Australian Capital Territory

Criminal Code 2002

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About this republication

The republished law

This is a republication of the *Criminal Code 2002* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 9 March 2020. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 9 March 2020.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

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Editorial changes

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This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is $160 for an individual and $810 for a corporation (see *Legislation Act 2001*, s 133).

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Australian Capital Territory

Criminal Code 2002

An Act relating to the criminal law, and for other purposes

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Chapter 1 Preliminary

1 Name of Act

This Act is the *Criminal Code 2002*.

3 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (***signpost definitions***) to other terms defined elsewhere in this Act.

For example, the signpost definition '***conduct***—see section 13.' means that the expression 'conduct' is defined in that section.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

4 Notes

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

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

5 Codification

(1) The only offences against territory laws are the offences created under this Act or any other Act.

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

(2) This section does not apply until the application date.

(3) Subsection (2) and this subsection expire on the application date.

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Chapter 2 General principles of criminal responsibility

Part 2.1 Purpose and application—ch 2

6 Purpose—ch 2

(1) The purpose of this chapter is to codify general principles of criminal responsibility under territory laws.

(2) It contains all the general principles of criminal responsibility that apply to any offence, irrespective of how the offence is created.

7 Application—ch 2

This chapter applies to all offences against this Act and all other offences against territory laws.

8 Delayed application of ch 2 to certain offences

(1) Despite section 7, the provisions of this chapter (other than the applied provisions) do not apply to a pre-2003 offence unless—

(a) the offence is omitted and remade (with or without changes); or

(b) an Act or subordinate law expressly provides for the provisions to apply to the offence.

(2) To remove any doubt, a power to make subordinate laws for an Act includes power to make subordinate laws applying this chapter to, or displacing the application of subsection (1) to, offences against subordinate laws under that Act.

(3) In interpreting the applied provisions in relation to an offence, the other provisions of this Act may be considered.

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(4) In this section:

omitted and remade—an offence is not ***omitted and remade*** if it is amended without being omitted and remade.

pre-2003 offence means an offence in force before 1 January 2003.

(5) This section expires on the application date.

10 Definitions—*applied provisions* and *application date*

(1) In this Act:

application date means a date declared by the Minister.

applied provisions means the following provisions of this chapter:

- section 15 (5) (which deals with evidence of self-induced intoxication)
- division 2.3.1 (Lack of capacity—children)
- division 2.3.2 (Lack of capacity—mental impairment)
- 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).

Note Div 2.3.2 and s 66 (2) (d) became applied provisions on the commencement of the *Criminal Code (Mental Impairment) Amendment Act 2006*. 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.

(2) A declaration under subsection (1) is a notifiable instrument.

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

(3) This section expires on the application date.

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Part 2.2 The elements of an offence

Division 2.2.1 General—pt 2.2

11 Elements

(1) An offence consists of physical elements and fault elements.

(2) However, the law that creates the offence may provide that there is no fault element for some or all of the physical elements.

(3) The law that creates the offence may provide different fault elements for different physical elements.

12 Establishing guilt of offences

(1) A person must not be found guilty of committing an offence unless the following is proved:

(a) the existence of the physical elements that are, under the law creating the offence, relevant to establishing guilt;

(b) for each of the physical elements for which a fault element is required—the fault element or 1 of the fault elements for the physical element.

Note 1 See pt 2.6 on proof of criminal responsibility.

Note 2 See pt 2.7 on geographical jurisdiction.

(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.

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Division 2.2.2 Physical elements

13 Definitions—*conduct* and *engage in conduct*

In this Act:

conduct means an act, an omission to do an act or a state of affairs.

Note Section 363A (Definitions—pt 3.8A) affects the meaning of ***conduct***.

engage in conduct means—

(a) do an act; or

(b) omit to do an act.

14 Physical elements

A ***physical element*** of an offence may be—

(a) conduct; or

(b) a result of conduct; or

(c) a circumstance in which conduct, or a result of conduct, happens.

15 Voluntariness

(1) Conduct can only be a physical element if it is voluntary.

(2) Conduct is voluntary only if it is a product of the will of the person whose conduct it is.

Examples of conduct that is not voluntary

1 a spasm, convulsion or other unwilled bodily movement

2 an act done during sleep or unconsciousness

3 an act done during impaired consciousness depriving the person of the will to act

(3) An omission to do an act is voluntary only if the act omitted is an act that the person can do.

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(4) If the conduct required for an offence consists only of a state of affairs, the state of affairs is voluntary only if it is a state of affairs over which the person is capable of exercising control.

(5) Evidence of self-induced intoxication cannot be considered in deciding whether conduct is voluntary.

Note For when intoxication is ***self-induced***, see s 30.

16 Omissions

An omission to do an act can only be a physical element if—

(a) the law creating the offence makes it a physical element; or

(b) the law creating the offence impliedly provides that the offence is committed by an omission to do an act that there is a duty to do under a territory law or a law of a State or the Commonwealth.

Note ***Law***, of the Territory, includes the common law (see Legislation Act, dict, pt 1).

Division 2.2.3 Fault elements

17 Fault elements

(1) A ***fault element*** for a particular physical element may be intention, knowledge, recklessness or negligence.

(2) Subsection (1) does not prevent a law that creates an offence from providing other fault elements for a physical element of the offence.

18 Intention

(1) A person has ***intention*** in relation to conduct if the person means to engage in the conduct.

(2) A person has ***intention*** in relation to a result if the person means to bring it about or is aware that it will happen in the ordinary course of events.

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(3) A person has ***intention*** in relation to a circumstance if the person believes that it exists or will exist.

19 Knowledge

A person has ***knowledge*** of a result or circumstance if the person is aware that it exists or will exist in the ordinary course of events.

20 Recklessness

(1) A person is ***reckless*** in relation to a result if—

(a) the person is aware of a substantial risk that the result will happen; and

(b) having regard to the circumstances known to the person, it is unjustifiable to take the risk.

(2) A person is ***reckless*** in relation to a circumstance if—

(a) the person is aware of a substantial risk that the circumstance exists or will exist; and

(b) having regard to the circumstances known to the person, it is unjustifiable to take the risk.

(3) The question whether taking a risk is unjustifiable is a question of fact.

(4) If recklessness is a fault element for a physical element of an offence, proof of intention, knowledge or recklessness satisfies the fault element.

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21 Negligence

A person is ***negligent*** in relation to a physical element of an offence if the person's conduct merits criminal punishment for the offence because it involves—

(a) such a great falling short of the standard of care that a reasonable person would exercise in the circumstances; and

(b) such a high risk that the physical element exists or will exist.

22 Offences that do not provide fault elements

(1) If the law creating an offence does not provide a fault element for a physical element that consists only of conduct, intention is the fault element for the physical element.

(2) If the law creating an offence does not provide a fault element for a physical element that consists of a circumstance or a result, recklessness is the fault element for the physical element.

Division 2.2.4 Cases where fault elements are not required

23 Strict liability

(1) If a law that creates an offence provides that the offence is a strict liability offence—

(a) there are no fault elements for any of the physical elements of the offence; and

(b) the defence of mistake of fact under section 36 (Mistake of fact—strict liability) is available.

(2) If a law that creates an offence provides that strict liability applies to a particular physical element of the offence—

(a) there are no fault elements for the physical element; and

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(b) the defence of mistake of fact under section 36 is available in relation to the physical element.

(3) The existence of strict liability does not make any other defence unavailable.

24 Absolute liability

(1) If a law that creates an offence provides that the offence is an absolute liability offence—

(a) there are no fault elements for any of the physical elements of the offence; and

(b) the defence of mistake of fact under section 36 (Mistake of fact—strict liability) is not available.

(2) If a law that creates an offence provides that absolute liability applies to a particular physical element of the offence—

(a) there are no fault elements for the physical element; and

(b) the defence of mistake of fact under section 36 is not available in relation to the physical element.

(3) The existence of absolute liability does not make any other defence unavailable.

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Part 2.3 Circumstances where there is no criminal responsibility

Division 2.3.1 Lack of capacity—children

25 Children under 10

A child under 10 years old is not criminally responsible for an offence.

26 Children 10 and over but under 14

(1) A child aged 10 years or older, but under 14 years old, can only be criminally responsible for an offence if the child knows that his or her conduct is wrong.

(2) The question whether a child knows that his or her conduct is wrong is a question of fact.

(3) The burden of proving that a child knows that his or her conduct is wrong is on the prosecution.

