

2005

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Criminal Code (Administration of Justice Offences) Amendment Bill 2005

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(Attorney-General)

Criminal Code (Administration of Justice Offences) Amendment Bill 2005

A Bill for

An Act to amend the *Criminal Code 2002*, and for other purposes

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

1 **1 Name of Act**

2 This Act is the *Criminal Code (Administration of Justice Offences)*
3 *Amendment Act 2005*.

4 **2 Commencement**

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

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

8 **3 Legislation amended**

9 This Act amends the *Criminal Code 2002*.

10 *Note* This Act also amends other legislation (see sch 1 and sch 2).

11 **4 Delayed application of ch 2 to certain offences**
12 **Section 8 (1) and (3)**

13 *omit*

14 immediately applied provisions

15 *substitute*

16 applied provisions

17 **5 Section 10**

18 *substitute*

19 **10 Definitions—*applied provisions* and *default application***
20 ***date***

21 (1) In this Act:

22 ***applied provisions*** means the following provisions of this chapter:

- 23 • section 15 (5) (which deals with evidence of self-induced
24 intoxication)

- division 2.3.1 (Lack of capacity—children)
- division 2.3.3 (Intoxication)
- part 2.4 (Extensions of criminal responsibility)
- part 2.5 (Corporate criminal responsibility)
- part 2.6 (Proof of criminal responsibility)
- part 2.7 (Geographical application) other than section 66 (2) (d).

Note Pt 2.5 became an applied provision on 9 April 2004. The other applied provisions have been applied provisions since the commencement of the Code on 1 January 2003.

default application date means 1 July 2007 or, if another date is prescribed by regulation for this definition, that date.

- (2) This section expires on the default application date.

6 Establishing guilt of offences

Section 12

omit

A person

substitute

- (1) A person

7 New section 12 (2)

insert

- (2) However, unless the law creating the offence otherwise expressly provides, a person can be found guilty of committing the offence even though, when carrying out the conduct required for the offence, the person is mistaken about, or ignorant of, the existence or content of a law that creates the offence.

Note ***Create***, in relation to an offence, is defined in the dictionary.

1 **8 Mistake or ignorance of law creating offence**
2 **Section 37**

3 *omit*

4 **9 Complicity and common purpose**
5 **New section 45 (8) to (11)**

6 *insert*

7 (8) If the trier of fact is satisfied beyond reasonable doubt that a
8 defendant committed an offence because of this section or otherwise
9 than because of this section but cannot decide which, the trier of fact
10 may nevertheless find the defendant guilty of the offence.

11 (9) Subsection (8) applies only to a prosecution started after the
12 commencement of the subsection.

13 (10) Subsection (9) is a law to which the Legislation Act, section 88
14 (Repeal does not end effect of transitional laws etc) applies.

15 (11) Subsections (9) and (10) and this subsection expire 1 year after they
16 commence.

17 **10 Obtaining financial advantage from the Territory**
18 **Section 335 (1) (a)**

19 *substitute*

20 (a) the person engages in conduct that results in the person
21 obtaining a financial advantage from someone else; and

22 **11 Section 335 (3) (a)**

23 *substitute*

24 (a) the person engages in conduct that results in the person
25 obtaining a financial advantage for someone else (**B**) from a
26 third person; and

12 **New section 336A**

in part 3.4, insert

336A **Making false statements on oath or in statutory declarations**

A person commits an offence if—

- (a) the person makes a statement on oath or in a statutory declaration; and
- (b) the statement is false; and
- (c) the person knows the statement is false.

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

Note *Oath* includes affirmation and *take* an oath includes make an affirmation (see Legislation Act, dict, pt 1).

13 **New chapter 7**

insert

Chapter 7 **Administration of justice offences****Part 7.1** **Interpretation for ch 7****700** **Definitions for ch 7**

In this chapter:

aggravated perjury—see section 702.

- 1 **causes** a detriment or another result—a person **causes** a detriment or
2 another result if the person’s conduct substantially contributes to the
3 detriment or other result.
- 4 **evidence** includes anything that may be used as evidence.
- 5 **interpreter** includes a person who interprets signs or other things
6 made or done by someone who cannot speak adequately for the
7 purpose of giving evidence in a legal proceeding.
- 8 **law enforcement officer** means any of the following:
- 9 (a) a police officer;
- 10 (b) a member of the police service or force of a State, another
11 Territory or a foreign country;
- 12 (c) a person exercising a law enforcement function for the
13 Australian Customs Service or the Australian Crime
14 Commission;
- 15 (d) the Attorney-General for the Territory, the Commonwealth, a
16 State or another Territory;
- 17 (e) the director of public prosecutions, or a person performing a
18 similar function under a law of the Commonwealth, a State or
19 another Territory;
- 20 (f) a person employed in the Office of the Director of Public
21 Prosecutions or a similar entity established under a law of the
22 Commonwealth, a State or another Territory;
- 23 (g) any other person responsible for the investigation or
24 prosecution of offences against a territory law, or a law of the
25 Commonwealth, a State or another Territory;
- 26 (h) a lawyer to the extent that the lawyer is engaged to prosecute
27 offences against a territory law, or a law of the
28 Commonwealth, a State or another Territory.

- 1 **legal proceeding**—see section 701.
- 2 **perjury**—see section 703.
- 3 **statement** means a statement made orally, in a document or in any
4 other way.
- 5 **sworn statement** means a statement made or verified on oath.
- 6 *Note* **Oath** includes affirmation (see Legislation Act, dict, pt 1).
- 7 **subpoena** includes a summons or notice (however described) issued
8 by an entity for a legal proceeding before the entity.
- 9 **witness**, in a legal proceeding, includes a witness not subpoenaed as a
10 witness in the proceeding.

11 **701 Meaning of legal proceeding for ch 7**

- 12 (1) In this chapter:
- 13 **legal proceeding** means—
- 14 (a) a proceeding in which evidence may be taken on oath; or
- 15 (b) a proceeding in which judicial power is exercised; or
- 16 (c) a proceeding or anything else that a law declares to be a legal
17 proceeding for this chapter;
- 18 but does not include a proceeding or anything else that a law
19 declares not to be a legal proceeding for this chapter.
- 20 *Note* A court, tribunal or other entity authorised by law to hear and decide a
21 matter has power to receive evidence and administer oaths (see
22 Legislation Act, s 178)
- 23 (2) A reference to a **legal proceeding** includes a reference to a legal
24 proceeding that has been or may be started.

- 1 (3) In this chapter:
2 *in* a legal proceeding includes for the purposes of the legal
3 proceeding.
4 (4) A declaration made for subsection (1) about a proceeding or other
5 thing does not imply that, in the absence of a declaration about it,
6 another proceeding is or is not a legal proceeding for this chapter.

7 **Part 7.2 Indictable offences for ch 7**

8 **Division 7.2.1 Perjury**

9 **702 Aggravated perjury**

- 10 (1) A person commits an offence (*aggravated perjury*) if—
11 (a) the person makes a sworn statement in a legal proceeding with
12 the intention of procuring the person's or someone else's
13 conviction for, or acquittal of, an offence (the *relevant*
14 *offence*); and
15 (b) the relevant offence is punishable by imprisonment; and
16 (c) the statement is false; and
17 (d) the person is reckless about whether the statement is false.
18 Maximum penalty: 1 400 penalty units, imprisonment for 14 years
19 or both.
20 (2) An interpreter commits an offence (also *aggravated perjury*) if—
21 (a) the interpreter, by a sworn statement, gives an interpretation of
22 a statement or other thing in a legal proceeding with the
23 intention of procuring someone else's conviction for, or
24 acquittal of, an offence (the *relevant offence*); and
25 (b) the relevant offence is punishable by imprisonment; and

- 1 (c) the interpreter's statement is false or misleading; and
2 (d) the interpreter is reckless about whether the interpreter's
3 statement is false or misleading.

4 Maximum penalty: 1 400 penalty units, imprisonment for 14 years
5 or both.

6 *Note* *Sworn statement* is defined in s 700.

7 **703 Perjury**

- 8 (1) A person commits an offence (*perjury*) if—
9 (a) the person makes a sworn statement in a legal proceeding; and
10 (b) the statement is false; and
11 (c) the person is reckless about whether the statement is false.

12 Maximum penalty: 700 penalty units, imprisonment for 7 years or
13 both.

- 14 (2) An interpreter commits an offence (also *perjury*) if—
15 (a) the interpreter, by a sworn statement, gives an interpretation of
16 a statement or other thing in a legal proceeding; and
17 (b) the interpreter's statement is false or misleading; and
18 (c) the interpreter is reckless about whether the interpreter's
19 statement is false or misleading.

20 Maximum penalty: 700 penalty units, imprisonment for 7 years or
21 both.

22 **704 Additional provisions about perjury or aggravated perjury**

- 23 (1) For the offence of perjury or aggravated perjury, it does not matter
24 whether—

- 1 (a) the sworn statement related to something material to the legal
2 proceeding; or
- 3 (b) the sworn statement was admitted in evidence in the
4 proceeding; or
- 5 (c) the court or other entity dealing with the proceeding had
6 jurisdiction, was properly constituted or was sitting in the
7 proper place; or
- 8 (d) the person who made the sworn statement was competent to
9 give evidence in the proceeding; or
- 10 (e) there was any formal defect in the sworn statement.
- 11 (2) However, a person does not commit perjury or aggravated perjury if
12 the person is not competent under the *Evidence Act 1995* (Cwlth),
13 section 13 (Competence: lack of capacity) to give sworn evidence.
- 14 (3) If the trier of fact is satisfied beyond reasonable doubt that a person
15 committed perjury or aggravated perjury in relation to 1 of 2 sworn
16 statements made by the person that are irreconcilably in conflict, the
17 trier of fact may find the person guilty of perjury or aggravated
18 perjury even though the trier of fact cannot decide which of the
19 statements is false.
- 20 (4) For subsection (3), it does not matter whether the 2 statements were
21 made in the same proceeding.
- 22 (5) If a sworn statement is about an opinion of the person making the
23 statement, the statement is false for the offence of perjury or
24 aggravated perjury if the opinion is not genuinely held by the
25 person.
- 26 (6) It is not necessary for the conviction of a person for perjury or
27 aggravated perjury that evidence of the perjury be corroborated.
- 28 (7) In this section:
29 ***formal defect*** includes—

- 1 (a) any formal error; and
2 (b) any irregularity; and
3 (c) any noncompliance with a rule of court, approved form or rule
4 of practice.

5 **Division 7.2.2 Falsifying, destroying or concealing**
6 **evidence**

7 **705 Making or using false evidence**

- 8 (1) A person commits an offence if the person makes false evidence
9 with the intention of—
10 (a) influencing a decision about starting a legal proceeding; or
11 (b) influencing the outcome of a legal proceeding.
12 Maximum penalty: 700 penalty units, imprisonment for 7 years or
13 both.
14 (2) A person commits an offence if—
15 (a) the person uses false evidence; and
16 (b) the person—
17 (i) knows the evidence is false; or
18 (ii) believes the evidence is false; and
19 (c) the person is reckless about whether the use of the evidence
20 could—
21 (i) influence a decision about starting a legal proceeding; or

- 1 (ii) influence the outcome of a legal proceeding.
2 Maximum penalty: 700 penalty units, imprisonment for 7 years or
3 both.
- 4 (3) Subsection (2) does not apply to—
- 5 (a) a lawyer or person assisting a lawyer who uses the evidence on
6 instructions from a client and does not know that the evidence
7 is false; or
- 8 (b) a person who—
- 9 (i) is, or may be, involved in a legal proceeding as a law
10 enforcement officer, lawyer, or party (or as a person
11 assisting any of them); and
- 12 (ii) uses the evidence for a legitimate forensic purpose in the
13 proceeding.
- 14 (4) Subsection (2) (b) (i) does not apply to a person who discloses,
15 when or before using the evidence, that the evidence is false.
- 16 (5) Subsection (2) (b) (ii) does not apply to a person who discloses,
17 when or before using the evidence, that the person believes the
18 evidence is false.
- 19 (6) In this section:
- 20 *legitimate forensic purpose* includes the purpose of demonstrating
21 that evidence is false or misleading.
- 22 *make* evidence includes change evidence, but does not include
23 commit perjury or aggravated perjury.
- 24 **706 Destroying or concealing evidence**
- 25 (1) A person commits an offence if the person destroys or conceals
26 evidence with the intention of—
- 27 (a) influencing a decision about starting a legal proceeding; or

1 (b) influencing the outcome of a legal proceeding.

