

**2007**

**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY**

**CRIMINAL CODE AMENDMENT REGULATION 2007 (NO 1)**

**EXPLANATORY STATEMENT**

Circulated by authority of  
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Attorney General

## Outline

The progressive reform and codification of the criminal law of the ACT commenced in September 2001 with the passage of the *Criminal Code 2001* (since renamed *Criminal Code 2002*). The reforms are primarily based on the Model Criminal Code, developed by the national Model Criminal Code Officers Committee (MCCOC) (since renamed Model Criminal Law Officers Committee – MCLOC), established by the Standing Committee of Attorneys-General (SCAG).

MCLOC is made up of Territory, State and Commonwealth criminal law advisers and since 1991 embarked on an extensive consultative program which has developed nine chapters of the Model Criminal Code for implementation by all jurisdictions. Since September 2001 the ACT's Criminal Code has progressively grown in volume and to date it consists of six chapters, which deal with a wide range of matters.

- Chapters 1 and 2 deal with preliminary matters and, most importantly, with the general principles of criminal responsibility;
- Chapter 3 contains offences relating to theft, fraud, bribery and related matters;
- Chapter 4 deals with property offences and computer crime;
- Chapter 6 contains the ACT's serious drug offences; and
- Chapter 7 contains offences against the administration of justice.

For an offence to operate effectively under the Code it must be structured in a way that conforms to the general principles of criminal responsibility set out in Chapter 2. Chapter 2 applies to all new offences created or remade after 1 January 2003, it will also apply to remaining offences on the Code 'application date'. The application date is 1 July 2007.

The Government is currently reviewing and revising existing ACT offence provisions to ensure that they are in a form that can operate under the Code. It is essential that all ACT offences be harmonised before the application date. The Government is making good progress on harmonisation, however there is still work to be done. In addition, the application of strict and absolute liability in ACT legislation is currently subject to an inquiry by the Standing Committee on Legal Affairs. As such the progression of the harmonisation program has stalled pending the recommendations of that inquiry.

It is necessary to delay the application of the Code to allow time to harmonise offences. This regulation extends the Code application date to 1 July 2009.

## NOTES ON CLAUSES

### **Clause 1      Name of Regulation**

This clause explains that the name of the Regulation is the *Criminal Code Amendment Regulation 2007 (No 1)*.

### **Clause 2      Commencement**

This clause explains that the Regulation will commence on the day after its notification day.

### **Clause 3      Legislation amended**

This clause explains that the Regulation will amend the *Criminal Code Regulation 2005*.

### **Clause 4      New section 4A**

The default application date for the Criminal Code 2002 (the Code) is currently 1 July 2007. The regulation changes the default application date to 1 July 2009.