Division 2.3.2 Lack of capacity—mental impairment

27 Definition—*mental impairment*

(1) In this Act:

mental impairment includes senility, intellectual disability, mental illness, brain damage and severe personality disorder.

(2) In this section:

mental illness is an underlying pathological infirmity of the mind, whether of long or short duration and whether permanent or temporary, but does not include a condition (a ***reactive condition***) resulting from the reaction of a healthy mind to extraordinary external stimuli.

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(3) However, a reactive condition may be evidence of a mental illness if it involves some abnormality and is prone to recur.

28 Mental impairment and criminal responsibility

(1) A person is not criminally responsible for an offence if, when carrying out the conduct required for the offence, the person was suffering from a mental impairment that had the effect that—

(a) the person did not know the nature and quality of the conduct; or

(b) the person did not know that the conduct was wrong; or

(c) the person could not control the conduct.

(2) For subsection (1) (b), a person does not know that conduct is wrong if the person cannot reason with a moderate degree of sense and composure about whether the conduct, as seen by a reasonable person, is wrong.

(3) The question whether a person was suffering from a mental impairment is a question of fact.

(4) A person is presumed not to have been suffering from a mental impairment.

(5) The presumption is displaced only if it is proved on the balance of probabilities (by the prosecution or defence) that the person was suffering from a mental impairment.

(6) The prosecution may rely on this section only if the court gives leave.

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(7) If the trier of fact is satisfied that a person is not criminally responsible for an offence only because of mental impairment, it must—

(a) for an offence dealt with before the Supreme Court—return or enter a special verdict that the person is not guilty of the offence because of mental impairment; or

(b) for any other offence—find the person not guilty of the offence because of mental impairment.

29 Mental impairment and other defences

(1) A person cannot rely on a mental impairment to deny voluntariness or the existence of a fault element, but may rely on mental impairment to deny criminal responsibility.

(2) If the trier of fact is satisfied that a person carried out conduct because of a delusion caused by a mental impairment, the delusion itself cannot be relied on as a defence, but the person may rely on the mental impairment to deny criminal responsibility.

Division 2.3.3 Intoxication

30 Intoxication—interpretation

(1) In this Act:

fault element of basic intent means a fault element of intention for a physical element that consists only of conduct.

intoxication means intoxication because of the influence of alcohol, a drug or any other substance.

(2) For this Act, intoxication is ***self-induced*** unless it came about—

(a) involuntarily; or

(b) because of fraud, sudden or extraordinary emergency, accident, reasonable mistake, duress or force; or

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(c) from the use of a drug for which a prescription is required and that was used in accordance with the directions of the doctor or dentist who prescribed it; or

(d) from the use of a drug for which no prescription is required and that was used for a purpose, and in accordance with the dosage level, recommended by the manufacturer.

(3) However, subsection (2) (c) and (d) does not apply if the person using the drug knew, or had reason to believe, when the person took the drug that the drug would significantly impair the person's judgment or control.

31 Intoxication—offences involving basic intent

(1) Evidence of self-induced intoxication cannot be considered in deciding whether a fault element of basic intent exists.

Note A fault element of intention in relation to a result or circumstance is not a fault element of basic intent (see s 30 (1), def ***fault element of basic intent***).

(2) This section does not prevent evidence of self-induced intoxication being considered in deciding whether conduct was accidental.

(3) This section does not prevent evidence of self-induced intoxication being considered in deciding whether a person had a mistaken belief about facts if, when carrying out the conduct making up the physical element of the offence, the person considered whether or not the facts existed.

(4) A person may be taken to have considered whether or not facts existed when carrying out conduct if—

(a) the person had considered, on a previous occasion, whether the facts existed in the circumstances surrounding that occasion; and

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(b) the person honestly and reasonably believed that the circumstances surrounding the present occasion were the same, or substantially the same, as the circumstances surrounding the previous occasion.

32 Intoxication—negligence as fault element

(1) If negligence is a fault element for a particular physical element of an offence, in deciding whether the fault element exists for a person who is intoxicated, regard must be had to the standard of a reasonable person who is not intoxicated.

(2) However, if intoxication is not self-induced, regard must be had to the standard of a reasonable person intoxicated to the same extent as the person concerned.

33 Intoxication—relevance to defences

(1) If any part of a defence is based on actual knowledge or belief, evidence of intoxication may be considered in deciding whether the knowledge or belief exists.

(2) However, if—

(a) each physical element of an offence has a fault element of basic intent; and

(b) any part of a defence is based on actual knowledge or belief;

evidence of self-induced intoxication cannot be considered in deciding whether the knowledge or belief exists.

(3) If any part of a defence is based on reasonable belief, in deciding whether the reasonable belief exists, regard must be had to the standard of a reasonable person who is not intoxicated.

(4) If a person's intoxication is not self-induced, in deciding whether any part of a defence based on reasonable belief exists, regard must be had to the standard of a reasonable person intoxicated to the same extent as the person concerned.

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34 Involuntary intoxication

A person is not criminally responsible for an offence if the person's conduct making up the offence was as a result of intoxication that was not self-induced.

Division 2.3.4 Mistake and ignorance

35 Mistake or ignorance of fact—fault elements other than negligence

(1) A person is not criminally responsible for an offence that has a physical element for which there is a fault element other than negligence if—

(a) when carrying out the conduct making up the physical element, the person is under a mistaken belief about, or is ignorant of, facts; and

(b) the existence of the mistaken belief or ignorance negates a fault element applying to the physical element.

(2) In deciding whether a person was under a mistaken belief about facts, or was ignorant of facts, the trier of fact may consider whether the mistaken belief or ignorance was reasonable in the circumstances.

36 Mistake of fact—strict liability

(1) A person is not criminally responsible for an offence that has a physical element for which there is no fault element if—

(a) when carrying out the conduct making up the physical element, the person considered whether or not facts existed, and was under a mistaken but reasonable belief about the facts; and

(b) had the facts existed, the conduct would not have been an offence.

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(2) A person may be taken to have considered whether or not facts existed when carrying out conduct if—

(a) the person had considered, on a previous occasion, whether the facts existed in the circumstances surrounding that occasion; and

(b) the person honestly and reasonably believed that the circumstances surrounding the present occasion were the same, or substantially the same, as the circumstances surrounding the previous occasion.

Note Section 24 (Absolute liability) prevents this section applying to offences of absolute liability.

38 Claim of right

(1) A person is not criminally responsible for an offence that has a physical element relating to property if—

(a) when carrying out the conduct required for the offence, the person is under a mistaken belief about a proprietary or possessory right; and

(b) the existence of the right would negate a fault element for any physical element of the offence.

(2) A person is not criminally responsible for any other offence arising necessarily out of the exercise of a proprietary or possessory right that the person mistakenly believes to exist.

(3) This section does not negate criminal responsibility for an offence relating to the use of force against a person.

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Division 2.3.5 External factors

39 Intervening conduct or event

A person is not criminally responsible for an offence that has a physical element to which absolute or strict liability applies if—

(a) the physical element is brought about by someone else over whom the person has no control or by a non-human act or event over which the person has no control; and

(b) the person could not reasonably have been expected to guard against the bringing about of the physical element.

40 Duress

(1) A person is not criminally responsible for an offence if the person carries out the conduct required for the offence under duress.

(2) A person carries out conduct under duress only if the person reasonably believes that—

(a) a threat has been made that will be carried out unless an offence is committed; and

(b) there is no reasonable way to make the threat ineffective; and

(c) the conduct is a reasonable response to the threat.

(3) However, the person does not carry out conduct under duress if the threat is made by or on behalf of a person with whom the person is voluntarily associating to carry out conduct of the kind required for the offence.

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41 Sudden or extraordinary emergency

(1) A person is not criminally responsible for an offence if the person carries out the conduct required for the offence in response to circumstances of sudden or extraordinary emergency.

(2) This section applies only if the person reasonably believes that—

(a) circumstances of sudden or extraordinary emergency exist; and

(b) committing the offence is the only reasonable way to deal with the emergency; and

(c) the conduct is a reasonable response to the emergency.

42 Self-defence

(1) A person is not criminally responsible for an offence if the person carries out the conduct required for the offence in self-defence.