2 Maximum penalty: 700 penalty units, imprisonment for 7 years or
3 both.

4 (2) In this section:

5 *destroy* evidence includes—

6 (a) mutilate or change evidence; and

7 (b) make evidence illegible, indecipherable or otherwise unable to
8 be identified.

9 **Division 7.2.3 Protection of people involved in legal**
10 **proceedings**

11 **707 Corruption in relation to legal proceedings**

12 (1) A person commits an offence if—

13 (a) the person—

14 (i) provides a benefit to someone else; or

15 (ii) causes a benefit to be provided to someone else; or

16 (iii) offers to provide, or promises to provide, a benefit to
17 someone else; or

18 (iv) causes an offer of the provision of a benefit, or a promise
19 of the provision of a benefit, to be made to someone else;
20 and

21 (b) the person does so with the intention that the other person or a
22 third person will—

23 (i) not attend as a witness, interpreter or juror in a legal
24 proceeding; or

- 1 (ii) give false or misleading evidence in a legal proceeding;
2 or
- 3 (iii) withhold true evidence in a legal proceeding; or
- 4 (iv) give a false or misleading interpretation as an interpreter
5 in a legal proceeding; or
- 6 (v) improperly make a decision as a juror in a legal
7 proceeding; or
- 8 (vi) improperly influence a juror in a legal proceeding.
- 9 Maximum penalty: 700 penalty units, imprisonment for 7 years or
10 both.
- 11 (2) A person commits an offence if—
- 12 (a) the person—
- 13 (i) asks for a benefit for the person or someone else; or
- 14 (ii) obtains a benefit for the person or someone else; or
- 15 (iii) agrees to obtain a benefit for the person or someone else;
16 and
- 17 (b) the person does so with the intention that, or with the intention
18 of inducing, fostering or sustaining a belief that, the person or
19 someone else will—
- 20 (i) not attend as a witness, interpreter or juror in a legal
21 proceeding; or
- 22 (ii) give false or misleading evidence in a legal proceeding;
23 or
- 24 (iii) withhold true evidence in a legal proceeding; or
- 25 (iv) give a false or misleading interpretation as an interpreter
26 in a legal proceeding; or

1 (v) improperly make a decision as a juror in a legal
2 proceeding; or

3 (vi) improperly influence a juror in a legal proceeding.

4 Maximum penalty: 700 penalty units, imprisonment for 7 years or
5 both.

6 (3) For this section, a person (*A*) is taken to obtain a benefit for
7 someone else (*B*) if A induces a third person to do something that
8 results in B obtaining the benefit.

9 **708 Deceiving witness, interpreter or juror**

10 A person commits an offence if the person deceives someone else
11 with the intention that the other person or a third person will—

12 (a) not attend as a witness, interpreter or juror in a legal
13 proceeding; or

14 (b) give false or misleading evidence in a legal proceeding; or

15 (c) withhold true evidence in a legal proceeding.

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

18 **709 Threatening etc witness, interpreter or juror**

19 A person commits an offence if the person causes or threatens to
20 cause a detriment to someone else with the intention that the other
21 person or a third person will—

22 (a) not attend as a witness, interpreter or juror in a legal
23 proceeding; or

24 (b) give false or misleading evidence in a legal proceeding; or

25 (c) withhold true evidence in a legal proceeding; or

1 (d) give a false or misleading interpretation as an interpreter in a
2 legal proceeding; or

3 (e) improperly make a decision as a juror in a legal proceeding; or

4 (f) improperly influence a juror in a legal proceeding.

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

7 **710 Preventing attendance etc of witness, interpreter or juror**

8 A person commits an offence if the person, by his or her conduct,
9 intentionally prevents someone else from—

10 (a) attending as a witness, interpreter or juror in a legal
11 proceeding; or

12 (b) answering a question the other person is required by law to
13 answer in a legal proceeding.

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

16 **711 Preventing production of thing in evidence**

17 A person commits an offence if the person, by his or her conduct,
18 intentionally prevents someone else from producing in evidence in a
19 legal proceeding a document or other thing that is required by law to
20 be produced.

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

- 1 **712 Reprisal against person involved in proceeding**
- 2 (1) A person commits an offence if the person causes or threatens to
3 cause a detriment to a person involved in a legal proceeding—
- 4 (a) because of something done by the involved person in the
5 proceeding; and
- 6 (b) in the belief that the involved person was an involved person
7 who had done that thing.
- 8 Maximum penalty: 500 penalty units, imprisonment for 5 years or
9 both.
- 10 (2) In this section:
- 11 *interpreter* includes a person who attends in the proceeding as an
12 interpreter but is not called as an interpreter.
- 13 *involved person*, in relation to a legal proceeding, means—
- 14 (a) a judge, magistrate or member of a tribunal or other entity the
15 proceeding is before; or
- 16 (b) a registrar, deputy registrar or other official of the court,
17 tribunal or other entity the proceeding is before; or
- 18 (c) a witness, interpreter, juror or lawyer involved in the
19 proceeding; or
- 20 (d) for a criminal proceeding—a complainant, informant or party
21 to the proceeding.
- 22 *witness* includes a person who attends in the proceeding as a witness
23 but is not called as a witness.

1 **Division 7.2.4 Perverting the course of justice and**
2 **related offences**

3 **713 Perverting the course of justice**

- 4 (1) A person commits an offence if the person, by his or her conduct,
5 intentionally perverts the course of justice.

6 Maximum penalty: 700 penalty units, imprisonment for 7 years or
7 both.

- 8 (2) In this section:

9 *perverts* includes obstructs, prevents and defeats.

10 **714 Publication that could cause miscarriage of justice**

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

12 (a) the person publishes something that could cause a miscarriage
13 of justice in a legal proceeding; and

14 (b) the person does so with the intention of causing a miscarriage
15 of justice in the proceeding.

16 Maximum penalty: 1 000 penalty units, imprisonment for 10 years
17 or both.

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

19 (a) the person publishes something that could cause a miscarriage
20 of justice in a legal proceeding; and

21 (b) the person is reckless about whether publishing the thing could
22 cause a miscarriage of justice in the proceeding.

23 Maximum penalty: 700 penalty units, imprisonment for 7 years or
24 both.

1 **715 False accusation of offence**

2 (1) A person commits an offence if the person makes an accusation to a
3 law enforcement officer that someone else has committed an
4 offence—

5 (a) knowing or believing that the other person did not commit the
6 offence; and

7 (b) intending that—

8 (i) the other person will be charged with committing the
9 offence; or

10 (ii) law enforcement officers will be deflected from
11 prosecuting the offender.

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

14 (2) Subsection (1) (b) (i) does not apply to a law enforcement officer
15 exercising his or her functions as a law enforcement officer if the
16 officer—

17 (a) does not know that the other person did not commit the
18 offence; and

19 (b) believes that there are reasonable grounds for charging the
20 other person with the offence.

21 (3) A law enforcement officer commits an offence if the officer charges
22 someone with an offence knowing that the person did not commit
23 the offence.

24 Maximum penalty: 1 000 penalty units, imprisonment for 10 years
25 or both.

- 1 **716 Compounding of offence**
- 2 (1) A person commits an offence if—
- 3 (a) the person—
- 4 (i) provides a benefit to someone else; or
- 5 (ii) causes a benefit to be provided to someone else; or
- 6 (iii) offers to provide, or promises to provide, a benefit to
- 7 someone else; or
- 8 (iv) causes an offer of the provision of a benefit, or a promise
- 9 of the provision of a benefit, to be made to someone else;
- 10 and
- 11 (b) the person does so with the intention that the other person or a
- 12 third person will—
- 13 (i) conceal the commission of an offence; or
- 14 (ii) not start, or discontinue or delay, a prosecution for an
- 15 offence; or
- 16 (iii) withhold information, or provide false or misleading
- 17 information, in relation to the commission of an offence;
- 18 or
- 19 (iv) obstruct or hinder the investigation of an offence by law
- 20 enforcement officers.
- 21 Maximum penalty: 700 penalty units, imprisonment for 7 years or
- 22 both.
- 23 (2) A person commits an offence if—
- 24 (a) the person—
- 25 (i) asks for a benefit for the person or someone else; or
- 26 (ii) obtains a benefit for the person or someone else; or

- 1 (iii) agrees to obtain a benefit for the person or someone else;
2 and
- 3 (b) the person does so with the intention that, or with the intention
4 of inducing, fostering or sustaining a belief that, the person or
5 someone else will—
- 6 (i) conceal the commission of an offence; or
7 (ii) not start, or discontinue or delay, a prosecution for an
8 offence; or
- 9 (iii) withhold information, or provide false or misleading
10 information, in relation to the commission of an offence;
11 or
- 12 (iv) obstruct or hinder the investigation of an offence by law
13 enforcement officers.

14 Maximum penalty: 700 penalty units, imprisonment for 7 years or
15 both.

- 16 (3) For this section, a person (*A*) is taken to obtain a benefit for
17 someone else (*B*) if A induces a third person to do something that
18 results in B obtaining the benefit.

19 **717 Accessory after the fact**

- 20 (1) A person (the *accessory*) commits an offence if—
- 21 (a) someone else (the *principal offender*) has committed an
22 offence; and
- 23 (b) the accessory assists the principal offender—
- 24 (i) knowing the principal offender committed the offence; or
25 (ii) believing the principal offender committed the offence or
26 a related offence; and

- 1 (c) the accessory does so with the intention of allowing the
2 principal offender to—
- 3 (i) escape apprehension or prosecution; or
4 (ii) obtain, keep or dispose of the proceeds of the offence.
- 5 Maximum penalty:
- 6 (a) if the offence committed by the principal offender is murder—
7 imprisonment for 20 years, 2 000 penalty units or both; or
8 (b) if the offence committed by the principal offender has a
9 maximum penalty of at least 2 000 penalty units, imprisonment
10 for 20 years or both (but is not murder)—1 500 penalty units,
11 imprisonment for 15 years or both; or
12 (c) if the offence committed by the principal offender has a
13 maximum penalty of at least 1 500 penalty units, imprisonment
14 for 15 years or both but less than 2 000 penalty units,
15 imprisonment for 20 years or both—700 penalty units,
16 imprisonment for 7 years or both; or
17 (d) if the offence committed by the principal offender has a
18 maximum penalty of at least 1 000 penalty units, imprisonment
19 for 10 years or both but less than 1 500 penalty units,
20 imprisonment for 15 years or both—500 penalty units,
21 imprisonment for 5 years or both; or
22 (e) in any other case—the lesser of—
- 23 (i) 300 penalty units, imprisonment for 3 years or both; and
24 (ii) the maximum penalty for the principal offence.
- 25 (2) However, if the offence the accessory believes the principal
26 offender committed is not the offence the principal offender
27 committed, the maximum penalty is the lesser of—
- 28 (a) the maximum penalty applying under subsection (1); and

- 1 (b) the maximum penalty that would apply under that subsection if
2 the principal offender had committed the offence the accessory
3 believed the principal offender had committed.
- 4 (3) For this section, an offence the accessory believes the principal
5 offender committed is a *related offence* to the offence the principal
6 offender committed if the circumstances in which the accessory
7 believes the offence to have been committed are the same, or partly
8 the same, as the circumstances in which the actual offence was
9 committed.
- 10 (4) It is not an offence to attempt to commit an offence against this
11 section.

12 **Part 7.2 Summary offences for ch 7**

13 **718 Pleading guilty in another's name**

- 14 (1) A person commits an offence if the person pleads guilty to a charge
15 for an offence knowing the charge is in someone else's name.
- 16 Maximum penalty: 50 penalty units, imprisonment for 6 months or
17 both.
- 18 (2) In a prosecution for an offence against this section it is not
19 necessary to prove the identity or existence of the other person.

20 **719 Failing to attend**

- 21 (1) A person commits an offence if—
- 22 (a) the person is served with a subpoena to attend to give evidence
23 or information, or answer questions, in a legal proceeding; and
- 24 (b) the person—
- 25 (i) fails to attend as required by the subpoena; or

1 (ii) fails to continue to attend until excused from further
2 attendance.

