the operation of, a boat on a lake; and

- (b) the operation gives rise to the danger of—
  - (i) harm or death to someone else; or
  - (ii) damage to property; and
- (c) the person is reckless or negligent about the operation giving rise to that danger.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) In this section:

*harm*—see the Criminal Code, dictionary.

**[1.200] Section 49**

*substitute*

**49 Causing unreasonable interference**

- (1) A person commits an offence if the person operates a boat on a lake in a way that causes unreasonable interference to someone else's use or enjoyment of the lake.

Maximum penalty: 30 penalty units.

- (2) An offence against this section is a strict liability offence.

**[1.201] Section 50 (1)**

*substitute*

- (1) A person must not operate a boat on a lake while under the influence of intoxicating liquor.

Maximum penalty: 50 penalty units.

- (1A) An offence against this section is a strict liability offence.

**[1.202] Section 50 (1A) and (2) (as amended)**

*renumber as section 50 (2) and (3)*



**[1.203] Section 53**

*omit*

**[1.204] Schedule 1 heading**

*substitute*

## Schedule 1

(see dict, def *lake*)

**[1.205] Dictionary, new definition of *operator***

*insert*

*operator*, for division 5.1 (Lighting rules)—see section 36.

## Part 1.28 Legislative Assembly Precincts Act 2001

**[1.206] New section 4A**

*insert*

### 4A 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 all offences against this Act (see Code, pt 2.1).

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.

**[1.207]    Section 10**

*substitute*

**10            Contravention of Speaker's direction**

- (1) A person must not engage in conduct that contravenes a direction by the Speaker under section 9 (1).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) In this section:

*engage in conduct* means—

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

## **Part 1.29                    Listening Devices Act 1992**

**[1.208]    Section 2, new definition of *engage in conduct***

*insert*

*engage in conduct* means—

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

**[1.209]    New sections 3 and 3A**

*in part 1, insert*

**3            Notes**

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

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

### **3A 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 all offences against this Act (see Code, pt 2.1).

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.

#### **[1.210] Section 4 (1)**

*substitute*

- (1) A person must not use a listening device with the intention of—
  - (a) listening to or recording a private conversation to which the person is not a party; or
  - (b) recording a private conversation to which the person is a party.

Maximum penalty: 50 penalty units.

#### **[1.211] Section 5 (1)**

*substitute*

- (1) A person who is party to a private conversation commits an offence if—
  - (a) the person divulges or communicates a record of the conversation; and

- (b) the person knows that the record was made, directly or indirectly, using a listening device (whether or not in contravention of section 4).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**[1.212] Section 6 (1)**

*substitute*

- (1) A person commits an offence if—
  - (a) the person divulges or communicates a private conversation, or a report of a private conversation; and
  - (b) the person knows of the conversation, directly or indirectly, because of the use of a listening device—
    - (i) in contravention of section 4; or
    - (ii) in circumstances mentioned in section 4 (2) (b) or (3).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**[1.213] Section 7 (1)**

*substitute*

- (1) A person commits an offence if—
  - (a) the person possesses a record of a private conversation; and
  - (b) the person knows the record was obtained, directly or indirectly, using a listening device in contravention of section 4.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**[1.214] Section 8**

*substitute*

**8 Manufacture, supply and possession of listening devices**

A person commits an offence if—

- (a) the person—
  - (i) manufactures a listening device; or
  - (ii) supplies, sells or distributes a listening device; or
  - (iii) offers to supply, sell or distribute a listening device; or
  - (iv) possesses a listening device; and
- (b) the person knows the device is intended or mainly designed for use in contravention of section 4.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**[1.215] Section 10 (6)**

*substitute*

- (6) A person must not engage in conduct that contravenes an order under subsection (5).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

## Part 1.30                            Major Events Security Act 2000

### [1.216]    **New section 3A**

*in part 1, insert*

#### **3A            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 all offences against this Act (see Code, pt 2.1).

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.

### [1.217]    **Section 8 (2)**

*substitute*

- (2) A person commits an offence if—
- (a) the person enters or stays in a restricted area; and
  - (b) the person does not have the occupier’s consent to be in the area.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.