(2) A person carries out conduct in self-defence only if—

(a) the person believes the conduct is necessary—

(i) to defend himself or herself or someone else; or

(ii) to prevent or end the unlawful imprisonment of himself or herself or someone else; or

(iii) to protect property from unlawful appropriation, destruction, damage or interference; or

(iv) to prevent criminal trespass to land or premises; or

(v) to remove from land or premises a person committing criminal trespass; and

(b) the conduct is a reasonable response in the circumstances as the person perceives them.

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(3) However, the person does not carry out conduct in self-defence if—

(a) the person uses force that involves the intentional infliction of death or serious harm—

(i) to protect property; or

(ii) to prevent criminal trespass; or

(iii) to remove a person committing criminal trespass; or

(b) the person is responding to lawful conduct that the person knows is lawful.

(4) Conduct is not lawful for subsection (3) (b) only because the person carrying it out is not criminally responsible for it.

43 Lawful authority

A person is not criminally responsible for an offence if the conduct required for the offence is justified or excused under a law.

Division 2.3.6 Lawful purpose

43A Lawful possession

(1) A person is not criminally responsible for an offence of possessing a particular material or thing if—

(a) the person is—

(i) employed by, or appointed as a member of, a law enforcement or justice agency; or

(ii) required to provide technical, professional or expert services to a law enforcement or justice agency; or

(iii) a legal practitioner, or a person employed by or required to provide technical, professional or expert services to a legal practitioner; and

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(b) the possession is—

(i) for a law enforcement purpose; and

(ii) reasonable in the circumstances for that purpose.

(2) Possession of a particular material or thing is for a law enforcement purpose if the possession is necessary for, or of assistance in, any of the following:

(a) enforcing a law of the Commonwealth, a State or Territory;

(b) monitoring compliance with, or investigating a contravention of, a law of the Commonwealth, a State or Territory;

(c) the administration of justice.

Examples—law enforcement purpose

1 police investigation
2 giving legal advice or providing legal representation
3 carrying out analyses or tests for forensic reasons
4 judicial service

(3) In determining a person's criminal responsibility, the question of whether a person's possession of a particular material or thing is for a law enforcement purpose is a question of fact.

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Part 2.4 Extensions of criminal responsibility

44 Attempt

(1) If a person attempts to commit an offence, the person commits the offence of attempting to commit that offence.

(2) However, a person commits the offence of attempting to commit an offence only if the person carries out conduct that is more than merely preparatory to the commission of the offence attempted.

(3) The question whether conduct is more than merely preparatory is a question of fact.

(4) A person may be found guilty of attempting to commit an offence even though—

(a) it was impossible to commit the offence attempted; or

(b) the person committed the offence attempted.

(5) For the offence of attempting to commit an offence, intention and knowledge are fault elements for each physical element of the offence attempted.

Note Only 1 of the fault elements of intention or knowledge needs to be established for each physical element of the offence attempted (see s 12 (Establishing guilt of offences)).

(6) However, any special liability provisions that apply to an offence apply also to the offence of attempting to commit the offence.

(7) Any defence, procedure, limitation or qualifying provision applying to an offence applies to the offence of attempting to commit the offence.

(8) If a person is found guilty of attempting to commit an offence, the person cannot later be charged with committing the offence.

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(9) The offence of attempting to commit an offence is punishable as if the offence attempted had been committed.

(10) This section does not apply to an offence against section 45 or section 48 (Conspiracy).

45 Complicity and common purpose

(1) A person is taken to have committed an offence if the person aids, abets, counsels, procures, or is knowingly concerned in or a party to, the commission of the offence by someone else.

(2) However, the person commits the offence because of this section only if—

(a) either—

(i) the person's conduct in fact aids, abets, counsels, or procures the commission of the offence by the other person; or

(ii) as a result of the person's conduct, the person in fact is knowingly concerned in or a party to the commission of the offence by the other person; and

(b) when carrying out the conduct, the person either—

(i) intends the conduct to aid, abet, counsel, procure, or result in the person being knowingly concerned in or a party to, the commission of any offence (including its fault elements) of the type committed by the other person; or

(ii) intends the conduct to aid, abet, counsel, procure, or result in the person being knowingly concerned in or a party to, the commission of an offence by the other person and is reckless about the commission of the offence (including its fault elements) in fact committed by the other person.

(3) To remove any doubt, the person is taken to have committed the offence only if the other person commits the offence.

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(4) Despite subsection (2), any special liability provisions that apply to an offence apply also to the offence of aiding, abetting, counselling, procuring, or being knowingly concerned in or a party to, the commission of the offence.

(5) A person must not be found guilty of aiding, abetting, counselling, procuring, or being knowingly concerned in or a party to, the commission of an offence if, before the offence was committed, the person—

(a) ended the person's involvement; and

(b) took all reasonable steps to prevent the commission of the offence.

(6) A person may be found guilty of aiding, abetting, counselling, procuring, or being knowingly concerned in or a party to, the commission of an offence even if the person who committed the offence is not prosecuted or found guilty.

(7) To remove any doubt, if a person is taken to have committed an offence because of this section, the offence is punishable as if, apart from the operation of this section, the person had committed the offence.

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

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45A Joint commission

(1) A person is taken to have committed an offence if—

(a) the person and at least 1 other person enter into an agreement to commit an offence; and

(b) either—

(i) an offence is committed in accordance with the agreement; or

(ii) an offence is committed in the course of carrying out the agreement.

(2) For subsection (1) (b) (i), an offence is committed ***in accordance with an agreement*** if—

(a) the conduct of 1 or more parties in accordance with the agreement makes up the physical elements consisting of conduct of an offence (the ***joint offence***) of the same type as the offence agreed to; and

(b) to the extent that a physical element of the joint offence consists of a result of conduct—the result arises from the conduct engaged in; and

(c) to the extent that a physical element of the joint offence consists of a circumstance—the conduct engaged in, or a result of the conduct engaged in, happens in the circumstance.

(3) For subsection (1) (b) (ii), an offence is committed ***in the course of carrying out an agreement*** if a person is reckless about the commission of an offence (the ***joint offence***) that another person in fact commits in the course of carrying out the agreement.

(4) A person commits an offence because of this section only if the person and at least 1 other party to the agreement intend that an offence will be committed under the agreement.

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(5) An agreement—

(a) may consist of a non-verbal understanding; and

(b) may be entered into before, or at the same time as, the conduct making up any of the physical elements of the joint offence was engaged in.

(6) A person must not be found guilty of an offence because of this section if, before the conduct making up any of the physical elements of the joint offence concerned was engaged in, the person—

(a) ended the person's involvement; and

(b) took all reasonable steps to prevent the conduct from being engaged in.

(7) A person may be found guilty of an offence because of this section even if—

(a) another party to the agreement is not prosecuted or found guilty; or

(b) the person was not present when any of the conduct making up the physical elements of the joint offence was engaged in.

(8) Any special liability provisions that apply to the joint offence apply also for the purposes of deciding whether a person commits the offence because of the operation of this section.

(9) To remove any doubt, if a person is taken to have committed an offence because of this section, the offence is punishable as if, apart from the operation of this section, the person had committed the offence.

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46 Commission by proxy

(1) A person is taken to have committed an offence if—

(a) the person procures someone else to engage in conduct that (whether or not together with conduct engaged in by the person) makes up the physical elements of the offence consisting of conduct; and

(b) any physical element of the offence consisting of a circumstance exists; and

(c) any physical element of the offence consisting of a result of the conduct happens; and

(d) when the person procured the other person to engage in the conduct, the person had a fault element applying to each physical element of the offence.

(2) To remove any doubt, if a person is taken to have committed an offence because of this section, the offence is punishable as if, apart from the operation of this section, the person had committed the offence.

47 Incitement

(1) If a person urges the commission of an offence (the ***offence incited***), the person commits the offence of incitement.

Maximum penalty:

(a) if the offence incited is punishable by life imprisonment—imprisonment for 10 years, 1 000 penalty units or both; or

(b) if the offence incited is punishable by imprisonment for 14 years or more (but not life imprisonment)—imprisonment for 7 years, 700 penalty units or both; or

(c) if the offence incited is punishable by imprisonment for 10 years or more (but less than 14 years)—imprisonment for 5 years, 500 penalty units or both; or

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(d) if the offence incited is punishable by imprisonment for less than 10 years, either or both of the following:

(i) the lesser of the maximum term of imprisonment for the offence incited and imprisonment for 3 years;

(ii) 300 penalty units; or

(e) if the offence incited is not punishable by imprisonment—the number of penalty units equal to the maximum number of penalty units applying to the offence incited.