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

5 (2) This section does not apply if the person has a reasonable excuse.

6 **720 Failing to produce document or other thing**

7 (1) A person commits an offence if—

8 (a) the person—

9 (i) is served with a subpoena to produce a document or other
10 thing in a legal proceeding; or

11 (ii) is otherwise required by law to produce a document or
12 other thing in a legal proceeding; and

13 (b) the person fails to produce the document or other thing as
14 required by the subpoena or other requirement.

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

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

19 (2) This section does not apply if the person has a reasonable excuse.

20 **721 Failing to take oath**

21 (1) A person commits an offence if—

22 (a) the person is required by law to take an oath to give evidence
23 in a legal proceeding; and

- 1 (b) the person fails to take the oath when required.
2 Maximum penalty: 50 penalty units, imprisonment for 6 months or
3 both.

- 4 (2) This section does not apply if the person has a reasonable excuse.

5 **722 Failing to answer question or give information**

- 6 (1) A person commits an offence if—
7 (a) the person is required by law to answer a question or give
8 information in a legal proceeding; and
9 (b) the person fails to answer the question or give the information
10 when required.

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

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

- 15 (2) This section does not apply if the person has a reasonable excuse.

16 **723 Making etc false or misleading statements in legal**
17 **proceeding**

- 18 (1) A person commits an offence if—
19 (a) the person makes a sworn or unsworn statement in a legal
20 proceeding before a court; and
21 (b) the statement is false; and
22 (c) the person is reckless about whether the statement is false.

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

- 1 (2) A person commits an offence if—
- 2 (a) the person makes a sworn or unsworn statement in a legal
- 3 proceeding before an entity that is not a court; and
- 4 (b) the statement is false or misleading; and
- 5 (c) the person is reckless about whether the statement is false or
- 6 misleading.
- 7 Maximum penalty: 100 penalty units, imprisonment for 1 year or
- 8 both.
- 9 (3) Subsection (2) (b) and (c) does not apply if the statement is not false
- 10 or misleading in a material particular.
- 11 (4) Subsections (1) and (2) do not apply in relation to an unsworn
- 12 statement if, before the statement was made, the entity did not take
- 13 reasonable steps to tell the person making the statement about the
- 14 existence of the offence against the subsection.
- 15 (5) For subsection (4), it is sufficient if the following form of words is
- 16 used:
- 17 ‘Making false or misleading statements is a serious offence’.
- 18 (6) A person commits an offence if—
- 19 (a) the person files or gives a sworn document in a legal
- 20 proceeding; and
- 21 (b) the document contains false or misleading information; and
- 22 (c) the person is reckless about whether the document contains
- 23 false or misleading information.
- 24 Maximum penalty: 100 penalty units, imprisonment for 1 year or
- 25 both.

- 1 (7) Subsection (6) does not apply to—
2 (a) a lawyer or person assisting a lawyer who—
3 (i) files or gives the document on instructions from a client;
4 and
5 (ii) does not know the document contains false or misleading
6 information; or
7 (b) a person involved in the legal proceeding as a law enforcement
8 officer, lawyer, or party (or as a person assisting any of them)
9 who files or gives the document for a legitimate forensic
10 purpose; or
11 (c) a person who, when filing or giving the document, discloses
12 that it contains or may contain false or misleading information.

13 (8) Also, subsection (6) (b) and (c) does not apply if the information is
14 not false or misleading in a material particular.

15 (9) In this section:

16 *file* includes lodge for filing.

17 *legitimate forensic purpose*—see section 705 (6).

18 *unsworn statement* means a statement that is not made or verified
19 on oath.

20 *Note* *Sworn statement* is defined in s 700.

21 **724 Obstructing etc legal proceeding**

22 A person commits an offence if the person—

- 23 (a) intentionally obstructs or hinders a court, tribunal, commission,
24 board or other entity in the exercise of its functions in a legal
25 proceeding; or

1 (b) intentionally causes a substantial disruption to a legal
2 proceeding before a court, tribunal, commission, board or other
3 entity.

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

6 **725 Obstructing or hindering investigation**

7 A person commits an offence if the person does something with the
8 intention of obstructing or hindering the investigation of an offence
9 by a law enforcement officer.

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

12 **Part 7.3 Procedural matters for ch 7**

13 **726 Consent required for certain prosecutions**

14 (1) A proceeding for an offence against any of the following provisions
15 must not be started without the consent of the Attorney-General or
16 the director of public prosecutions:

17 (a) section 702 (Aggravated perjury);

18 (b) section 703 (Perjury);

19 (c) section 707 (Corruption in relation to legal proceedings);

20 (d) section 708 (Deceiving witness, interpreter or juror);

21 (e) section 709 (Threatening etc witness, interpreter or juror);

22 (f) section 716 (Compounding of offence);

23 (g) section 717 (Accessory after the fact).

- 1 (2) However, a person may be arrested for, charged with, or remanded
 2 in custody or granted bail for, an offence mentioned in
 3 subsection (1) before the consent has been given.

4 **727 Alternative verdicts—aggravated perjury and perjury**

- 5 (1) This section applies if, in a prosecution for an offence against
 6 section 702, the trier of fact is not satisfied that the defendant
 7 committed the offence but is satisfied beyond reasonable doubt that
 8 the defendant committed an offence against section 703.
- 9 (2) The trier of fact may find the defendant guilty of the offence against
 10 section 703, but only if the defendant has been given procedural
 11 fairness in relation to that finding of guilt.

12 **728 Alternative verdicts—perverting the course of justice and**
 13 **publication that could cause miscarriage of justice**

- 14 (1) This section applies if, in a prosecution for an offence against
 15 section 714, the trier of fact is not satisfied that the defendant
 16 committed the offence but is satisfied beyond reasonable doubt that
 17 the defendant committed an offence against section 713.
- 18 (2) The trier of fact may find the defendant guilty of the offence against
 19 section 713, but only if the defendant has been given procedural
 20 fairness in relation to that finding of guilt.

21 **14 Dictionary, note 2, new dot point**

22 *insert*

- 23 • statutory declaration

24 **15 Dictionary, new definitions**

25 *insert*

26 *aggravated perjury*—see section 702.

27 *applied provisions*—see section 10.

1 **16 Dictionary, definition of *benefit***

2 *substitute*

3 *benefit* includes any advantage and is not limited to property.

4 **17 Dictionary, definition of *causes*, paragraph (c)**

5 *substitute*

6 (c) for part 4.3 (Sabotage)—see section 422; and

7 (d) for chapter 7 (Administration of justice offences)—see
8 section 700.

9 **18 Dictionary, definition of *creates***

10 *substitute*

11 *create*—a law *creates* an offence if it directly or indirectly creates
12 the offence or directly or indirectly affects its scope or operation.

13 **19 Dictionary, new definitions**

14 *insert*

15 *detriment* includes any disadvantage and is not limited to personal
16 injury or to loss of or damage to property.

17 *evidence*, for chapter 7 (Administration of justice offences)—
18 see section 700.

19 **20 Dictionary, definition of *immediately applied provisions***

20 *omit*

21 **21 Dictionary, new definitions**

22 *insert*

23 *in* a legal proceeding, for chapter 7 (Administration of justice
24 offences)—see section 701 (3).

- 1 ***interpreter***, for chapter 7 (Administration of justice offences)—
2 see section 700.
- 3 ***law enforcement officer***, for chapter 7 (Administration of justice
4 offences)—see section 700.
- 5 ***legal proceeding***, for chapter 7 (Administration of justice
6 offences)—see section 701.
- 7 ***perjury***—see section 703.
- 8 ***statement***, for chapter 7 (Administration of justice offences)—see
9 section 700.
- 10 ***sworn statement***, for chapter 7 (Administration of justice
11 offences)—see section 700.
- 12 ***subpoena***, for chapter 7 (Administration of justice offences)—
13 see section 700.
- 14 ***threat*** includes a threat made by any conduct, whether explicit or
15 implicit and whether conditional or unconditional.
- 16 ***witness***, for chapter 7 (Administration of justice offences)—
17 see section 700.

1 **Schedule 1 Consequential amendments**
2 (see s 3)

3 **Part 1.1 Administrative Appeals Tribunal**
4 **Act 1989**

5 **[1.1] New sections 2 and 2A**

6 *insert*

7 **2 Notes**

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

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

11 **2A Offences against Act—application of Criminal Code etc**

12 Other legislation applies in relation to offences against this Act.

13 *Note 1 Criminal Code*

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

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

20 *Note 2 Penalty units*

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

23 **[1.2] Section 40 (1) (a)**

24 *omit*

25 or affirmation

1 **[1.3] Section 40 (2) and (3)**

2 *substitute*

3 (2) The registrar may, by written notice (a *subpoena*) given to a person,
4 require the person to appear before the tribunal at a hearing, at a
5 stated time and place, to do either or both of the following:

6 (a) to give evidence;

7 (b) to produce a stated document or other thing relevant to the
8 hearing.

9 *Note* If a form is approved under s 62A for this provision, the form must be
10 used.

11 (3) The registrar must issue a subpoena to a person if the president, or
12 the member of the tribunal presiding at the hearing, directs.

13 **[1.4] Section 40 (4) (a)**

14 *substitute*

15 (a) inspect a document or other thing produced under a subpoena;
16 and

17 **[1.5] Section 40 (5)**

18 *substitute*

19 (5) A person is taken to have complied with a subpoena under
20 subsection (2) (b) if the person gives the document or other thing to
21 the registrar before the date stated in the subpoena for its
22 production.

- 1 **[1.6] Section 40 (6)**
- 2 *omit*
- 3 summons
- 4 *substitute*
- 5 subpoena
- 6 **[1.7] Section 40 (7)**
- 7 *substitute*
- 8 (7) The member presiding at the hearing of a proceeding before the
- 9 tribunal may—
- 10 (a) require a person appearing before the tribunal to give evidence
- 11 to take an oath; and
- 12 (b) administer an oath to the person; and
- 13 (c) if the person participates in a way mentioned in section 34A
- 14 (Participation by telephone etc)—administer an oath to the
- 15 person in the way the member considers appropriate.
- 16 *Note* **Oath** includes affirmation and **take** an oath includes make an
- 17 affirmation (see Legislation Act, dict, pt 1).
- 18 (8) The member presiding at the hearing of a proceeding before the
- 19 tribunal may require a person appearing before the tribunal to give
- 20 evidence to do either or both of the following:
- 21 (a) to answer a question relevant to the hearing;
- 22 (b) to produce a stated document or other thing relevant to the
- 23 hearing.
- 24 *Note* The Legislation Act, s 170 and s 171 deal with the application of the
- 25 privilege against selfincrimination and client legal privilege.

1 **[1.8] Section 40 (8)**

2 *omit*

3 or affirmation

4 **[1.9] Section 40 (9)**

5 *omit*

6 summoned

7 *substitute*

8 subpoenaed

9 **[1.10] Section 40 (10)**

10 *omit*

11 or affirmation

12 **[1.11] Section 40 (11)**

13 *omit*

14 subsection (10)

15 *substitute*

16 subsection (11)

17 **[1.12] Section 40 (11) (a)**

18 *after*

19 subsection (7)

20 *insert*

21 or (8)

22 **[1.13] Section 40 (8) to (11) (as amended)**

23 *renumber as section 40 (9) to (12)*

1 **[1.14] Section 51 (4)**

2 *omit*
3 summoned
4 *substitute*
5 subpoenaed

6 **[1.15] Section 51A**

7 *omit*
8 summons
9 *substitute*
10 subpoena

11 **[1.16] Sections 52 to 55**

12 *substitute*

13 **54 Application of Criminal Code, ch 7**

14 A proceeding before the tribunal is a legal proceeding for the
15 Criminal Code, chapter 7 (Administration of justice offences).

16 *Note* That chapter includes offences (eg perjury, falsifying evidence, failing
17 to attend and refusing to be sworn) applying in relation to tribunal
18 proceedings.

19 **55 Contempt of tribunal**

20 A person commits an offence if the person does something in the
21 face, or within the hearing, of the tribunal that would be contempt of
22 court if the tribunal were a court of record.