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**[1.218] Sections 9 and 10**

*substitute*

**9 Search of personal property**

- (1) A police officer may ask a person to permit a search to be made of the person's personal property if—
  - (a) the person is entering (or about to enter) a major event venue;  
or
  - (b) the person is in a major event venue.
- (2) The person must permit a police officer to search the person's personal property.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.
- (4) This section applies only if the declaration of the event to be held at a major event venue states that it is a condition of entry to the venue that a person entering or in the venue must, if asked by a police officer, permit a search to be made of the person's personal property.

**10 Frisk search of people**

- (1) A police officer may ask a person to permit a frisk search of the person if—
  - (a) the person is entering (or about to enter) a major event venue;  
or
  - (b) the person is in a major event venue.
- (2) The person must permit a police officer to frisk search the person.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.

- (4) This section applies only if the declaration of the event to be held at a major event venue states that it is a condition of entry to the venue that a person entering or in the venue must, if asked by a police officer, permit a frisk search to be made of the person.

**[1.219] Section 11 (1)**

*substitute*

- (1) A person commits an offence if the person takes a prohibited item into, or has a prohibited item in, a major event venue.

Maximum penalty: 10 penalty units.

- (1A) An offence against this section is a strict liability offence.

**[1.220] Section 11 (1A) to (3) (as amended)**

*renumber as section 11 (2) to (4)*

**[1.221] Section 12**

*substitute*

**12 Name and address**

- (1) A police officer may require a person entering (or about to enter) a major event venue to state the person's name and home address.
- (2) A person must comply with a requirement made of the person under subsection (1).

Maximum penalty: 5 penalty units.

- (3) An offence against this section is a strict liability offence.

- (4) In this section:

***home address***, of a person, means the address of the place where the person usually lives.



**12A Refusal of entry**

A police officer may refuse a person entry to a major event venue if the officer believes on reasonable grounds that the person—

- (a) has committed, or is likely to commit, an offence against this Act; or
- (b) is likely to contravene a condition of entry to the venue imposed by an occupier of the venue.

**[1.222] Part 4**

*substitute*

**Part 4 Other offences**

**14 Unauthorised entry to major event venue**

- (1) A person commits an offence if—
  - (a) the person enters, or stays in, a major event venue; and
  - (b) the person is not authorised to enter, or stay in, the venue.Maximum penalty: 10 penalty units.
- (2) For subsection (1), a person is authorised to enter, or stay in, a major event venue if the person—
  - (a) has paid the entrance fee (if any); or
  - (b) has the occupier's consent to be in the venue; or
  - (c) is allowed for another reason to enter, or stay in, the venue.
- (3) A person commits an offence if—
  - (a) the person enters, or stays in, a part of a major event venue; and
  - (b) a major event has just been, is being, or is to be, conducted in that part of the venue; and

- (c) the person does not have the occupier's consent, or is not allowed for another reason, to enter, or stay in, that part of the venue.

Maximum penalty: 10 penalty units.

- (4) An offence against this section is a strict liability offence.

## **15                      Interference with event**

- (1) A person commits an offence if, in a major event venue, the person—
  - (a) behaves in an intimidating or harassing way; or
  - (b) injures a person or damages property; or
  - (c) engages in violent behaviour; or
  - (d) disrupts, interferes with, delays or obstructs the conduct of a major event, or an activity associated with the event, by throwing anything or in any other way; or
  - (e) in any other way interferes with the reasonable enjoyment of a major event, or an activity associated with the event, by someone else.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

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## **Part 1.31                      Mercantile Law Act 1962**

### **[1.223]    New sections 2 and 3**

*in part 1, insert*

#### **2                      Notes**

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

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

#### **3                      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 all offences against this Act (see Code, pt 2.1).

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.

### **[1.224]    Section 21**

*substitute*

#### **21                      Notice by person depositing goods**

- (1) A person commits an offence if—
- (a) the person deposits goods with a warehouse person for storage;
  - and

- (b) the person fails to tell the warehouse person in writing the name and, if the person knows it, the address of everyone who the person knows has an interest in the goods.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.

## Part 1.32                      Notaries Public Act 1984

### [1.225]    Section 3

*substitute*

#### 3            Notes

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

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

#### 3A          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 all offences against this Act (see Code, pt 2.1).

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.