(2) A person also commits the offence of incitement if the person urges another person to aid, abet, counsel, procure, be knowingly concerned in or a party to, the commission of an offence (the ***offence incited***) by someone else.

(3) However, the person commits the offence of incitement only if the person intends that the offence incited be committed.

(4) Despite subsection (3), any special liability provisions that apply to an offence apply also to the offence of incitement to commit the offence.

(5) A person may be found guilty of the offence of incitement—

(a) even if it was impossible to commit the offence incited; and

(b) whether or not the offence incited was committed.

(6) Any defence, procedure, limitation or qualifying provision applying to an offence applies to the offence of incitement in relation to the offence.

(7) This section does not apply to an offence against section 44 (Attempt), section 48 (Conspiracy) or this section.

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48 Conspiracy

(1) If a person conspires with someone else to commit an offence (the ***offence conspired***) punishable by imprisonment for longer than 1 year or by a fine of 200 penalty units or more (or both), the person commits the offence of conspiracy.

(2) However, the person commits the offence of conspiracy only if—

(a) the person entered into an agreement with at least 1 other person; and

(b) the person and at least 1 other party to the agreement intend that an offence be committed under the agreement; and

(c) the person or at least 1 other party to the agreement commits an overt act under the agreement.

(3) Despite subsection (2), any special liability provisions that apply to an offence apply also to the offence of conspiracy to commit the offence.

(4) The offence of conspiring to commit an offence is punishable as if the offence conspired had been committed.

(5) A person may be found guilty of the offence of conspiracy even though—

(a) it was impossible to commit the offence conspired; or

(b) the person and each other party to the agreement is a corporation; or

(c) each other party to the agreement is—

(i) a person who is not criminally responsible; or

(ii) a person for whose benefit or protection the offence exists; or

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(d) all other parties to the agreement are acquitted of the conspiracy (unless to find the person guilty would be inconsistent with their acquittal).

(6) A person must not be found guilty of the offence of conspiracy to commit an offence if, before the commission of an overt act under the agreement, the person—

(a) withdrew from the agreement; and

(b) took all reasonable steps to prevent the commission of the offence conspired.

(7) A person for whose benefit or protection an offence exists cannot be found guilty of conspiracy to commit the offence.

(8) Any defence, procedure, limitation or qualifying provision applying to an offence applies to the offence of conspiracy to commit the offence.

(9) A court may dismiss a charge of conspiracy if it considers that the interests of justice require it to dismiss the charge.

(10) A proceeding for an offence of conspiracy must not be begun without the consent of the Attorney-General or the director of public prosecutions.

(11) However, a person may be arrested for, charged with, or remanded in custody or on bail in relation to, an offence of conspiracy before the consent has been given.

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Part 2.5 Corporate criminal responsibility

49 General principles

(1) This Act applies to corporations as well as individuals.

Note A law that creates an offence applies to a corporation as well as to an individual (see Legislation Act, s 161).

(2) The Act applies to corporations in the same way as it applies to individuals, but subject to the changes made by this part and any other changes necessary because criminal responsibility is being imposed on a corporation rather than an individual.

50 Physical elements

A physical element of an offence consisting of conduct is taken to be committed by a corporation if it is committed by an employee, agent or officer of the corporation acting within the actual or apparent scope of his or her employment or within his or her actual or apparent authority.

51 Corporation—fault elements other than negligence

(1) In deciding whether the fault element of intention, knowledge or recklessness exists for an offence in relation to a corporation, the fault element is taken to exist if the corporation expressly, tacitly or impliedly authorises or permits the commission of the offence.

(2) The ways in which authorisation or permission may be established include—

(a) proving that the corporation's board of directors intentionally, knowingly or recklessly engaged in the conduct or expressly, tacitly or impliedly authorised or permitted the commission of the offence; or

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(b) proving that a high managerial agent of the corporation intentionally, knowingly or recklessly engaged in the conduct or expressly, tacitly or impliedly authorised or permitted the commission of the offence; or

(c) proving that a corporate culture existed within the corporation that directed, encouraged, tolerated or led to noncompliance with the contravened law; or

(d) proving that the corporation failed to create and maintain a corporate culture requiring compliance with the contravened law.

(3) Subsection (2) (b) does not apply if the corporation proves that it exercised appropriate diligence to prevent the conduct, or the authorisation or permission.

(4) Factors relevant to subsection (2) (c) and (d) include—

(a) whether authority to commit an offence of the same or a similar character had been given by a high managerial agent of the corporation; and

(b) whether the employee, agent or officer of the corporation who committed the offence reasonably believed, or had a reasonable expectation, that a high managerial agent of the corporation would have authorised or permitted the commission of the offence.

(5) If recklessness is not a fault element for a physical element of an offence, subsection (2) does not enable the fault element to be proved by proving that the board of directors, or a high managerial agent, of the corporation recklessly engaged in the conduct or recklessly authorised or permitted the commission of the offence.

(6) In this section:

board of directors, of a corporation, means the body exercising the corporation's executive authority, whether or not the body is called the board of directors.

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corporate culture, for a corporation, means an attitude, policy, rule, course of conduct or practice existing within the corporation generally or in the part of the corporation where the relevant conduct happens.

high managerial agent, of a corporation, means an employee, agent or officer of the corporation whose conduct may fairly be assumed to represent the corporation's policy because of the level of responsibility of his or her duties.

52 Corporation—negligence

(1) This section applies if negligence is a fault element in relation to a physical element of an offence and no individual employee, agent or officer of a corporation has the fault element.

(2) The fault element of negligence may exist for the corporation in relation to the physical element if the corporation's conduct is negligent when viewed as a whole (that is, by aggregating the conduct of a number of its employees, agents or officers).

Note The test of negligence for a corporation is that set out in s 21 (Negligence).

53 Corporation—mistake of fact—strict liability

A corporation may only rely on section 36 (Mistake of fact—strict liability) in relation to the conduct that would make up an offence by the corporation if—

(a) the employee, agent or officer of the corporation who carried out the conduct was under a mistaken but reasonable belief about facts that, had they existed, would have meant that the conduct would not have been an offence; and

(b) the corporation proves that it exercised appropriate diligence to prevent the conduct.

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54 Corporation—intervening conduct or event

A corporation may not rely on section 39 (Intervening conduct or event) in relation to a physical element of an offence brought about by someone else if the other person is an employee, agent or officer of the corporation.

55 Evidence of negligence or failure to exercise appropriate diligence

Negligence, or failure to exercise appropriate diligence, in relation to conduct of a corporation may be evidenced by the fact that the conduct was substantially attributable to—

(a) inadequate corporate management, control or supervision of the conduct of 1 or more of the corporation's employees, agents or officers; or

(b) failure to provide adequate systems for giving relevant information to relevant people in the corporation.

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Part 2.6 Proof of criminal responsibility

56 Legal burden of proof—prosecution

(1) The prosecution has the legal burden of proving every element of an offence relevant to the guilt of the person charged.

Note See s 11 (Elements) on what elements are relevant to a person's guilt.

(2) The prosecution also has the legal burden of disproving any matter in relation to which the defendant has discharged an evidential burden of proof on the defendant.

(3) In this Act:

legal burden, in relation to a matter, means the burden of proving the existence of the matter.

57 Standard of proof—prosecution

(1) A legal burden of proof on the prosecution must be discharged beyond reasonable doubt.

(2) Subsection (1) does not apply if a law provides for a different standard of proof.

58 Evidential burden of proof—defence

(1) Subject to section 59 (Legal burden of proof—defence), a burden of proof that a law imposes on a defendant is an evidential burden only.

(2) A defendant who wishes to deny criminal responsibility by relying on a provision of part 2.3 (Circumstances where there is no criminal responsibility) has an evidential burden in relation to the matter.

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(3) Subject to section 59, a defendant who wishes to rely on any exception, exemption, excuse, qualification or justification provided by the law creating an offence (whether or not it accompanies the description of the offence) has an evidential burden in relation to the matter.

Examples

1 The *XYZ Act 2002*, section 10 (1) creates an offence of producing a false or misleading document. Section 10 (2) provides—

(2) This section does not apply if the document is not false or misleading in a material particular.

Section 10 (2) is an exception to section 10 (1). A defendant who wishes to rely on the exception has an evidential burden that the document is not false or misleading in a material particular.