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

1 **[1.17] Section 56A (3)**

2 *omit*
3 summons
4 *substitute*
5 subpoena

6 **[1.18] Section 59 (1) and (2)**

7 *omit*
8 summons
9 *substitute*
10 subpoena

11 **[1.19] New section 63A**

12 *insert*

13 **63A References to *subpoena***

- 14 (1) In this Act:
15 *subpoena* includes summons.
16 (2) This section expires 1 year after the day it commences.

17 **Part 1.2 Children and Young People Act**
18 **1999**

19 **[1.20] Section 292 (4)**

20 *omit*

21 **[1.21] Section 292 (5)**

22 *renumber as section 292 (4)*

1 **Part 1.3 Consumer and Trader Tribunal**
2 **Act 2003**

3 **[1.22] Section 33**

4 *substitute*

5 **33 Powers in relation to witnesses etc**

6 (1) The member presiding at a hearing of the tribunal, the registrar or a
7 deputy registrar may, by written notice given to a person (a
8 *subpoena*), require the person to appear before the tribunal at a
9 hearing, at a stated time and place, to do either or both of the
10 following:

11 (a) to give evidence;

12 (b) to produce a stated document or other thing relevant to the
13 hearing.

14 (2) The tribunal may give a party leave to inspect a document produced
15 under a subpoena.

16 (3) A person is taken to have complied with a subpoena under
17 subsection (1) (b) if the person gives the document or other thing to
18 the registrar before the date stated in the subpoena for its
19 production.

20 (4) The member presiding at a hearing of the tribunal may require a
21 witness appearing before the tribunal to give evidence to do 1 or
22 more of the following:

23 (a) to take an oath;

24 (b) to answer a question relevant to the hearing;

1 (c) to produce a stated document or other thing relevant to the
2 hearing.

3 *Note 1* **Oath** includes affirmation and **take** an oath includes make an
4 affirmation (see Legislation Act, dict, pt 1).

5 *Note 2* The Legislation Act, s 170 and s 171 deal with the application of the
6 privilege against selfincrimination and client legal privilege.

7 (5) In this section:

8 **subpoena** includes summons.

9 (6) Subsection (5) and this subsection expire 1 year after the day they
10 commence.

11 **[1.23] Section 52**

12 *substitute*

13 **52 Application of Criminal Code, ch 7**

14 A proceeding before the tribunal is a legal proceeding for the
15 Criminal Code, chapter 7 (Administration of justice offences).

16 *Note* That chapter includes offences (eg perjury, falsifying evidence, failing
17 to attend and refusing to be sworn) applying in relation to tribunal
18 proceedings.

19 **[1.24] Section 56 to 58**

20 *omit*

1 **Part 1.4 Consumer Credit**
2 **(Administration) Act 1996**

3 **[1.25] Sections 86 and 87**

4 *substitute*

5 **86 Witness subpoenas**

- 6 (1) The registrar may, by written notice given to a person (a *subpoena*),
7 require the person to appear before the tribunal at a hearing, at a
8 stated time and place, to do either or both of the following:
- 9 (a) to give evidence;
- 10 (b) to produce a stated document or other thing relevant to the
11 hearing.
- 12 (2) The registrar must issue a subpoena under subsection (1)—
- 13 (a) if directed to do so by the presidential member; or
14 (b) if asked to do so by a party to the proceeding.
- 15 (3) If a person is required by a subpoena to produce a record that is not
16 in writing, not written in English, or not decipherable on sight, the
17 subpoena is taken to require the person to produce—
- 18 (d) a statement about the record that is written in English and
19 decipherable on sight; and
20 (e) if the record is in writing—the record.
- 21 (4) A person is taken to have complied with a subpoena under
22 subsection (1) (b) if the person gives the document or other thing to
23 the registrar before the date stated in the subpoena for its
24 production.
- 25 (5) A person who appears at a hearing under a subpoena is entitled to be
26 paid—

- 1 (a) if the subpoena was given at the direction of the presidential
2 member—the fees and allowances payable to a witness before
3 the Supreme Court; or
- 4 (b) if the subpoena was given at the request of a party—the
5 person’s reasonable costs and expenses of attendance at the
6 hearing.
- 7 (6) A subpoena must be accompanied by a form to be completed by the
8 person required to appear to claim the fees and allowances, or costs
9 and expenses, mentioned in subsection (5).
- 10 (7) A person is not entitled to refuse to comply with a subpoena only
11 because it was not accompanied by that form.
- 12 (8) In this section:
- 13 *subpoena* includes summons.
- 14 (9) Subsection (8) and this subsection expire 1 year after the day they
15 commence.

16 **87 Power to require witness to take oath etc**

17 The member presiding at a hearing of the tribunal may require a
18 witness appearing before the tribunal to give evidence to do 1 or
19 more of the following:

- 20 (a) to take an oath;
- 21 (b) to answer a question relevant to the hearing;
- 22 (c) to produce a stated document or other thing relevant to the
23 hearing.

24 *Note 1* **Oath** includes affirmation and **take** an oath includes make an
25 affirmation (see Legislation Act, dict, pt 1).

26 *Note 2* The Legislation Act, s 170 and s 171 deal with the application of the
27 privilege against selfincrimination and client legal privilege.

1 **[1.26] Section 97**

2 *substitute*

3 **97 Application of Criminal Code, ch 7**

4 A proceeding before the tribunal is a legal proceeding for the
5 Criminal Code, chapter 7 (Administration of justice offences).

6 *Note* That chapter includes offences (eg perjury, falsifying evidence, failing
7 to attend and refusing to be sworn) applying in relation to tribunal
8 proceedings.

9 **[1.27] Section 103**

10 *omit*

11 **Part 1.5 Coroners Act 1997**

12 **[1.28] Section 43 (1) (a)**

13 *omit*

14 a document or thing

15 *substitute*

16 a relevant document or other thing

17 **[1.29] New section 43 (3) and (4)**

18 *insert*

19 (3) A person cannot rely on the common law privileges against
20 selfincrimination and exposure to the imposition of a civil penalty to
21 refuse to produce a document or other thing required under a
22 subpoena.

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

24 (4) However, any information, document or other thing obtained,
25 directly or indirectly, because of the producing of the document or

1 other thing, is not admissible in evidence against the person in a
2 civil or criminal proceeding, other than a proceeding for—

3 (a) an offence in relation to the falsity or the misleading nature of
4 the document or thing; or

5 (b) an offence against the Criminal Code, chapter 7
6 (Administration of justice offences).

7 **[1.30] Section 44 (4)**

8 *omit*

9 or affirmation

10 **[1.31] Section 46 (1)**

11 *omit*

12 or affirmation

13 **[1.32] Section 48 (1)**

14 *substitute*

15 (1) For an inquest or inquiry, a coroner may take evidence on oath and,
16 for that purpose—

17 (a) the coroner may require a witness to take an oath; and

18 (b) the coroner, registrar or other appropriate officer of the court
19 may administer an oath to a witness.

20 *Note* **Oath** includes affirmation and **take** an oath includes make an
21 affirmation (see Legislation Act, dict, pt 1).

22 **[1.33] Section 48 (3)**

23 *substitute*

24 (3) A record of evidence made for an inquest or inquiry is not, only
25 because it is such a record, admissible in any court as evidence that
26 a person made the depositions included in the record.

- 1 (4) Subsection (3) does not apply in relation to a prosecution for an
2 offence against part 7 or the Criminal Code, chapter 7
3 (Administration of justice offences).

4 **[1.34] New section 76A**

5 *in part 7, insert*

6 **76A Application of Criminal Code, ch 7**

- 7 (1) A proceeding before the coroner is a legal proceeding for the
8 Criminal Code, chapter 7 (Administration of justice offences).

9 *Note* That chapter includes offences (eg perjury, falsifying evidence, failing
10 to attend and refusing to be sworn) applying in relation to coronial
11 proceedings.

- 12 (2) To remove any doubt, a decision or action the coroner takes under
13 any of the following provisions is a legal proceeding for that
14 chapter:

- 15 (a) section 14 (Decision not to conduct hearing);
16 (b) section 20 (Dispensing with post-mortem examination);
17 (c) section 27 (Warrant for exhumation of body or recovery of
18 ashes).

19 **[1.35] Sections 79 to 82**

20 *omit*

21 **[1.36] Sections 84 to 87**

22 *omit*

1 **[1.37] Section 88 (1) and (2)**

2 *substitute*

- 3 (1) A person commits an offence if the person does something in the
4 face, or within the hearing, of the court that is a contempt of court.

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

7 **[1.38] Section 88**

8 *renumber subsections when Act next republished under Legislation*
9 *Act*

10 **Part 1.6 Crimes Act 1900**

11 **[1.39] Parts 8 and 9**

12 *omit*

13 **[1.40] Sections 278 and 293**

14 *omit*

15 **Part 1.7 Dangerous Substances Act 2004**

16 **[1.41] Section 129 (1), note 1**

17 *substitute*

18 *Note 1* A reference to an offence against a territory law includes a reference to
19 a related ancillary offence, eg attempt (see Legislation Act, s 189).

1 **Part 1.8 Discrimination Act 1991**

2 **[1.42] Section 86 (1)**

3 *substitute*

4 (1) The tribunal may, by written notice given to a person (a *subpoena*),
5 require the person to appear before the tribunal at a hearing, at a
6 stated time and place, to do either or both of the following:

7 (a) to give evidence;

8 (b) to produce a stated document or other thing relevant to the
9 hearing.

10 **[1.43] Section 88**

11 *omit*

12 **[1.44] Sections 90 to 92**

13 *substitute*

14 **90 Power to require witness to take oath etc**

15 The tribunal may require a witness appearing before the tribunal at a
16 hearing to give evidence to do 1 or more of the following:

17 (a) to take an oath;

18 (b) to answer a question relevant to the hearing;

19 (c) to produce a stated document or other thing relevant to the
20 hearing.

21 *Note* **Oath** includes affirmation and **take** an oath includes make an
22 affirmation (see Legislation Act, dict, pt 1).

1	[1.45] Section 94 (1) (b)
2	<i>omit</i>
3	section 92
4	<i>substitute</i>
5	section 90
6	[1.46] Section 94 (3) (a) and (b)
7	<i>substitute</i>
8	(a) an offence in relation to the falsity or the misleading nature of
9	the document, other thing or answer; or
10	(b) an offence against the Criminal Code, chapter 7
11	(Administration of justice offences).
12	[1.47] Section 96
13	<i>substitute</i>
14	96 Contempt of tribunal
15	A person commits an offence if the person does something in the
16	face, or within the hearing, of the tribunal that would be contempt of
17	court if the tribunal were a court of record.
18	Maximum penalty: 100 penalty units, imprisonment for 1 year or
19	both.
20	96A Application of Criminal Code, ch 7
21	A proceeding before the tribunal is a legal proceeding for the
22	Criminal Code, chapter 7 (Administration of justice offences).
23	<i>Note</i> That chapter includes offences (eg perjury, falsifying evidence, failing
24	to attend and refusing to be sworn) applying in relation to tribunal
25	proceedings.

1 **Part 1.9** **Domestic Violence and**
2 **Protection Orders Regulation**
3 **2002**

4 **[1.48] Section 31 (2)**

5 *substitute*

6 (2) The person must comply with a requirement of the subpoena.

7 *Note* Failing to comply with a requirement of a subpoena, without a
8 reasonable excuse, is an offence against the Criminal Code, ch 7
9 (Administration of justice offences).

