**2009**

**THE LEGISLATIVE ASSEMBLY FOR THE**

**AUSTRALIAN CAPITAL TERRITORY**

**CRIMINAL CODE AMENDMENT REGULATION 2009 (NO 1)**

**SL2009-25**

**EXPLANATORY STATEMENT**

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Presented by
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# Criminal Code Amendment Regulation 2009 (No 1)

## 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* (which has since been renamed the *Criminal Code 2002*).  The reforms are primarily based on the Model Criminal Code, developed by the national Model Criminal Code Officers Committee (MCCOC) (which has since been renamed the Model Criminal Law Officers Committee – MCLOC), established by the Standing Committee of Attorneys-General.

MCLOC is made up of Territory, State and Commonwealth criminal law advisers and since 1991 has 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 2002* 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 *Criminal Code 2002*, the offence 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 'default application date'.  The default application date is 1 July 2009.

The Parliamentary Counsel's Office has indicated that a great number of offences on the ACT statute book have been harmonised since that time, either through dedicated harmonisation work or in the normal course of review and creation of new offences.

Further, a number of pre-1 January 2003 Acts and regulations have been identified by the relevant agencies for policy review and revision soon.  This means that a considerable number of remaining offences will also be harmonised over the next few years.

The Government believes that it is prudent to defer the application of Chapter 2 to pre-January 2003 offences to allow Parliamentary Counsel's Office to continue their process of reviewing legislation and agencies reviewing their policies and legislation of their own accord.

This regulation extends the application date in the *Criminal Code 2002* to 1 July 2013, which is the first year of the Eighth Legislative Assembly for the Australian Capital Territory (2012 to 2016)

It is considered that four years is adequate for the majority of offences to be reformed as the normal processes of reviewing and modernising laws occurs.

# Criminal Code Amendment Regulation 2009 (No 1)

## Detail

### Clause 1 – Name of regulation

This is a technical clause that explains the states that the regulation is the *Criminal Code Amendment Regulation 2009 (No 1).*

### Clause 2 – Commencement

This clause provides that the regulation commences on the day after its notification.

### Clause 3 – Legislation amended

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

### Clause 4 – New Section 4A

Section 10 (1) of the *Criminal Code 2002* prescribes the default application date as "1 July 2009 or, if another date is prescribed by regulation for this definition, that date."

This clause inserts new section 4A into the *Criminal Code Regulations 2005* to change the default application date to 1 July 2013.