

2004

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**GOVERNMENT AMENDMENT
to the
CRIMINAL CODE (SERIOUS DRUG OFFENCES) AMENDMENT BILL 2004**

**SUPPLEMENTARY
EXPLANATORY STATEMENT**

Circulated with the authority of
Mr Jon Stanhope MLA
Attorney General

CRIMINAL CODE (SERIOUS DRUG OFFENCES) AMENDMENT BILL 2004

Amendments to be moved by the Attorney General

Amendment 1:

Proposed new clause 3A

This is a minor amendment to relocate the regulation making power under the Criminal Code from chapter 5 to chapter 8, so that, in accordance with usual practice, the power will appear at the end of the Code.

Amendment 2:

Proposed new part 6.8

This is a transitional provision that clarifies the law that applies in cases where there is uncertainty about whether alleged criminal conduct occurred when the repealed offences or the new chapter 6 offences were in force.

The amendment provides, in effect, that if the jury (or judge sitting alone) is satisfied that the relevant conduct happened but is not satisfied about when it happened, the conduct is taken to have occurred when the repealed law was in force. This will ensure that a prosecution will not fail on a technicality and since the repealed law is deemed to apply there is no retrospectivity. The section will expire after five years.

Amendment 3:

Schedule 1, proposed new clause 1.47A

This is a minor consequential amendment to remove schedule 1 of the *Drugs of Dependence Act 1989*, which lists the plants that are prohibited plants for that Act. The plants listed in the schedule will be revised during development of the new regulations for chapter 6.