10 **Part 1.10** **Evidence (Miscellaneous**
11 **Provisions) Act 1991**

12 **[1.49] Section 4, note 1**

13 *substitute*

14 *Note 1* *Criminal Code*

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

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

21 **[1.50] Section 16, definition of *tribunal***

22 *omit*

23 or affirmation

24 **[1.51] Section 28 (1)**

25 *omit*

26 or affirmation

- 1 **[1.52] Section 28 (2)**
- 2 *substitute*
- 3 (2) A proceeding in which evidence is given on oath administered under
- 4 subsection (1) is a legal proceeding for the Criminal Code, chapter 7
- 5 (Administration of justice offences).
- 6 *Note* That chapter includes offences (eg perjury, falsifying evidence, failing
- 7 to attend and refusing to be sworn) applying in relation to tribunal
- 8 proceedings.
- 9 **[1.53] Section 29 (c)**
- 10 *omit*
- 11 or affirmation
- 12 **[1.54] Section 30**
- 13 *omit*
- 14 **[1.55] Section 37, note**
- 15 *substitute*
- 16 *Note* A reference to an offence against a territory law includes a reference to
- 17 a related ancillary offence, eg attempt (see Legislation Act, s 189).
- 18 **[1.56] Section 42**
- 19 *omit*
- 20 , affirmation
- 21 **[1.57] Dictionary, note 2, new dot points**
- 22 *insert*
- 23 • oath
- 24 • take (an oath)

1 **Part 1.11** **Guardianship and Management**
2 **of Property Act 1991**

3 **[1.58] Section 10 (2)**

4 *omit*

5 or affirmation

6 **[1.59] Section 38 (3) and (4)**

7 *substitute*

8 (3) The presidential member may require a person appearing before the
9 tribunal at an inquiry to answer questions to do 1 or more of the
10 following:

11 (a) to take an oath;

12 (b) to answer a question relevant to the inquiry;

13 (c) to produce to the presidential member a document or other
14 thing relevant to the inquiry.

15 *Note* **Oath** includes affirmation and **take** an oath includes make an
16 affirmation (see Legislation Act, dict, pt 1).

17 **[1.60] New section 41A**

18 *insert*

19 **41A Privileges against selfincrimination and exposure to civil**
20 **penalty**

21 (1) This section applies if—

22 (a) a person is required under section 38 (3) to answer a question
23 or produce a document; or

24 (b) a person is required under section 41 (1) to give information or
25 produce a document.

1 (2) The person cannot rely on the common law privileges against
2 selfincrimination and exposure to the imposition of a civil penalty to
3 refuse to answer the question, produce the document or give the
4 information.

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

6 (3) However, any information, document or other thing obtained,
7 directly or indirectly, because of the answering of the question,
8 producing of the document or giving of the information is not
9 admissible in evidence against the person in a civil or criminal
10 proceeding, other than a proceeding for—

11 (a) an offence in relation to the falsity or the misleading nature of
12 the answer, document or information; or

13 (b) an offence against the Criminal Code, chapter 7
14 (Administration of justice offences).

15 **[1.61] Section 42**

16 *omit*

17 38 (4) or

18 *substitute*

19 38 (3) (c) or section

20 **[1.62] Sections 50 to 55**

21 *substitute*

22 **55 Application of Criminal Code, ch 7**

23 An inquiry by the tribunal is a legal proceeding for the Criminal
24 Code, chapter 7 (Administration of justice offences).

25 *Note* That chapter includes offences (eg perjury, falsifying evidence, failing
26 to attend and refusing to be sworn) applying in relation to tribunal
27 proceedings.

1 **[1.63] Section 68 (4)**

2 *omit*

3 or affirmation

4 **[1.64] Dictionary, note 2, new dot point**

5 *insert*

- 6 • oath

7 **Part 1.12 Health Professionals Act 2004**

8 **[1.65] Section 59**

9 *substitute*

10 **59 Powers in relation to witnesses etc**

11 (1) A presidential member of the tribunal, or a person authorised in
12 writing by a presidential member, may, by written notice given to a
13 person, require the person to appear before the tribunal at a hearing,
14 at a stated time and place, to do either or both of the following:

15 (a) to give evidence;

16 (b) to produce a stated document or other thing relevant to the
17 hearing.

18 (2) A presidential member of the tribunal may require a witness
19 appearing before the tribunal at a hearing to give evidence to do 1 or
20 more of the following:

21 (a) to take an oath;

22 (b) to answer a question relevant to the hearing;

1 (c) to produce a stated document or other thing relevant to the
2 hearing.

3 *Note 1* **Oath** includes affirmation and **take** an oath includes make an
4 affirmation (see Legislation Act, dict, pt 1).

5 *Note 2* The Legislation Act, s 170 and s 171 deal with the application of the
6 privilege against selfincrimination and client legal privilege.

7 **[1.66] Section 68**

8 *substitute*

9 **68 Contempt of health professions tribunal**

10 A person commits an offence if the person does something in the
11 face, or within the hearing, of the health professions tribunal that
12 would be contempt of court if the health professions tribunal were a
13 court of record.

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

16 **68A Application of Criminal Code, ch 7**

17 A proceeding before the health professions tribunal is a legal
18 proceeding for the Criminal Code, chapter 7 (Administration of
19 justice offences).

20 *Note* That chapter includes offences (eg perjury, falsifying evidence, failing
21 to attend and refusing to be sworn) applying in relation to health
22 professions tribunal proceedings.

1 **Part 1.13** **Independent Competition and**
2 **Regulatory Commission Act 1997**

3 **[1.67] New section 24N (4)**

4 *insert*

- 5 (4) An industry panel review is not a legal proceeding for the Criminal
6 Code, chapter 7 (Administration of justice offences).

7 **[1.68] New section 33 (7)**

8 *insert*

- 9 (7) However, an arbitration is not a legal proceeding for the Criminal
10 Code, chapter 7 (Administration of justice offences).

11 **[1.69] Section 33 (7)**

12 *renumber as section 33 (8)*

13 **[1.70] Sections 49 and 50**

14 *substitute*

15 **49 Requirement to attend hearing and answer questions**

16 For the exercise of its functions the commission—

- 17 (a) may, by written notice given to a person, require the person to
18 attend a hearing of the commission to give evidence; and
19 (b) may require a person appearing before the commission to give
20 evidence to answer a question relevant to the hearing.

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

- 1 **50** **Application of Criminal Code, ch 7**
- 2 A hearing before the commission is a legal proceeding for the
- 3 Criminal Code, chapter 7 (Administration of justice offences).
- 4 *Note* That chapter includes offences (eg perjury, falsifying evidence, failing
- 5 to attend and refusing to be sworn) applying in relation to commission
- 6 hearings.
- 7 **50A** **Witnesses etc protected from civil liability**
- 8 A person does not incur civil liability for a statement made, or a
- 9 document or information given, honestly and without recklessness
- 10 to the commission.

11 **Part 1.14** **Inquiries Act 1991**

12 **[1.71] New sections 4 and 4A**

13 *in part 1, insert*

14 **4** **Notes**

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

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

17 notes.

18 **4A** **Offences against Act—application of Criminal Code etc**

19 Other legislation applies in relation to offences against this Act.

20 *Note 1* *Criminal Code*

21 The Criminal Code, ch 2 applies to an offence against this Act, s 36 (see

22 Code, pt 2.1).

23 The chapter sets out the general principles of criminal responsibility

24 (including burdens of proof and general defences), and defines terms

25 used for offences to which the Code applies (eg *conduct*, *intention*,

26 *recklessness* and *strict liability*).

1 *Note 2 Penalty units*
2 The Legislation Act, s 133 deals with the meaning of offence penalties
3 that are expressed in penalty units.

4 **[1.72] Section 16 (3)**

5 *omit*
6 summoned
7 *substitute*
8 subpoenaed

9 **[1.73] Section 19**

10 *substitute*

11 **19 Privileges against selfincrimination and exposure to civil**
12 **penalty**

13 (1) This section applies if a person is required under section 26 (1)
14 or (3) to—

15 (a) produce a document or other thing; or

16 (b) answer a question.

17 (2) The person cannot rely on the common law privileges against
18 selfincrimination and exposure to the imposition of a civil penalty to
19 refuse to produce the document or other thing or answer the
20 question.

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

22 (3) However, any information, document or other thing obtained,
23 directly or indirectly, because of the producing of the document or
24 other thing, or the answering of the question, is not admissible in
25 evidence against the person in a civil or criminal proceeding, other
26 than a proceeding for—

- 1 (a) an offence in relation to the falsity or the misleading nature of
2 the document, other thing or answer; or
3 (b) an offence against the Criminal Code, chapter 7
4 (Administration of justice offences).

5 **[1.74] Section 26**

6 *substitute*

7 **26 Powers in relation to witnesses etc**

- 8 (1) The chairperson of a board, or a person authorised in writing by the
9 chairperson, may, by written notice given to a person (a *subpoena*),
10 require the person to appear before the board at a hearing, at a stated
11 time and place, to do either or both of the following:
12 (a) to give evidence;
13 (b) to produce a stated document or other thing relevant to the
14 hearing.
15 (2) A person is taken to have complied with a subpoena under
16 subsection (1) (b) if the person gives the document or other thing to
17 the board before the date stated in the subpoena for its production.
18 (3) The chairperson may require a witness appearing before the board at
19 a hearing to give evidence to do 1 or more of the following:
20 (a) to take an oath;
21 (b) to answer a question relevant to the hearing;
22 (c) to produce a stated document or other thing relevant to the
23 hearing.
24 *Note* **Oath** includes affirmation and **take** an oath includes make an
25 affirmation (see Legislation Act, dict, pt 1).
26 (4) In this section:
27 *subpoena* includes summons.

1 (5) Subsection (4) and this subsection expire 1 year after the day they
2 commence.

3 **[1.75] Part 4**

4 *omit*

5 **[1.76] New sections 35 and 36**

6 *in part 5, insert*

7 **35 Application of Criminal Code, ch 7**

8 An inquiry is a legal proceeding for the Criminal Code, chapter 7
9 (Administration of justice offences).

10 *Note* That chapter includes offences (eg perjury, falsifying evidence, failing
11 to attend and refusing to be sworn) applying in relation to board
12 proceedings.

13 **36 Contempt of board**

14 A person commits an offence if the person does something in the
15 face, or within the hearing, of a board that would be contempt of
16 court if the board were a court of record.

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

19 **[1.77] Part 5 (as amended)**

20 *renumber as part 4*

1 **Part 1.15** **Judicial Commissions Act 1994**

2 **[1.78] New sections 3A and 3B**

3 *in part 1, insert*

4 **3A Notes**

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

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

8 **3B Offences against Act—application of Criminal Code etc**

9 Other legislation applies in relation to offences against this Act.

10 *Note 1 Criminal Code*

11 The Criminal Code, ch 2 applies to an offence against this Act, pt 6 (see
12 Code, pt 2.1).

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

17 *Note 2 Penalty units*

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

20 **[1.79] Section 27 (3)**

21 *omit*

22 summoned

23 *substitute*

24 subpoenaed

1 **[1.80] Section 32**

2 *substitute*

3 **32 Privileges against selfincrimination and exposure to civil**
4 **penalty**

5 (1) This section applies if a person is required under section 43 (1)
6 or (3) to—

7 (a) produce a document or other thing; or

8 (b) answer a question.

9 (2) The person cannot rely on the common law privileges against
10 selfincrimination and exposure to the imposition of a civil penalty to
11 refuse to produce the document or other thing or answer the
12 question.

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

14 (3) However, any information, document or other thing obtained,
15 directly or indirectly, because of the producing of the document or
16 other thing, or the answering of the question, is not admissible in
17 evidence against the person in a civil or criminal proceeding, other
18 than a proceeding for—

19 (a) an offence in relation to the falsity or the misleading nature of
20 the answer, document or information; or

21 (b) an offence against the Criminal Code, chapter 7
22 (Administration of justice offences).

1 **[1.81] Section 43**

2 *substitute*

3 **43 Powers in relation to witnesses etc**

4 (1) The presiding member of a commission, or a person authorised in
5 writing by the presiding member, may, by written notice given to a
6 person (a *subpoena*), require the person to appear before the
7 commission at a hearing, at a stated time and place, to do either or
8 both of the following:

9 (a) to give evidence;

10 (b) to produce a stated document or other thing relevant to the
11 hearing.

12 (2) A person is taken to have complied with a subpoena under
13 subsection (1) (b) if the person gives the document or other thing to
14 the commission before the date stated in the subpoena for its
15 production.

16 (3) The presiding member of a commission may require a witness
17 appearing at a hearing before the commission to give evidence to do
18 1 or more of the following:

19 (a) to take an oath;

20 (b) to answer a question relevant to the hearing;

21 (c) to produce a stated document or other thing relevant to the
22 hearing.

23 *Note* **Oath** includes affirmation and **take** an oath includes make an
24 affirmation (see Legislation Act, dict, pt 1).