2 The *XYZ Act 2002*, section 10 (1) creates an offence of a person making a statement knowing that it omits something without which the statement is misleading. Section 10 (2) provides—

(2) This section does not apply if the omission does not make the statement misleading in a material particular.

Section 10 (2) is an exception to section 10 (1). A defendant who wishes to rely on the exception has an evidential burden that the omission did not make the statement misleading in a material particular.

3 The *XYZ Act 2002*, section 10 (1) creates an offence of disclosing certain information about a restraining order. Section 10 (2) provides—

(2) This section does not apply if the disclosure is made to a police officer.

Section 10 (2) is an exception to section 10 (1). A defendant who wishes to rely on the exception has an evidential burden that the disclosure was made to a police officer.

(4) To remove any doubt, for a strict liability offence that allows the defence of reasonable excuse, a defendant has an evidential burden in relation to the defence.

(5) The defendant no longer has the evidential burden in relation to a matter if evidence sufficient to discharge the burden is presented by the prosecution.

(6) The question whether an evidential burden has been discharged is a question of law.

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(7) In this Act:

evidential burden, in relation to a matter, means the burden of presenting or pointing to evidence that suggests a reasonable possibility that the matter exists or does not exist.

59 Legal burden of proof—defence

A burden of proof that a law imposes on the defendant is a legal burden only if the law expressly—

(a) provides that the burden of proof in relation to the matter in question is a legal burden; or

(b) requires the defendant to prove the matter; or

(c) creates a presumption that the matter exists unless the contrary is proved.

Example for par (b)

The *XYZ Act 2002*, section 10 (1) creates an offence of exhibiting a film classified 'R' to a child. Section 10 (2) provides—

(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that the defendant believed on reasonable grounds that the child was an adult.

Section 10 (2) provides a defence to an offence against section 10 (1). A defendant who wishes to rely on the defence has a legal burden of proving that the defendant believed on reasonable grounds that the child was an adult.

60 Standard of proof—defence

A legal burden of proof on the defendant must be discharged on the balance of probabilities.

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61 Use of averments

A law that allows the prosecution to make an averment (however expressed) does not allow the prosecution—

(a) to aver any fault element of an offence; or

(b) to make an averment in prosecuting for an offence that is directly punishable by imprisonment.

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Part 2.7 Geographical application

62 Application and effect—pt 2.7

(1) This part applies to all offences.

(2) This part extends the application of a territory law that creates an offence beyond the territorial limits of the ACT (and Australia) if the required geographical nexus exists for the offence.

(3) If a law that creates an offence provides for any geographical consideration for the offence, that provision prevails over any inconsistent provision of this part.

Examples for s (3)

1 A law creating an offence may provide that the place of commission of the offence is (explicitly or by necessary implication) an element of the offence.

2 A law creating an offence may provide for its application outside the ACT and exclude (explicitly or by necessary implication) the requirement for a geographical nexus between the ACT and an element of the offence.

63 Interpretation—pt 2.7

(1) For this part, the ***required geographical nexus*** is the geographical nexus mentioned in section 64 (2).

(2) For this part, the place where an offence is committed is the place where any of the physical elements of the offence happen.

(3) For this part, the place where an offence has an effect includes—

(a) any place whose peace, welfare or good government is threatened by the offence; and

(b) any place where the offence would have an effect (or would cause such a threat) if the offence were committed.

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64 Extension of offences if required geographical nexus exists

(1) An offence against a law is committed if—

(a) disregarding any geographical considerations, all elements of the offence exist; and

(b) a geographical nexus exists between the ACT and the offence.

(2) A ***geographical nexus*** exists between the ACT and an offence if—

(a) the offence is committed completely or partly in the ACT, whether or not the offence has any effect in the ACT; or

(b) the offence is committed completely outside the ACT (whether or not outside Australia) but has an effect in the ACT.

65 Geographical application—double criminality

(1) This part applies to an offence committed partly in the ACT and partly in a place outside the ACT (whether or not outside Australia), even if it is not also an offence in that place.

(2) This part applies to an offence committed completely outside the ACT (whether or not outside Australia) only if—

(a) it is also an offence in the place where it is committed; or

(b) it is not also an offence in that place, but the trier of fact is satisfied that the offence is such a threat to the peace, welfare or good government of the ACT that it justifies criminal punishment in the ACT.

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66 Geographical application—procedure

(1) The required geographical nexus is conclusively presumed for an offence unless rebutted under subsection (2) or (4).

(2) If a person charged with an offence disputes the existence of the required geographical nexus for the offence, the following provisions apply:

(a) the court must proceed with the trial of the offence in the usual way;

(b) if, at the end of the trial, the trier of fact is satisfied on the balance of probabilities that the required geographical nexus does not exist, it must make or return a finding to that effect, and the court must dismiss the charge;

(c) however, if, disregarding any geographical considerations, the trier of fact would find the person not guilty of the offence (other than because of mental impairment), it must make or return a verdict of not guilty;

(d) also, if, disregarding any geographical considerations, the trier of fact would find the person not guilty of the offence only because of mental impairment, it must make or return a verdict that the person is not guilty of the offence because of mental impairment.

(3) This section applies to any alternative verdict available by law to the trier of fact in relation to another offence with which the person was not charged.

(4) The trier of fact may make or return a finding of guilty in relation to the other offence (mentioned in subsection (3)) unless satisfied on the balance of probabilities that the required geographical nexus does not exist for the other offence.

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(5) If the issue of whether the required geographical nexus exists for an offence is raised before the trial (including at a special hearing under the *Crimes Act 1900*, section 316), the issue must be reserved for consideration at the trial.

67 Geographical application—suspicion etc that offence committed

(1) This section applies if a person may exercise a function under a law on reasonable suspicion or belief that an offence has been committed.

(2) The person may exercise the function if the person suspects or believes, as the case requires, on reasonable grounds that all the elements required for the offence exist.

(3) Subsection (2) applies whether or not the person suspects or believes, or has any ground to suspect or believe, that the required geographical nexus exists for the offence.

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Chapter 3 Theft, fraud, bribery and related offences

Part 3.1 Interpretation for ch 3

300 Definitions—ch 3

In this chapter:

belongs, in relation to property—see section 301.

cause a loss means cause a loss to someone else.

dishonest means—

(a) dishonest according to the standards of ordinary people; and

(b) known by the defendant to be dishonest according to the standards of ordinary people.

Note 1 The following provisions affect the meaning of ***dishonest***:

- s 303 (Dishonesty for pt 3.2)
- s 327 (Dishonesty for div 3.3.2)
- s 354 (Dishonesty for pt 3.7).

Note 2 In a prosecution, dishonesty is a matter for the trier of fact (see s 302).

duty, of a person who is a public official, means a function that—

(a) is given to the person as a public official; or

(b) the person holds himself or herself out as having as a public official.

gain means—

(a) a gain in property, whether temporary or permanent; or

(b) a gain by way of the supply of services;

and includes keeping what one has.

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loss means a loss in property, whether temporary or permanent, and includes not getting what one might get.

obtain includes—

(a) obtain for someone else; and

(b) induce a third person to do something that results in someone else obtaining.

Note The following provisions affect the meaning of ***obtain***:

- s 314 (9) (Receiving—meaning of ***stolen property***)
- s 328 (Meaning of ***obtains*** for div 3.3.2)
- s 335 (6) (Obtaining financial advantage from the Territory)
- s 355 (Meaning of ***obtain*** for pt 3.7)
- s 363D (Meaning of ***obtain***—pt 3.8A).

public duty means a duty of a public official.

public official means a person having public official functions, or acting in a public official capacity, and includes the following:

(a) a territory public official;

(b) a member of the legislature of the Commonwealth, a State or another Territory;

(c) a member of the executive of the Commonwealth, a State or another Territory;

(d) a member of the judiciary, the magistracy or a tribunal of the Commonwealth, a State or another Territory;

(e) a registrar or other officer of a court or tribunal of the Commonwealth, a State or another Territory;

(f) an individual who occupies an office under a law of the Commonwealth, a State, another Territory or a local government;

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(g) an officer or employee of the Commonwealth, a State, another Territory or a local government;

(h) an officer or employee of an authority or instrumentality of the Commonwealth, a State, another Territory or a local government;

(i) an individual who is otherwise in the service of the Commonwealth, a State, another Territory or a local government (including service as a member of a military or police force or service);

(j) a contractor who exercises a function or performs work for the Commonwealth, a State, another Territory or a local government.

services includes any rights (including rights in relation to, and interests in, property), benefits, privileges or facilities, but does not include rights or benefits that are the supply of goods.

supply includes—

(a) in relation to goods—supply (or re-supply) by way of sale, exchange, lease, hire or hire-purchase; and

(b) in relation to services—provide, grant and confer.

territory public official means a person having public official functions for the Territory, or acting in a public official capacity for the Territory, and includes the following:

(a) a member of the Legislative Assembly;

(b) a person employed under the *Legislative Assembly (Members' Staff) Act 1989*;

(c) a Minister;

(d) a judge, magistrate or tribunal member;

(e) the associate judge of the Supreme Court;

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(f) the registrar or other officer of a court or tribunal;

(g) a public servant;

(h) an officer or employee of a territory authority or instrumentality;

(i) a statutory office-holder or an officer or employee of a statutory office-holder;

(j) a police officer;

(k) a contractor who exercises a function or performs work for the Territory, a territory authority or instrumentality or a statutory office-holder;

(l) an authorised person, or a territory service authorised person, under the *Utilities Act 2000*.