**[1.226] Section 8 (3)**

*omit*

or section 3 shall

*substitute*

must

**[1.227] Section 10 (3)**

*substitute*

- (3) A person whose name is on the roll commits an offence if—
- (a) the person's name is removed from the roll under section 13; and
  - (b) the person fails to return the certificate or duplicate to the registrar within 1 month after the day the person's name is removed.

Maximum penalty: 5 penalty units.

- (4) An offence against this section is a strict liability offence.

**[1.228] Section 14**

*substitute*

**14 Pretending to be notary public**

- (1) A person commits an offence if—
- (a) the person is not a notary public; and
  - (b) the person—
    - (i) pretends to be entitled, qualified or able to exercise the functions of a notary public; or
    - (ii) uses the title of notary public; or

(iii) otherwise pretends to be a notary public.

Maximum penalty: 50 penalty units.

**Example for par (b)**

using 'notary public for the ACT' on letterhead or in an advertisement

*Note*     An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

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

## Part 1.33            Residential Tenancies Act 1997

### [1.229]    New section 3A

*insert*

#### 3A            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 all offences against this Act (see Code, pt 2.1).

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.

### [1.230]    Section 11A

*substitute*

#### 11A           Energy efficiency rating—advertising

(1) A person commits an offence if—

- (a) the person publishes an advertisement for the lease of premises; and
- (b) the advertisement does not contain a statement of any existing energy efficiency rating of the habitable part of the premises.

Maximum penalty: 5 penalty units.

- (2) Subsection (1) does not apply if the person has a reasonable excuse.
- (3) A person commits an offence if—
  - (a) the person publishes an advertisement for the lease of premises; and
  - (b) the advertisement includes a statement of the energy efficiency rating of the habitable part of the premises; and
  - (c) the statement is false or misleading.

Maximum penalty: 5 penalty units.

- (4) Subsection (3) does not apply if the person has a reasonable excuse.
- (5) Also, subsection (3) (c) does not apply if the statement is not false or misleading in a material particular.
- (6) An offence against this section is a strict liability offence.
- (7) In this section:

***existing energy efficiency rating***, of the habitable part of premises, means the energy efficiency rating, or the most recent energy efficiency rating, prepared for the premises for the purpose of a sale or leasing of the premises.

***publish*** means communicate or disseminate information in a way or to an extent that makes it available to, or likely to come to the notice of, the public or a section of the public.

**[1.231] Section 108**

*substitute*

**108 Failure to comply with tribunal orders**

- (1) A party to a hearing must not fail to comply with an order of the tribunal.
- (2) If a person contravenes subsection (1), the tribunal may order the person to pay a stated amount (not more than \$5 000) to the Territory.
- (3) A person commits an offence if—
  - (a) the person contravenes subsection (1) (the *first contravention*); and
  - (b) the tribunal makes an order under subsection (2) in relation to the first contravention; and
  - (c) within 1 year immediately after the day of the first contravention, the person again contravenes subsection (1) (the *subsequent contravention*); and
  - (d) the first and subsequent contraventions are not against orders arising from the same proceeding.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (4) Subsection (3) does not apply if the person has a reasonable excuse for the first or subsequent contravention.



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**[1.232] Section 129**

*substitute*

**129 Admissibility of evidence given before approved mediator etc**

- (1) The following evidence is not admissible against a person in a criminal proceeding:
  - (a) evidence given before an approved mediator during mediation, before the tribunal or during a preliminary conference;
  - (b) evidence of any information or thing obtained directly or indirectly because of evidence mentioned in paragraph (a).
- (2) However, evidence mentioned in subsection (1) is admissible in a prosecution for the following offences:
  - (a) an offence against section 122 (Contempt of tribunal);
  - (b) an offence against the Criminal Code, section 725 (Obstructing etc legal proceeding);
  - (c) any offence in relation to the falsity or the misleading nature of the evidence.
- (3) Evidence of any words spoken during mediation before an approved mediator or at a preliminary conference may only be admitted in a civil proceeding under this Act if the evidence relates to the making of an order by a referee.

**[1.233] Section 130**

*omit*

## Part 1.34            Road Transport (General)    Regulation 2000

### [1.234]    New section 24 (1A)

*insert*

- (1A) An offence against this section is a strict liability offence.