1 **[1.82] Section 44 (1) and (5)**

2 *omit*

3 summons

4 *substitute*

5 subpoena

6 **[1.83] Part 6**

7 *omit*

8 **[1.84] New sections 55 and 56**

9 *in part 7, insert*

10 **55 Application of Criminal Code, ch 7**

11 A proceeding before a commission is a legal proceeding for the
12 Criminal Code, chapter 7 (Administration of justice offences).

13 *Note* That chapter includes offences (eg perjury, falsifying evidence, failing
14 to attend and refusing to be sworn) applying in relation to commission
15 proceedings.

16 **56 Contempt of commission**

17 A person commits an offence if the person does something in the
18 face, or within the hearing, of a commission that would be contempt
19 of court if the commission were a court of record.

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

1 **[1.85] New section 61A**

2 *insert*

3 **61A References to *subpoena***

4 (1) In this Act:

5 *subpoena* includes summons.

6 (2) This section expires 1 year after the day it commences.

7 **[1.86] Part 7 (as amended)**

8 *renumber as part 6*

9 **Part 1.16 Juries Act 1967**

10 **[1.87] Section 44**

11 *omit*

12 **Part 1.17 Land (Planning and**
13 **Environment) Act 1991**

14 **[1.88] Section 146 (1) (c) and note**

15 *substitute*

16 (c) may take evidence on oath; and

17 *Note* **Oath** includes affirmation and **take** an oath includes make an
18 affirmation (see Legislation Act, dict, pt 1). For the taking of an
19 oath or the making of an affirmation, see the *Oaths and*
20 *Affirmations Act 1984*.

1 **[1.89] Section 149**

2 *substitute*

3 **149 Powers in relation to witnesses etc**

4 (1) The presiding member of a panel, or a person authorised in writing
5 by the presiding member, may, by written notice given to a person,
6 require the person to appear before the panel at a hearing of the
7 inquiry, at a stated time and place, to do either or both of the
8 following:

9 (a) to give evidence;

10 (b) to produce a stated document or other thing relevant to the
11 inquiry.

12 (2) A person attending before the panel under a notice under
13 subsection (1) is entitled to be paid by the Territory the allowances
14 prescribed by regulation.

15 (3) The presiding member of the panel may require a witness appearing
16 at a hearing before the panel to give evidence to do 1 or more of the
17 following:

18 (a) to take an oath;

19 (b) to answer a question relevant to the hearing;

20 (c) to produce a stated document or other thing relevant to the
21 hearing.

22 *Note* **Oath** includes affirmation and **take** an oath includes make an
23 affirmation (see Legislation Act, dict, pt 1).

24 **[1.90] Section 150**

25 *omit*

1 **[1.91] Section 156**

2 *substitute*

3 **155 Application of Criminal Code, ch 7**

4 A proceeding before a panel is a legal proceeding for the Criminal
5 Code, chapter 7 (Administration of justice offences).

6 *Note* That chapter includes offences (eg perjury, falsifying evidence, failing
7 to attend and refusing to be sworn) applying in relation to panel
8 proceedings.

9 **156 Contempt of panel**

10 A person commits an offence if the person does something in the
11 face, or within the hearing, of a panel that would be contempt of
12 court if the panel were a court of record.

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

15 **Part 1.18 Legislation Act 2001**

16 **[1.92] Section 178**

17 *substitute*

18 **178 Power to decide includes power to take evidence etc**

19 (1) A court, tribunal or other entity authorised by law to hear and decide
20 a matter (however expressed) has power—

21 (a) to take evidence, including evidence on oath; and

22 (b) to examine witnesses; and

23 (c) to administer oaths to witnesses.

24 (2) The court, tribunal or other entity may authorise a person to
25 administer an oath to a witness.

1 (3) This section does not limit any other power of the court, tribunal or
2 other entity.

3 **[1.93] Section 189**

4 *omit*

5 the *Crimes Act 1900*, section 181 (Accessory after the fact)

6 *substitute*

7 section 717 (Accessory after the fact)

8 **[1.94] Section 192 (4), definition of *aiding and abetting offence***

9 *substitute*

10 *aiding and abetting offence* means an offence against the Criminal
11 Code, section 45 (Complicity and common purpose).

12 **[1.95] Dictionary, part 1, definition of *affidavit***

13 *omit*

14 **[1.96] Dictionary, part 1, definition of *oath***

15 *substitute*

16 *oath* includes affirmation.

17 *Note* The *Evidence Act 1995* (Cwlth), ch 2, pt 2.1, div 2 and the *Oaths and*
18 *Affirmations Act 1984* make provision in relation to oaths and
19 affirmations.

20 **[1.97] Dictionary, part 1, definition of *swear***

21 *substitute*

22 *swear* an oath includes make an affirmation.

1 **[1.98] Dictionary, part 1, new definition of *take***

2 *insert*

3 *take* an oath includes make an affirmation.

4 **Part 1.19 Liquor Act 1975**

5 **[1.99] Section 166 (4)**

6 *omit*

7 **[1.100] Section 166 (5)**

8 *renumber as section 166 (4)*

9 **[1.101] Section 170 (1) to (3)**

10 *substitute*

11 (1) The chairperson of the board, or a person authorised in writing by
12 the chairperson, may, by written notice given to a person (a
13 *subpoena*), require the person to appear before the board at a
14 hearing, at a stated time and place, to do either or both of the
15 following:

16 (a) to give evidence;

17 (b) to produce a stated document or other thing relevant to the
18 inquiry.

19 (2) The chairperson of the board may require a witness appearing at a
20 hearing before the board to give evidence to do 1 or more of the
21 following:

22 (a) to take an oath;

23 (b) to answer a question relevant to the hearing;

1 (c) to produce a stated document or other thing relevant to the
2 hearing.

3 *Note* **Oath** includes affirmation and **take** an oath includes make an
4 affirmation (see Legislation Act, dict, pt 1).

5 **[1.102] Section 170 (5) (a)**

6 *omit*

7 summons

8 *substitute*

9 subpoena

10 **[1.103] Section 170 (4) and (5) (as amended)**

11 *renumber as section 170 (3) and (4)*

12 **[1.104] Section 171**

13 *substitute*

14 **171 Application of Criminal Code, ch 7**

15 An inquiry by the board is a legal proceeding for the Criminal Code,
16 chapter 7 (Administration of justice offences).

17 *Note* That chapter includes offences (eg perjury, falsifying evidence, failing
18 to attend and refusing to be sworn) applying in relation to board
19 inquiries.

20 **171A Privileges against selfincrimination and exposure to civil
21 penalty**

22 (1) This section applies if a person is required under section 170 (1)
23 or (2) to—

24 (a) produce a document or other thing; or

25 (b) answer a question.

1 (2) The person cannot rely on the common law privileges against
2 selfincrimination and exposure to the imposition of a civil penalty to
3 refuse to produce the document or other thing or answer the
4 question.

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

6 (3) However, any information, document or other thing obtained,
7 directly or indirectly, because of the producing of the document or
8 other thing, or the answering of the question, is not admissible in
9 evidence against the person in a civil or criminal proceeding, other
10 than a proceeding for—

11 (a) an offence in relation to the falsity or the misleading nature of
12 the answer, document or information; or

13 (b) an offence against the Criminal Code, chapter 7
14 (Administration of justice offences).

15 **[1.105] Section 172 (3)**

16 *omit*

17 summonsed

18 *substitute*

19 subpoenaed

20 **[1.106] New section 172A**

21 *in part 12, insert*

22 **172A References to *subpoena***

23 (1) In this part:

24 *subpoena* includes summons.

25 (2) This section expires 1 year after the day it commences.

1 **Part 1.20 Magistrates Court Act 1930**

2 **[1.107] New section 3A**

3 *in part 1, insert*

4 **3A Offences against Act—application of Criminal Code etc**

5 Other legislation applies in relation to offences against this Act.

6 *Note 1 Criminal Code*

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

- 9 • s 290 (1) (Contempt in face of court)

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

14 *Note 2 Penalty units*

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

17 **[1.108] Section 290 (1) and (2)**

18 *substitute*

- 19 (1) A person commits an offence if the person does something in the
20 face, or within the hearing, of the court that is a contempt of court.

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

23 **[1.109] Section 290**

24 *renumber subsections when Act next republished under Legislation*
25 *Act*

26 **[1.110] Section 291**

27 *omit*

- 1 **[1.111] Section 293**
- 2 *omit*
- 3 **[1.112] Sections 300 and 301**
- 4 *omit*
- 5 **[1.113] Section 312**
- 6 *substitute*
- 7 **312 Failure to give evidence—committal**
- 8 (1) This section applies if the court is satisfied—
- 9 (a) that a witness before the court has contravened any of the
- 10 following provisions of the Criminal Code (the *relevant Code*
- 11 *provisions*):
- 12 (i) section 720 (Failing to produce document or other thing);
- 13 (ii) section 721 (Failing to take oath);
- 14 (iii) section 722 (Failing to answer question or give
- 15 information); or
- 16 (b) a person has contravened any of the relevant Code provisions
- 17 in relation to an examination before the registrar under the
- 18 rules.
- 19 (2) The court may—
- 20 (a) adjourn the proceeding for not longer than 8 days; and
- 21 (b) issue a warrant committing the person to a gaol, lockup or
- 22 remand centre until the earlier of the following:
- 23 (i) the date to which the proceeding is adjourned;
- 24 (ii) the person consents to comply with the relevant Code
- 25 provisions.

- 1 (3) If—
2 (a) the court has adjourned the proceeding, and committed the
3 person, under subsection (2) or this subsection; and
4 (b) the person is later brought before the court; and
5 (c) the person does not consent to comply with the relevant Code
6 provisions;
7 the court may exercise the powers mentioned in subsection (2) in
8 relation to the person.
9 (4) The periods for which a person is committed under this section must
10 not total more than 28 days.
11 (5) However, the court must not commit a person under subsection (2)
12 or (3) if the person is punished for an offence against any or the
13 relevant Code provisions in relation to the contravention mentioned
14 in subsection (1).

15 Part 1.21 Magistrates Court Rules 1932

16 [1.114] New section 100

17 *insert*

18 100 Witness expenses

- 19 (1) A person is not required to comply with a subpoena served on the
20 person for the Act unless a reasonable amount for expenses that the
21 person would incur in complying with the subpoena on any day
22 when the person's attendance is required is paid or tendered to the
23 person—
24 (a) when the subpoena is served; or
25 (b) within a reasonable time before the date for compliance
26 mentioned in the subpoena.

1 (2) In this section:

2 *reasonable amount*, for expenses for a person, means the amount
3 that would be payable in relation to the person if the party on whose
4 request the subpoena was issued were entitled to claim witness
5 expenses in relation to the person as costs in the proceeding.

6 **Part 1.22** **Mental Health (Treatment and**
7 **Care) Act 1994**

8 **[1.115] Section 97 (4) and (5)**

9 *substitute*

10 (4) The presidential member of the tribunal may require a witness
11 appearing at a hearing before the tribunal to give evidence to do 1 or
12 more of the following:

13 (a) to take an oath;

14 (b) to answer a question relevant to the hearing;

15 (c) to produce a stated document or other thing relevant to the
16 hearing.

17 *Note 1* **Oath** includes affirmation and *take* an oath includes make an
18 affirmation (see Legislation Act, dict, pt 1).

19 *Note 2* The Legislation Act, s 170 and s 171 deal with the application of the
20 privilege against selfincrimination and client legal privilege.

1 **[1.116] Section 98**

2 *substitute*

3 **98 Privileges against selfincrimination and exposure to civil**
4 **penalty**

5 (1) This section applies if a person is required under section 97 (4) or
6 section 101 to—

7 (a) produce a document or other thing; or

8 (b) answer a question.

9 (2) The person cannot rely on the common law privileges against
10 selfincrimination and exposure to the imposition of a civil penalty to
11 refuse to produce the document or other thing or answer the
12 question.

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

14 (3) However, any information, document or other thing obtained,
15 directly or indirectly, because of the producing of the document or
16 other thing, or the answering of the question, is not admissible in
17 evidence against the person in a civil or criminal proceeding, other
18 than—

19 (a) a proceeding under this Act; or

20 (b) a proceeding under the Crimes Act, part 13 (Unfitness to plead,
21 mental illness and mental dysfunction); or

22 (c) a proceeding in relation to an appeal to the Supreme Court
23 under section 141; or

24 (d) a proceeding for an offence against this Act; or

25 (e) a proceeding for an offence against the Criminal Code,
26 chapter 7 (Administration of justice offences).