301 Person to whom property belongs for ch 3

(1) Property ***belongs*** to anyone having possession or control of it, or having any proprietary right or interest in it (other than an equitable interest arising only from an agreement to transfer or grant an interest, or from a constructive trust).

(2) This section is subject to section 330 (Money transfers).

Note Section 305 (Person to whom property belongs for pt 3.2) affects the meaning of ***belongs***.

302 Dishonesty a matter for trier of fact

In a prosecution for an offence against this chapter, dishonesty is a matter for the trier of fact.

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Part 3.2 Theft and related offences

Division 3.2.1 Interpretation for pt 3.2

303 Dishonesty for pt 3.2

(1) A person's appropriation of property belonging to someone else is not dishonest if the person appropriates the property in the belief that the person to whom the property belongs cannot be discovered by taking reasonable steps.

(2) However, subsection (1) does not apply if the person appropriating the property held it as trustee or personal representative.

Note A defendant has an evidential burden in relation to the matters mentioned in s (1) and s (2) (see s 58 (3)).

(3) A person's appropriation of property belonging to someone else can be dishonest even if the person or another person is willing to pay for it.

304 Appropriation of property for pt 3.2

(1) Any assumption of the rights of an owner to ownership, possession or control of property, without the consent of a person to whom the property belongs, is an appropriation of the property.

(2) If a person has come by property (innocently or not) without committing theft, subsection (1) applies to any later assumption of those rights without consent by keeping or dealing with it as owner.

(3) If property is, or purports to be, transferred or given to a person acting in good faith, a later assumption by the person of rights the person believed the person was acquiring is not an appropriation of property because of any defect in the transferor's title.

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305 Person to whom property belongs for pt 3.2

(1) If property belongs to 2 or more people, a reference to the person to whom the property belongs is taken to be a reference to each of them.

(2) If property is subject to a trust—

(a) the person to whom the property belongs includes anyone who has a right to enforce the trust; and

(b) an intention to defeat the trust is an intention to deprive any such person of the property.

(3) Property of a corporation sole belongs to the corporation despite a vacancy in the corporation.

(4) If a person (***A***) receives property from or on account of someone else (***B***) and is under a legal obligation to B to retain and deal with the property or its proceeds in a particular way, the property or proceeds belong to B, as against A.

(5) If a person (***A***) gets property by someone else's fundamental mistake and is under a legal obligation to make restoration (in whole or part) of the property, its proceeds or its value—

(a) the property or its proceeds belong (to the extent of the obligation and as against A) to the person entitled to restoration (***B***); and

(b) an intention not to make restoration is—

(i) an intention to permanently deprive B of the property or proceeds; and

(ii) an appropriation of the property or proceeds without B's consent.

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(6) In this section:

fundamental mistake, in relation to property, means—

(a) a mistake about the identity of the person getting the property; or

(b) a mistake about the essential nature of the property; or

(c) a mistake about the amount of any money, if the person getting the money is aware of the mistake when getting the money.

money includes anything that is equivalent to money.

Examples of things equivalent to money

1 a cheque or other negotiable instrument

2 an electronic funds transfer

306 Intention of permanently depriving for pt 3.2

(1) A person (***A***) has the intention of permanently depriving someone else (***B***) of property belonging to B if—

(a) A appropriates property belonging to B without meaning B to permanently lose the property; and

(b) A intends to treat the property as A's own to dispose of regardless of B's rights.

(2) For subsection (1), if A borrows or lends property belonging to B, the borrowing or lending may amount to treating the property as A's own to dispose of regardless of B's rights if, but only if, the borrowing or lending is for a period, and in circumstances, making it equivalent to an outright taking or disposal.

(3) Without limiting this section, if—

(a) A has possession or control (lawfully or not) of property belonging to B; and

(b) A parts with the property under a condition about its return that A may not be able to carry out; and

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(c) the parting is done for A's own purposes and without B's authority;

the parting amounts to treating the property as A's own to dispose of regardless of B's rights.

(4) This section does not limit the circumstances in which a person can be taken to have the intention of permanently depriving someone else of property.

307 General deficiency

A person may be found guilty of theft of all or any part of a general deficiency in money or other property even though the deficiency is made up of a number of particular amounts of money or items of other property that were appropriated over a period.

Division 3.2.2 Indictable offences for pt 3.2

308 Theft

A person commits an offence (***theft***) if the person dishonestly appropriates property belonging to someone else with the intention of permanently depriving the other person of the property.

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

Note For alternative verdict provisions applying to this offence, see s 370, s 371 and s 372.

309 Robbery

A person commits an offence (***robbery***) if—

(a) the person commits theft; and

(b) when committing the theft, or immediately before or immediately after committing the theft, the person—

(i) uses force on someone else; or

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(ii) threatens to use force then and there on someone else;

with intent to commit theft or to escape from the scene.

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

Note ***Theft*** means an offence against s 308 or s 321.

310 Aggravated robbery

A person commits an offence (***aggravated robbery***) if the person—

(a) commits robbery in company with 1 or more people; or

(b) commits robbery and, at the time of the robbery, has an offensive weapon with him or her.

Maximum penalty: 2 500 penalty units, imprisonment for 25 years or both.

Note ***Robbery*** means an offence against s 309.

311 Burglary

(1) A person commits an offence (***burglary***) if the person enters or remains in a building as a trespasser with intent—

(a) to commit theft of any property in the building; or

(b) to commit an offence that involves causing harm, or threatening to cause harm, to anyone in the building; or

(c) to commit an offence in the building that—

(i) involves causing damage to property; and

(ii) is punishable by imprisonment for 5 years or longer.

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

(2) In subsection (1) (b) and (c), ***offence*** includes an offence against a Commonwealth law.

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(3) Absolute liability applies to subsection (1) (c) (ii).

(4) For this section, a person is not a trespasser only because the person is permitted to enter or remain in the building—

(a) for a purpose that is not the person's intended purpose; or

(b) because of fraud, misrepresentation or someone else's mistake.

(5) In this section:

building includes the following:

(a) a part of any building;

(b) a mobile home or caravan;

(c) a structure (whether or not moveable), vehicle, or vessel, that is used, designed or adapted for residential purposes.

312 Aggravated burglary

A person commits an offence (***aggravated burglary***) if the person—

(a) commits burglary in company with 1 or more people; or

(b) commits burglary and, at the time of the burglary, has an offensive weapon with him or her.

Maximum penalty: 2 000 penalty units, imprisonment for 20 years or both.

313 Receiving

(1) A person commits an offence (***receiving***) if the person dishonestly receives stolen property, knowing or believing the property to be stolen.

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

Note For an alternative verdict provision applying to receiving, see s 371.

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(2) A person cannot be found guilty of both theft (or a related offence) and receiving in relation to the same property if the person retains custody or possession of the property.

(3) For this section—

(a) it is to be assumed that section 308 to section 312 and section 326 had been in force at all times before the commencement of this section; and

(b) property that was appropriated or obtained before the commencement of this section, does not become stolen property unless the property was appropriated or obtained in circumstances that (apart from paragraph (a)) amounted to an offence against a territory law in force at that time.

(4) In this section:

related offence means any of the following:

(a) robbery;

(b) aggravated robbery;

(c) burglary;

(d) aggravated burglary;

(e) obtaining property by deception.

314 Receiving—meaning of *stolen property*

For section 313, property is ***stolen property*** if it is property obtained in a way that is an appropriation of property under section 304.