### [1.235]    Section 24 (6)

*omit*

### [1.236]    Section 24 (1A) to (5) (as amended)

*renumber as section 24 (2) to (6)*

### [1.237]    Section 26

*substitute*

## 26            Unauthorised interference with statutory write-off notices

- (1) A person commits an offence if the person damages, destroys or removes a statutory write-off notice attached to a vehicle.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) This section does not apply to a person who has a reasonable excuse for damaging, destroying or removing the notice.

#### **Example of reasonable excuse**

removing a notice from a vehicle to sell the part to which it is attached

*Note*    An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

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## Part 1.35 Road Transport (Third-Party Insurance) Regulation 2000

### [1.238] New section 4A

*insert*

#### 4A Offences against regulation—application of Criminal Code etc

Other legislation applies in relation to offences against this regulation.

*Note 1 Criminal Code*

The Criminal Code, ch 2 applies to all offences against this regulation (see Code, pt 2.1).

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.

### [1.239] Section 7 (1)

*substitute*

- (1) An authorised insurer must, not later than 30 April in each year, give to the road transport authority a return containing the required insurance particulars for the year ending on the previous 31 December.

Maximum penalty: 20 penalty units.

- (1A) An offence against this section is a strict liability offence.

### [1.240] Section 7 (1A) and (2) (as amended)

*renumber as section 7 (2) and (3)*

**[1.241]      Section 9**

*substitute*

**9              Change in use of insured vehicle**

- (1) This section applies if the premium paid for the third-party policy applying to a motor vehicle has been worked out because of the use of the vehicle for a particular purpose or purposes mentioned in a premium classification.
- (2) The owner of the motor vehicle must not use the vehicle for another purpose if—
  - (a) there is an additional premium payable for the premium classification applying to the other purpose; and
  - (b) the owner has not paid the additional premium.Maximum penalty: 20 penalty units.
- (3) An offence against this section is a strict liability offence.

**Part 1.36                      Uncollected Goods Act 1996**

**[1.242]      New sections 2 and 2A**

*insert*

**2              Notes**

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

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

## **2A 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 all offences against this Act (see Code, pt 2.1).

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.

### **[1.243] Section 16 (4) and (5)**

*omit*

### **[1.244] New section 16A**

*insert*

## **16A Identity cards**

- (1) The relevant chief executive must give an authorised officer an identity card stating the person's name and that the person is an authorised officer.
- (2) The identity card must show—
  - (a) a recent photograph of the authorised officer; and
  - (b) the card's date of issue and expiry; and
  - (c) anything else prescribed by regulation.
- (3) A person commits an offence if—
  - (a) the person stops being an authorised officer; and

- (b) the person does not return the person's identity card to the chief executive who gave the identity card to the person as soon as practicable, but no later than 7 days after the day the person stops being an authorised officer.

Maximum penalty: 1 penalty unit.

- (4) An offence against this section is a strict liability offence.
- (5) Subsection (2) applies only in relation to a card given by a chief executive after the commencement of this section.
- (6) Subsection (5) is declared to be a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (7) Subsections (5) and (6) and this subsection expire on the day they commence.

## Part 1.37                            Waste Minimisation Act 2001

### [1.245]    New section 4A

*insert*

#### **4A            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 all offences against this Act (see Code, pt 2.1).

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.

**[1.246] Section 11 (4)**

*substitute*

- (4) A person must take all reasonable steps to comply with a requirement of a notice given to the person under this section.

Maximum penalty: 250 penalty units.

**[1.247] Section 18 (5)**

*substitute*

- (5) A person must take all reasonable steps to comply with a requirement of a notice given to the person under this section.

Maximum penalty: 250 penalty units.

**[1.248] Section 25**

*substitute*

**25 Unlawful use of land as waste disposal facility**

- (1) The owner or occupier of premises must ensure that the premises are not used as a waste facility.

Maximum penalty: 100 penalty units.

- (2) This section does not apply to the declared use of premises prescribed by regulation.

**[1.249] Section 29**

*substitute*

**29 Identity cards**

- (1) The chief executive must give an authorised person an identity card stating the person's name and that the person is an authorised person.