1 **[1.117] Section 101 (4)**

2 *omit*

3 **[1.118] Section 102**

4 *omit*

5 section 97 (5) (b)

6 *substitute*

7 section 97 (4) (c)

8 **[1.119] Section 111**

9 *substitute*

10 **111 Application of Criminal Code, ch 7**

11 A proceeding before the tribunal is a legal proceeding for the
12 Criminal Code, chapter 7 (Administration of justice offences).

13 *Note* That chapter includes offences (eg perjury, falsifying evidence, failing
14 to attend and refusing to be sworn) applying in relation to tribunal
15 proceedings.

16 **Part 1.23 Occupational Health and Safety**
17 **Act 1989**

18 **[1.120] Section 175 (1), note 1**

19 *substitute*

20 *Note 1* A reference to an offence against a territory law includes a reference to
21 a related ancillary offence, eg attempt (see Legislation Act, s 189).

1 **[1.121] Section 195 (1) (a)**

2 *substitute*

3 (a) take evidence on oath and, for that purpose, may require a
4 person attending before the authority to take an oath; and

5 *Note* **Oath** includes affirmation and **take** an oath includes make an
6 affirmation (see Legislation Act, dict, pt 1).

7 (b) require a person attending before the authority to answer a
8 question relevant to the proceeding; and

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

11 **[1.122] Section 195 (1) (b) and (c)**

12 *renumber as section 195 (1) (c) and (d)*

13 **[1.123] Sections 197 and 198**

14 *substitute*

15 **197 Application of Criminal Code, ch 7**

16 A proceeding before the review authority is a legal proceeding for
17 the Criminal Code, chapter 7 (Administration of justice offences).

18 *Note* That chapter includes offences (eg perjury, falsifying evidence, failing
19 to attend and refusing to be sworn) applying in relation to review
20 authority proceedings.

1 **Part 1.24 Prostitution Act 1992**

2 **[1.124] Section 6 (1), definition of *disqualifying offence*,**
3 **paragraphs (c) and (e)**

4 *omit*

5 the *Crimes Act 1900*, section 181 (Accessory after the fact)

6 *substitute*

7 section 717 (Accessory after the fact)

8 **Part 1.25 Public Sector Management Act**
9 **1994**

10 **[1.125] Section 22**

11 *substitute*

12 **22 Investigative powers of commissioner**

13 (1) The commissioner may, for the purpose of carrying out the
14 commissioner's functions—

15 (a) conduct inspections of, or make inquiries or investigations into
16 the operations of, government agencies; and

17 (b) enter premises occupied by a government agency at any time.

18 (2) For an inspection, inquiry or investigation, the commissioner, or a
19 person authorised in writing by the commissioner, may, by written
20 notice given to a person, require the person to appear before the
21 commissioner, at a stated time and place, to do either or both of the
22 following:

23 (a) to give evidence;

24 (b) to produce a stated document or other thing relevant to the
25 inspection, inquiry or investigation.

1 (3) The commissioner may require a witness appearing before the
2 commissioner to give evidence for an inspection, inquiry or
3 investigation to do 1 or more of the following:

4 (a) to take an oath;

5 (b) to answer a question relevant to the inspection, inquiry or
6 investigation;

7 (c) to produce a stated document or other thing relevant to the
8 inspection, inquiry or investigation.

9 *Note 1* **Oath** includes affirmation and **take** an oath includes make an
10 affirmation (see Legislation Act, dict, pt 1).

11 *Note 2* The Legislation Act, s 170 and s 171 deal with the application of the
12 privilege against selfincrimination and client legal privilege.

13 (4) An inspection, inquiry or investigation by the commissioner is a
14 legal proceeding for the Criminal Code, chapter 7 (Administration
15 of justice offences).

16 *Note* That chapter includes offences (eg perjury, falsifying evidence, failing
17 to attend and refusing to be sworn) applying in relation to inspections,
18 inquiries or investigations by the commissioner.

19 **22A Witness expenses**

20 A person, other than an officer, is not required to comply with a
21 notice given to the person under section 22 (2) unless a reasonable
22 amount for expenses that the person would incur in complying with
23 the notice on any day when the person's attendance is required is
24 paid or tendered to the person—

25 (a) when the notice is given to the person; or

26 (b) within a reasonable time before the date for compliance
27 mentioned in the notice.

1 **[1.126] Schedule 3, modification [3.17], inserted section**
2 **88E (4) (a) and (b)**

3 *omit*

4 or affirmation

5 **[1.127] Schedule 3, modification [3.17], inserted sections 88F to**
6 **88J**

7 *substitute*

8 **88F Powers in relation to witnesses etc**

9 (1) The council, or a person authorised in writing by the council, may,
10 by written notice given to a person, require the person to appear
11 before the council at an inquiry, at a stated time and place, to do
12 either or both of the following:

13 (a) to give evidence;

14 (b) to produce a stated document or other thing relevant to the
15 inquiry.

16 (2) The council may require a witness appearing before the council to
17 give evidence for an inquiry to do 1 or more of the following:

18 (a) to take an oath;

19 (b) to answer a question relevant to the inquiry;

20 (c) to produce a stated document or other thing relevant to the
21 inquiry.

22 *Note 1* **Oath** includes affirmation and *take* an oath includes make an
23 affirmation (see Legislation Act, dict, pt 1).

24 *Note 2* The Legislation Act, s 170 and s 171 deal with the application of the
25 privilege against selfincrimination and client legal privilege.

26 (3) The council may administer, or authorise a person to administer, an
27 oath to a witness appearing before the council.

- 1 **[1.128] Schedule 3, modification [3.17], inserted section 88L**
2 *substitute*
- 3 **88L Contempt of council**
4 A person commits an offence if the person does something in the
5 face, or within the hearing, of the council that would be contempt of
6 court if the council were a court of record.
7 Maximum penalty: 100 penalty units, imprisonment for 1 year or
8 both.
- 9 **88LA Application of Criminal Code, ch 7**
10 An inquiry by the council is a legal proceeding for the Criminal
11 Code, chapter 7 (Administration of justice offences).
12 *Note* That chapter includes offences (eg perjury, falsifying evidence, failing
13 to attend and refusing to be sworn) applying in relation to inquiries by
14 the council.
- 15 **[1.129] Schedule 3, modification [3.17], inserted section 88N**
16 *omit*
17 summons
18 *substitute*
19 notice
- 20 **[1.130] Schedule 3, modification [3.17], inserted section 88P**
21 *omit*

1 **Part 1.26 Racing Act 1999**

2 **[1.131] Sections 43 and 44**

3 *substitute*

4 **43 Powers in relation to witnesses etc**

5 (1) The president, the deputy president or the registrar, may, by written
6 notice given to a person, require the person to appear before the
7 tribunal at a hearing, at a stated time and place, to do either or both
8 of the following:

9 (a) to give evidence;

10 (b) to produce a stated document or other thing relevant to the
11 hearing.

12 (2) The member presiding at a hearing of the tribunal may require a
13 witness appearing before the tribunal to give evidence to do 1 or
14 more of the following:

15 (a) to take an oath;

16 (b) to answer a question relevant to the hearing;

17 (c) to produce a stated document or other thing relevant to the
18 hearing.

19 *Note 1* **Oath** includes affirmation and **take** an oath includes make an
20 affirmation (see Legislation Act, dict, pt 1).

21 *Note 2* The Legislation Act, s 170 and s 171 deal with the application of the
22 privilege against selfincrimination and client legal privilege.

23 (3) The tribunal may inspect or make copies of any document or other
24 thing produced before the tribunal and keep it for the reasonable
25 period it considers appropriate.

1 **44 Application of Criminal Code, ch 7**

2 An appeal before the tribunal is a legal proceeding for the Criminal
3 Code, chapter 7 (Administration of justice offences).

4 *Note* That chapter includes offences (eg perjury, falsifying evidence, failing
5 to attend and refusing to be sworn) applying in relation to tribunal
6 proceedings.

7 **Part 1.27 Rehabilitation of Offenders**
8 **(Interim) Act 2001**

9 **[1.132] Section 85 (1) to (3)**

10 *substitute*

11 (1) A judicial member may, by written notice given to a person, require
12 the person to appear before the board at a hearing, at a stated time
13 and place, to do either or both of the following:

14 (a) to give evidence;

15 (b) to produce a stated document or other thing relevant to the
16 hearing.

17 **[1.133] Section 85 (4) and (5)**

18 *renumber as section 85 (2) and (3)*

19 **[1.134] Sections 86 to 88**

20 *substitute*

21 **86 Powers in relation to witnesses etc**

22 (1) The judicial member presiding at a hearing of the board may require
23 a witness appearing before the board to give evidence to do 1 or
24 more of the following:

25 (a) to take an oath;

- 1 (b) to answer a question relevant to the hearing;
- 2 (c) to produce a stated document or other thing relevant to the
- 3 hearing.
- 4 *Note 1* **Oath** includes affirmation and **take** an oath includes make an
- 5 affirmation (see Legislation Act, dict, pt 1).
- 6 *Note 2* The Legislation Act, s 170 and s 171 deal with the application of the
- 7 privilege against selfincrimination and client legal privilege.
- 8 (2) The judicial member presiding may disallow a question put to a
- 9 person if the judicial member considers the question is unfair or
- 10 unduly prejudicial.
- 11 **87 Privileges against selfincrimination and exposure to civil**
- 12 **penalty**
- 13 (1) This section applies if a person is required under section 85 (1) or
- 14 section 86 (1) to—
- 15 (a) produce a document or other thing; or
- 16 (b) answer a question.
- 17 (2) The person cannot rely on the common law privileges against
- 18 selfincrimination and exposure to the imposition of a civil penalty to
- 19 refuse to produce the document or other thing or answer the
- 20 question.
- 21 *Note* The Legislation Act, s 171 deals with client legal privilege.
- 22 (3) However, any information, document or other thing obtained,
- 23 directly or indirectly, because of the producing of the document or
- 24 other thing, or the answering of the question, is not admissible in
- 25 evidence against the person in a civil or criminal proceeding, other
- 26 than a proceeding for—
- 27 (a) an offence in relation to the falsity or the misleading nature of
- 28 the answer, document or information; or

- 1 (b) an offence against the Criminal Code, chapter 7
2 (Administration of justice offences).

3 **88 Application of Criminal Code, ch 7**

4 An inquiry by the board is a legal proceeding for the Criminal Code,
5 chapter 7 (Administration of justice offences).

6 *Note* That chapter includes offences (eg perjury, falsifying evidence, failing
7 to attend and refusing to be sworn) applying in relation to inquiries by
8 the council.

9 **Part 1.28 Residential Tenancies Act 1997**

10 **[1.135] Section 83**

11 *substitute*

12 **83 Taking evidence at preliminary conference**

13 The registrar or a referee may—

- 14 (a) take evidence on oath at a preliminary conference and, for that
15 purpose, may require a person attending the conference to take
16 an oath and administer an oath to the person; and

17 *Note* **Oath** includes affirmation and **take** an oath includes make an
18 affirmation (see Legislation Act, dict, pt 1).

- 19 (b) require a person attending before the conference to do either or
20 both of the following:

- 21 (i) answer a question relevant to the conference;
22 (ii) produce a stated document or other thing relevant to the
23 conference.

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

- 1 **[1.136] Section 96**
2 *substitute*
- 3 **96 Subpoena to witnesses**
- 4 (1) The tribunal may, by written notice given to a person (a *subpoena*),
5 require the person to appear before the tribunal at a hearing, at a
6 stated time and place, to do either or both of the following:
- 7 (a) to give evidence;
- 8 (b) to produce a stated document or other thing relevant to the
9 hearing.
- 10 (2) The tribunal may give a party leave to inspect a document produced
11 under a subpoena.
- 12 (3) A person is taken to have complied with a subpoena under
13 subsection (1) (b) if the person gives the document or other thing to
14 the registrar before the date stated in the subpoena for its
15 production.
- 16 (4) In this section:
17 *subpoena* includes summons.
- 18 (5) Subsection (4) and this subsection expire 1 year after the day they
19 commence.