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315 Going equipped for theft etc

(1) A person commits an offence if the person, in any place other than the person's home, has with the person an article with intent to use it in the course of or in relation to theft or a related offence.

Maximum penalty: 300 penalty units, imprisonment for 3 years or both.

(2) In this section:

related offence means any of the following:

(a) robbery;

(b) aggravated robbery;

(c) burglary;

(d) aggravated burglary;

(e) an offence against section 318 (Taking etc motor vehicle without consent);

(f) obtaining property by deception.

316 Going equipped with offensive weapon for theft etc

(1) A person commits an offence if the person, in any place other than the person's home, has with the person an offensive weapon with intent to use it in the course of or in relation to theft or a related offence.

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

(2) In this section:

related offence means any of the following:

(a) robbery;

(b) aggravated robbery;

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(c) burglary;

(d) aggravated burglary.

318 Taking etc motor vehicle without consent

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

(a) dishonestly takes a motor vehicle belonging to someone else; and

(b) does not have consent to take the vehicle from a person to whom it belongs.

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

Note 1 Pt 2.3 (Circumstances where there is no criminal responsibility) provides for defences that apply to offences under the Code. These include the defence of lawful authority (see s 43).

Note 2 For the meaning of ***dishonest***, see s 300.

(2) A person commits an offence if—

(a) the person dishonestly drives or rides in or on a motor vehicle belonging to someone else; and

(b) the vehicle was dishonestly taken by someone without the consent of a person to whom it belongs.

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

Note For alternative verdict provisions applying to an offence against this section, see s 370.

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Division 3.2.3 Summary offences for pt 3.2

319 Dishonestly taking territory property

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

(a) on a particular occasion, A dishonestly takes 1 or more items of property belonging to someone else; and

(b) the other person is the Territory; and

(c) A does not have consent to take the item or any of the items from a person who has the authority to consent; and

(d) either—

(i) the property has a replacement value or total replacement value of more than $500 when it is taken; or

(ii) the absence of the item or any of the items from the custody, possession or control of the person who would otherwise have had custody, possession or control would be likely to cause substantial disruption to activities carried on by or for the Territory.

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

(2) Absolute liability applies to subsection (1) (b) and (d).

(3) In this section:

Territory includes the following:

(a) a territory authority;

(b) a territory-owned corporation;

(c) a territory instrumentality that is not a territory authority or a territory-owned corporation.

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320 Dishonestly retaining territory property

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

(a) on a particular occasion, A takes 1 or more items of property belonging to someone else; and

(b) the other person is the Territory; and

(c) A dishonestly retains any or all of the items; and

(d) A does not have consent to retain the item or any of the items dishonestly retained from a person who has the authority to consent; and

(e) either—

(i) the property dishonestly retained had a replacement value or total replacement value of more than $500 when it was taken; or

(ii) the absence of the item, or any of the items, dishonestly retained from the custody, possession or control of the person who would otherwise have had custody, possession or control is likely to cause substantial disruption to activities carried on by or for the Territory.

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

(2) Absolute liability applies to subsection (1) (b) and (d).

(3) In this section:

Territory—see section 319.

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321 Minor theft

(1) A person commits an offence (also ***theft***) if—

(a) the person dishonestly appropriates property belonging to someone else with the intention of permanently depriving the other person of the property; and

(b) the property has a replacement value of $2 000 or less when it is appropriated.

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

(2) Absolute liability applies to subsection (1) (b).

(3) This section does not prevent a person being charged with an offence against section 308 (Theft) if the replacement value of the property appropriated is $2 000 or less.

322 Removal of articles on public exhibition

(1) A person commits an offence if—

(a) the person dishonestly removes an article from premises; and

(b) the premises are at any time open to the public; and

(c) the article is publicly exhibited, or kept for public exhibition, at the premises; and

(d) the person does not have the consent to remove the article from a person entitled to give the consent.

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

(2) Absolute liability applies to subsection (1) (b) and (c).

(3) This section does not apply in relation to an article that is publicly exhibited, or kept for public exhibition, for the purpose of selling, or any other commercial dealing with, the article or articles of that kind.

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(4) In this section:

premises includes any building or part of a building.

322A Making off without payment

(1) A person commits an offence if—

(a) the person knows he or she is required or expected to make immediate payment for goods or services supplied by someone else; and

(b) the person dishonestly makes off—

(i) without having paid the amount owing; and

(ii) with intent to avoid payment of the amount owing.

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

(2) This section does not apply in relation to a supply of goods or services that is contrary to law.

(3) In this section:

immediate payment includes payment when collecting goods in relation to which a service has been supplied.

323 Making off without payment—minor offence

(1) A person commits an offence if—

(a) the person knows he or she is required or expected to make immediate payment for goods or services supplied by someone else; and

(b) the person dishonestly makes off—

(i) without having paid the amount owing; and

(ii) with intent to avoid payment of the amount owing; and

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(c) the amount owing is $2 000 or less.

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

(2) Absolute liability applies to subsection (1) (c).

(3) This section does not apply in relation to a supply of goods or services that is contrary to law.

(4) This section does not prevent a person being charged with an offence against section 322A (Making off without payment) if the amount owing is $2 000 or less.

(5) In this section:

immediate payment includes payment when collecting goods in relation to which a service has been supplied.

324 Unlawful possession of stolen property

(1) A person commits an offence if—

(a) the person—

(i) has property in the person's possession; or

(ii) has property in someone else's possession; or

(iii) has property in or on any premises (whether or not the premises belong to or are occupied by the person or the property is there for the person's own use); or

(iv) gives possession of property to someone who is not lawfully entitled to possession of it; and

(b) the property is reasonably suspected of being stolen property or otherwise unlawfully obtained property.

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

(2) Absolute liability applies to subsection (1) (b).

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(3) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant had no reasonable grounds for suspecting that the property concerned was stolen property or otherwise unlawfully obtained property.

(4) In this section:

premises includes any aircraft, building, structure, vehicle or vessel, or any place (whether built on or not), and any part of an aircraft, building, structure, vehicle, vessel or place.

stolen property means property obtained in a way that is an appropriation of property under section 304.

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Part 3.3 Fraudulent conduct

Division 3.3.1 Interpretation for pt 3.3

325 Definitions—pt 3.3

In this part:

account means an account (including a loan account, credit card account or similar account) with a bank or other financial institution.

deception means an intentional or reckless deception, whether by words or other conduct, and whether as to fact or law, and includes—

(a) a deception about the intention of the person using the deception or anyone else; and

(b) conduct by a person that causes a computer, a machine or an electronic device to make a response that the person is not authorised to cause it to do.

Division 3.3.2 Obtaining property by deception

326 Obtaining property by deception

A person commits an offence (***obtaining property by deception***) if the person, by deception, dishonestly obtains property belonging to someone else with the intention of permanently depriving the other person of the property.

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

Note For alternative verdict provisions applying to obtaining property by deception, see s 371 and s 372.

327 Dishonesty for div 3.3.2

A person's obtaining of property belonging to someone else can be dishonest even if the person or another person is willing to pay for it.

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328 Meaning of *obtains* for div 3.3.2

(1) For this division, and for the application of section 313 (Receiving) to this division, a person ***obtains*** property if—

(a) the person obtains ownership, possession or control of it for the person or someone else; or

(b) the person enables ownership, possession or control of it to be retained by the person or someone else; or

(c) the person induces a third person to pass ownership, possession or control of it to someone else; or

(d) the person induces a third person to enable someone else to retain ownership, possession or control of it; or

(e) section 330 (2) or (3) (Money transfers) applies.

(2) The definition of ***obtain*** in section 300 does not apply to this division, or for the application of section 313 (Receiving) to this division.

329 Intention of permanently depriving—div 3.3.2

(1) A person (***A***) has the intention of permanently depriving someone else (***B***) of property belonging to B if—

(a) A obtains property belonging to B without meaning B to permanently lose the property; and

(b) A intends to treat the property as A's own to dispose of regardless of B's rights.

(2) For subsection (1), if A borrows or lends property belonging to B, the borrowing or lending may amount to treating the property as A's own to dispose of regardless of B's rights if, but only if, the borrowing or lending is for a period, and in circumstances, making it equivalent to an outright taking or disposal.