- (2) The identity card must show—

- (a) a recent photograph of the person; and
  - (b) the card's date of issue and expiry; and
  - (c) anything else prescribed by regulation.
- (3) A person commits an offence if—
- (a) the person stops being an authorised person; and
  - (b) the person does not return the person's identity card to the chief executive as soon as practicable, but no later than 7 days after the day the person stops being an authorised person.

Maximum penalty: 1 penalty unit.

- (4) An offence against this section is a strict liability offence.

**[1.250] Section 35 (2)**

*substitute*

- (2) A person must take reasonable steps to comply with a requirement made of the person under subsection (1) (f).

Maximum penalty: 50 penalty units.

*Note*     The Legislation Act, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

**[1.251] Section 36**

*substitute*

**36 Power to require name and address**

- (1) An authorised person may require a person to state the person's name and home or business address if the authorised person believes, on reasonable grounds, that the person is committing or has just committed an offence against this Act.

*Note*     A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).



- (2) The authorised person must tell the person the reason for the requirement and, as soon as practicable, record the reason.
- (3) The person may ask the authorised person to produce his or her identity card for inspection by the person.
- (4) A person must comply with a requirement made of the person under subsection (1) if the authorised person—
  - (a) tells the person the reason for the requirement; and
  - (b) complies with any request made by the person under subsection (3).

Maximum penalty: 10 penalty units.

- (5) An offence against this section is a strict liability offence.
- (6) In this section:  
*home address*, of a person, means the address of the place where the person usually lives.

**[1.252] Section 37 (5)**

*substitute*

- (5) A person commits an offence if—
  - (a) the person interferes with a thing to which access has been restricted under subsection (4); and
  - (b) the person does not have the chief executive's approval to interfere with the thing.

Maximum penalty: 50 penalty units.

- (6) An offence against this section is a strict liability offence.

## Part 1.38            Waste Minimisation Regulation 2001

### [1.253]    New section 4A

*in part 1, insert*

#### **4A            Offences against Act—application of Criminal Code etc**

Other legislation applies in relation to offences against this regulation.

*Note 1    Criminal Code*

The Criminal Code, ch 2 applies to all offences against this regulation (see Code, pt 2.1).

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.

### [1.254]    Section 5

*substitute*

#### **5            Garbage to be kept in container**

- (1) The occupier of premises must not keep garbage on the premises if the garbage is not in a suitable container.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.

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**[1.255] Section 6 (4)**

*substitute*

- (4) A person must not put garbage in a government bin, a particular kind of government bin or a particular segment of a government bin in a way that contravenes a direction.

Maximum penalty: 5 penalty units.

- (5) An offence against this section is a strict liability offence.

**[1.256] Sections 7 and 8**

*substitute*

**7 Garbage containers to be kept clean**

- (1) This section applies in relation to a container used for the storage of garbage.

- (2) The occupier of premises where the container is kept must take all reasonable steps to keep the container in a hygienic condition.

Maximum penalty: 5 penalty units.

- (3) An offence against this section is a strict liability offence.

**8 Government bins to be kept covered**

- (1) The occupier of premises where a government bin is kept must take all reasonable steps to keep the lid of the bin closed except when garbage is being put in or removed from the bin.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.

**[1.257]    Section 10**

*omit*

**[1.258]    Section 11 (5)**

*substitute*

- (5) A person must not contravene a direction given to the person.  
Maximum penalty: 10 penalty units.
- (6) An offence against this section is a strict liability offence.

**[1.259]    Sections 12 and 13**

*substitute*

**12            Disposal of garden waste**

- (1) A person must not put garden waste in a government bin.  
Maximum penalty: 5 penalty units.
- (2) An offence against this section is a strict liability offence.

**13            Disposal of regulated waste**

- (1) A person must not put regulated waste in a government bin.  
Maximum penalty: 10 penalty units.
  - (2) A person must not bury regulated waste on land that is not a waste facility.  
Maximum penalty: 10 penalty units.
  - (3) An offence against this section is a strict liability offence.
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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 23 June 2005.

**2 Notification**

Notified under the Legislation Act on 27 October 2005.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Criminal Code Harmonisation Bill 2005, which was passed by the Legislative Assembly on 20 October 2005.

Clerk of the Legislative Assembly

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