- 20 **[1.137] Section 97**
21 *substitute*
- 22 **97 Powers of tribunal in relation to witnesses**
- 23 The tribunal may require a witness appearing before the tribunal at a
24 hearing to give evidence to do 1 or more of the following:
- 25 (a) to take an oath;
- 26 (b) to answer a question relevant to the hearing;

1 (c) to produce a stated document or other thing relevant to the
2 hearing.

3 *Note 1* **Oath** includes affirmation and **take** an oath includes make an
4 affirmation (see Legislation Act, dict, pt 1).

5 *Note 2* The Legislation Act, s 170 and s 171 deal with the application of the
6 privilege against selfincrimination and client legal privilege.

7 **[1.138] Section 122**

8 *substitute*

9 **122 Contempt of tribunal**

10 A person commits an offence if the person does something in the
11 face, or within the hearing, of the tribunal that would be contempt of
12 court if the tribunal were a court of record.

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

15 **122A Application of Criminal Code, ch 7**

16 A proceeding before the tribunal, the registrar, a referee or an
17 approved mediator is a legal proceeding for the Criminal Code,
18 chapter 7 (Administration of justice offences).

19 *Note* That chapter includes offences (eg perjury, falsifying evidence, failing
20 to attend and refusing to be sworn) applying in relation to tribunal etc
21 proceedings.

22 **[1.139] Section 129**

23 *omit*

24 130

25 *substitute*

26 the Criminal Code, chapter 7 (Administration of justice offences)

1 **[1.140] Section 130**

2 *omit*

3 **Part 1.29 Royal Commissions Act 1991**

4 **[1.141] New sections 4 and 4A**

5 *in part 1, insert*

6 **4 Notes**

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

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

10 **4A Offences against Act—application of Criminal Code etc**

11 Other legislation applies in relation to offences against this Act.

12 *Note 1 Criminal Code*

13 The Criminal Code, ch 2 applies to an offence against this Act, pt 5 (see
14 Code, pt 2.1).

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

19 *Note 2 Penalty units*

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

22 **[1.142] Section 19 (3)**

23 *omit*

24 summoned

25 *substitute*

26 subpoenaed

- 1 **[1.143] Section 24**
- 2 *substitute*
- 3 **24 Privileges against selfincrimination and exposure to civil**
- 4 **penalty**
- 5 (1) This section applies if a person is required under section 34 (1)
- 6 or (3) to—
- 7 (a) produce a document or other thing; or
- 8 (b) answer a question.
- 9 (2) The person cannot rely on the common law privileges against
- 10 selfincrimination and exposure to the imposition of a civil penalty to
- 11 refuse to produce the document or other thing or answer the
- 12 question.
- 13 *Note* The Legislation Act, s 171 deals with client legal privilege.
- 14 (3) However, any information, document or other thing obtained,
- 15 directly or indirectly, because of the producing of the document or
- 16 other thing, or the answering of the question, is not admissible in
- 17 evidence against the person in a civil or criminal proceeding, other
- 18 than a proceeding for—
- 19 (a) an offence in relation to the falsity or the misleading nature of
- 20 the answer, document or information; or
- 21 (b) an offence against the Criminal Code, chapter 7
- 22 (Administration of justice offences).
- 23 **[1.144] Section 31 (1) (a)**
- 24 *omit*
- 25 summoned
- 26 *substitute*
- 27 subpoenaed
-

- 1 **[1.145] Section 34**
- 2 *substitute*
- 3 **34 Powers in relation to witnesses etc**
- 4 (1) The chairperson, or a person authorised in writing by the
- 5 chairperson, may, by written notice given to a person (a *subpoena*),
- 6 require the person to appear before the commission at a hearing, at a
- 7 stated time and place, to do either or both of the following:
- 8 (a) to give evidence;
- 9 (b) to produce a stated document or other thing relevant to the
- 10 hearing.
- 11 (2) A person is taken to have complied with a subpoena under
- 12 subsection (1) (b) if the person gives the document or other thing to
- 13 the commission before the date stated in the subpoena for its
- 14 production.
- 15 (3) The chairperson may require a witness appearing at a hearing before
- 16 the commission to give evidence to do 1 or more of the following:
- 17 (a) to take an oath;
- 18 (b) to answer a question relevant to the hearing;
- 19 (c) to produce a stated document or other thing relevant to the
- 20 hearing.
- 21 *Note* **Oath** includes affirmation and **take** an oath includes make an
- 22 affirmation (see Legislation Act, dict, pt 1).

- 23 **[1.146] Section 35 (1) and (5)**
- 24 *omit*
- 25 summons
- 26 *substitute*
- 27 subpoena

1 **[1.147] Part 5**

2 *omit*

3 **[1.148] New sections 45 and 46**

4 *in part 6, insert*

5 **45 Application of Criminal Code, ch 7**

6 A proceeding of a commission is a legal proceeding for the Criminal
7 Code, chapter 7 (Administration of justice offences).

8 *Note* That chapter includes offences (eg perjury, falsifying evidence, failing
9 to attend and refusing to be sworn) applying in relation to commission
10 proceedings.

11 **46 Contempt of commission**

12 A person commits an offence if the person does something in the
13 face, or within the hearing, of a commission that would be contempt
14 of court if the commission were a court of record.

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

17 **[1.149] New section 50A**

18 *insert*

19 **50A References to *subpoena***

20 (1) In this Act:

21 *subpoena* includes summons.

22 (2) This section expires 1 year after the day it commences.

23 **[1.150] Part 6 (as amended)**

24 *renumber as part 5*

1 **Part 1.30** **Victims of Crime (Financial**
2 **Assistance) Act 1983**

3 **[1.151] Section 2, definition of *serious crime*, paragraph (e)**

4 *omit*

5 the *Crimes Act 1900*, section 181 (Accessory after the fact)

6 *substitute*

7 section 717 (Accessory after the fact)

8 **[1.152] Section 2, definition of *sexual crime*, paragraph (c)**

9 *omit*

10 the *Crimes Act 1900*, section 181 (Accessory after the fact)

11 *substitute*

12 section 717 (Accessory after the fact)

1 **Schedule 2 Technical amendments**

2 (see s 3)

3 **Part 2.1 Crimes Act 1900**

4 **[2.1] Section 114D (4)**

5 *substitute*

6 (4) In this section:

7 *public fraud offence* means an offence against the Criminal Code,
8 section 333 (General dishonesty).

9 **Explanatory note**

10 This amendment remakes the definition to update a cross-reference to the *Crimes (Offences*
11 *against the Government) Act 1989*, section 8. That Act has been repealed and the offence that
12 was in section 8 is now covered by the Criminal Code, section 333. The definition is also
13 amended to remove the reference to the Criminal Code, section 48 (Conspiracy). That reference
14 is not necessary because the Legislation Act, s 189 provides that a reference to an offence
15 includes a reference to a related ancillary offence (including conspiracy).

16 **Part 2.2 Criminal Code 2002**

17 **[2.2] Section 28 (7)**

18 *omit*

19 tribunal of fact

20 *substitute*

21 trier of fact

22 **Explanatory note**

23 This amendment changes a term for consistency throughout the Code.

1 **[2.3] Section 29 (2)**

2 *omit*

3 tribunal of fact

4 *substitute*

5 trier of fact

6 **Explanatory note**

7 This amendment changes a term for consistency throughout the Code.

8 **[2.4] Section 35 (2)**

9 *omit*

10 tribunal of fact

11 *substitute*

12 trier of fact

13 **Explanatory note**

14 This amendment changes a term for consistency throughout the Code.

15 **[2.5] Section 46 heading**

16 *substitute*

17 **46 Agency**

18 **Explanatory note**

19 This amendment changes the heading to more accurately describe the operation of the section.

1 **[2.6] Section 65 (2) (b)**

2 *omit*

3 tribunal of fact

4 *substitute*

5 trier of fact

6 **Explanatory note**

7 This amendment changes a term for consistency throughout the Code.

8 **[2.7] Section 66 (2), (3) and (4)**

9 *omit*

10 tribunal of fact

11 *substitute*

12 trier of fact

13 **Explanatory note**

14 This amendment changes a term for consistency throughout the Code.

15 **[2.8] Section 336 (3)**

16 *omit*

17 **Explanatory note**

18 This amendment is consequential on the insertion of a definition of *benefit* in the dictionary by
19 another amendment.

1 **[2.9] Section 337 (6)**

2 *before*
3 misleading
4 *insert*
5 false or

6 **Explanatory note**

7 This amendment makes the language of the subsection consistent with section 337 (5).

8 **[2.10] Section 337 (7), definition of *benefit***

9 *omit*

10 **Explanatory note**

11 This amendment is consequential on the insertion of a definition of *benefit* in the dictionary by
12 another amendment.

13 **[2.11] Section 338 (4)**

14 *before*
15 misleading
16 *insert*
17 false or

18 **Explanatory note**

19 This amendment makes the language of the subsection consistent with the section 337 (4).

1 **[2.12] Section 338 (6)**

2 *omit*

3 (1) (c) (ii)

4 *substitute*

5 (1) (d) (ii)

6 **Explanatory note**

7 This amendment corrects a cross-reference.

8 **[2.13] Section 352, definition of benefit**

9 *omit*

10 **Explanatory note**

11 This amendment is consequential on the insertion of a definition of *benefit* in the dictionary by
12 another amendment.

13 **[2.14] Section 356 (2) (a) (i), (ii) and (iii)**

14 *omit*

15 himself, herself

16 *substitute*

17 the agent

18 **Explanatory note**

19 This amendment improves language.

1 **[2.15] Section 356 (2) (b) (i) and (ii)**

2 *omit*

3 he or she

4 *substitute*

5 the agent

6 **Explanatory note**

7 This amendment improves language.

8 **[2.16] Section 357 (2) (a) (i), (ii) and (iii)**

9 *omit*

10 himself, herself

11 *substitute*

12 the agent

13 **Explanatory note**

14 This amendment improves language.

15 **[2.17] Section 358 (a)**

16 *omit*

17 himself or herself

18 *substitute*

19 the person

20 **Explanatory note**

21 This amendment improves language.

1 **[2.18] Section 358 (b)**

2 *omit*

3 himself, herself

4 *substitute*

5 the person

6 **Explanatory note**

7 This amendment improves language.

8 **[2.19] Section 359 (1) (b) (i)**

9 *omit*

10 himself, herself

11 *substitute*

12 the official

13 **Explanatory note**

14 This amendment improves language.

15 **[2.20] Section 359 (2) (c) (i)**

16 *omit*

17 himself, herself

18 *substitute*

19 the person

20 **Explanatory note**

21 This amendment improves language.

1 **[2.21] Section 360 (2) (a)**

2 *omit*

3 himself or herself

4 *substitute*

5 the person

6 **Explanatory note**

7 This amendment improves language.

8 **[2.22] Section 402**

9 *substitute*

10 **402 Meaning of *threat* for pt 4.1**

11 For this part—

12 (a) a threat to a person includes a threat to a group of people; and

13 (b) fear that a threat will be carried out includes apprehension that
14 it will be carried out.

15 *Note* For further definition of *threat*, see the dictionary.

16 **Explanatory note**

17 This amendment remakes the section consequent on the insertion of a definition of *threat* in the
18 dictionary by another amendment.

19 **[2.23] Section 424 (4)**

20 *substitute*

21 (4) For this section—

22 (a) a threat to a person includes a threat to a group of people; and

23 (b) fear that a threat will be carried out includes apprehension that
24 it will be carried out.

25 *Note* For further definition of *threat*, see the dictionary.

1 **Part 2.5** **Spent Convictions Act 2000**

2 **[2.26] Dictionary, definition of *sexual offence*, paragraph (b)**

3 *omit*

4 section 102 (Burglary)

5 *substitute*

6 the Criminal Code, section 311 (Burglary)

7 **Explanatory note**

8 This amendment updates a cross-reference.

9

Endnotes

1 **Presentation speech**

Presentation speech made in the Legislative Assembly on 2005.

2 **Notification**

Notified under the Legislation Act on 2005.

3 **Republications of amended laws**

For the latest republication of amended laws, see www.legislation.act.gov.au.