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(3) Without limiting this section, if—

(a) A has possession or control (lawfully or not) of property belonging to B; and

(b) A parts with the property under a condition about its return that A may not be able to carry out; and

(c) the parting is done for A's own purposes and without B's authority;

the parting amounts to treating the property as A's own to dispose of regardless of B's rights.

(4) This section does not limit the circumstances in which a person can be taken to have the intention of permanently depriving someone else of property.

330 Money transfers

(1) This section applies for this division and for the application of section 313 (Receiving) to this division.

(2) If a person (***A***) causes an amount to be transferred from an account held by someone else (***B***) to an account held by A—

(a) the amount is taken to have been property that belonged to B; and

(b) A is taken to have obtained the property for A with the intention of permanently depriving B of the property.

(3) If a person (***A***) causes an amount to be transferred from an account held by someone else (***B***) to an account held by a third person (***C***)—

(a) the amount is taken to have been property that belonged to B; and

(b) A is taken to have obtained the property for C with the intention of permanently depriving B of the property.

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(4) An amount is transferred from an account (***account 1***) to another account (***account 2***) if—

(a) a credit is made to account 2; and

(b) a debit is made to account 1; and

(c) the credit results from the debit or the debit results from the credit.

(5) A person causes an amount to be transferred from an account if the person induces someone else to transfer the amount from the account (whether or not the other person is the account holder).

331 General deficiency for div 3.3.2

A person may be found guilty of an offence of obtaining property by deception involving all or any part of a general deficiency in money or other property even though the deficiency is made up of a number of particular amounts of money or items of other property that were obtained over a period.

Division 3.3.3 Other indictable offences for pt 3.3

332 Obtaining financial advantage by deception

A person commits an offence if the person, by deception, dishonestly obtains a financial advantage from someone else.

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

333 General dishonesty

(1) A person commits an offence if—

(a) the person does something with the intention of dishonestly obtaining a gain from someone else; and

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(b) the other person is the Territory.

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

(2) Absolute liability applies to subsection (1) (b).

(3) A person commits an offence if—

(a) the person does something with the intention of dishonestly causing a loss to someone else; and

(b) the other person is the Territory.

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

(4) Absolute liability applies to subsection (3) (b).

(5) A person commits an offence if—

(a) the person—

(i) dishonestly causes a loss, or a risk of loss, to someone else; and

(ii) knows or believes that the loss will happen or that there is a substantial risk of the loss happening; and

(b) the other person is the Territory.

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

(6) Absolute liability applies to subsection (5) (b) .

(7) A person commits an offence if—

(a) the person does something with the intention of dishonestly influencing a public official in the exercise of the official's duty as a public official; and

(b) the public official is a territory public official; and

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(c) the duty is a duty as a territory public official.

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

(8) Absolute liability applies to subsection (7) (b) and (c).

(9) In this section:

Territory—see section 319.

334 Conspiracy to defraud

(1) A person commits an offence if the person conspires with someone else with the intention of dishonestly obtaining a gain from a third person.

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

(2) A person commits an offence if the person conspires with someone else with the intention of dishonestly causing a loss to a third person.

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

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

(a) conspires with someone else to dishonestly cause a loss, or a risk of loss, to a third person; and

(b) knows or believes that the loss will happen, or that there is a substantial risk of the loss happening.

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

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(4) A person commits an offence if the person conspires with someone else with the intention of dishonestly influencing a public official in the exercise of the official's duty as a public official.

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

(5) A person commits an offence against this section (***conspiracy to defraud***) only if—

(a) the person enters into an agreement with at least 1 other person; and

(b) the person and at least 1 other party to the agreement intend to do the thing under the agreement; and

(c) the person or at least 1 other party to the agreement commits an overt act under the agreement.

(6) A person may be found guilty of conspiracy to defraud even if—

(a) it was impossible to obtain the gain, cause the loss or risk of loss, or influence the public official; or

(b) the person and each other party to the agreement is a corporation; or

(c) each other party to the agreement is—

(i) a person who is not criminally responsible; or

(ii) for an agreement to commit an offence—a person for whose benefit or protection the offence exists; or

(d) all other parties to the agreement are acquitted of the offence (unless to find the person guilty would be inconsistent with their acquittal).

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(7) A person must not be found guilty of conspiracy to defraud if, before the commission of an overt act under the agreement, the person—

(a) withdrew from the agreement; and

(b) took all reasonable steps to prevent the doing of the thing.

(8) A person must not be found guilty of an offence of conspiracy to defraud in relation to an agreement to commit an offence (an ***agreed offence***) if the person is someone for whose benefit or protection the agreed offence exists.

(9) Any defence, procedure, limitation or qualifying provision applying to an agreed offence applies also to an offence of conspiracy to defraud in relation to the agreed offence.

(10) A court may dismiss a charge of conspiracy to defraud if it considers that the interests of justice require it to dismiss the charge.

(11) A proceeding for an offence of conspiracy to defraud must not be begun without the consent of the Attorney-General or the director of public prosecutions.

(12) However, a person may be arrested for, charged with or remanded in custody or released on bail in relation to an offence of conspiracy to defraud before the consent is given.

Division 3.3.4 Summary offences for pt 3.3

335 Obtaining financial advantage from the Territory

(1) A person commits an offence if—

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

(b) the person knows or believes that the person is not eligible to receive the financial advantage; and

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(c) the other person is the Territory.

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

(2) Absolute liability applies to subsection (1) (c).

(3) A person commits an offence if—

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

(b) the person knows or believes that B is not eligible to receive the financial advantage; and

(c) the third person is the Territory.

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

(4) Absolute liability applies to subsection (3) (c).

(5) For subsection (3), a person (***A***) is taken to have obtained a financial advantage for someone else from the Territory if A induces the Territory to do something that results in the other person obtaining the financial advantage.

(6) The definition of ***obtain*** in section 300 does not apply to this section.

(7) In this section:

Territory—see section 319.

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336 Passing valueless cheques

(1) A person commits an offence if—

(a) the person obtains property, a financial advantage or other benefit from someone else by passing a cheque; and

(b) the person—

(i) does not have reasonable grounds for believing that the cheque will be paid in full on presentation; or

(ii) intends to dishonestly obtain the property, financial advantage or benefit from someone else.

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

(2) A person may be found guilty of an offence against this section even though, when the cheque was passed, there were some funds to the credit of the account on which the cheque was drawn.

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Part 3.4 False or misleading statements, information and documents

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).

337 Making false or misleading statements

(1) A person commits an offence if—

(a) the person makes a statement (whether orally, in a document or in any other way); and

(b) the statement is false or misleading; and

(c) the person knows that the statement—

(i) is false or misleading; or

(ii) omits anything without which the statement is false or misleading; and

(d) the statement is made in or in relation to an application or claim for a statutory entitlement or a benefit; and

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(e) any of the following applies:

(i) the statement is made to the Territory;

(ii) the statement is made to a person who is exercising a function under a territory law;

(iii) the statement is made in compliance or purported compliance with a territory law.

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

(2) Absolute liability applies to subsection (1) (e) (i), (ii) and (iii).

(3) A person commits an offence if—

(a) the person makes a statement (whether orally, in a document or in any other way); and

(b) the statement is false or misleading; and

(c) the person is reckless about whether the statement—

(i) is false or misleading; or

(ii) omits anything without which the statement is false or misleading; and

(d) the statement is made in or in relation to an application or claim for a statutory entitlement or a benefit; and

(e) any of the following applies:

(i) the statement is made to the Territory;

(ii) the statement is made to a person who is exercising a function under a territory law;

(iii) the statement is made in compliance or purported compliance with a territory law.

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

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(4) Absolute liability applies to subsection (3) (e) (i), (ii) and (iii).

(5) Subsections (1) (b), (1) (c) (i), (3) (b) and (3) (c) (i) do not apply if the statement is not false or misleading in a material particular.

(6) Subsections (1) (b), (1) (c) (ii), (3) (b) and (3) (c) (ii) do not apply if the omission does not make the statement false or misleading in a material particular.

Note A defendant has an evidential burden in relation to the matters mentioned in s (5) and s (6) (see s 58 (3)).

(7) In this section:

statutory entitlement includes an accreditation, approval, assessment, authority, certificate, condition, decision, determination, exemption, licence, permission, permit, registration or other prescribed thing giving a status, privilege or benefit under a law (whether or not required under the law for doing anything).

Territory—see section 319.

Note For an alternative verdict provision applying to this offence, see s 374.

338 Giving false or misleading information

(1) A person commits an offence if—

(a) the person gives information to someone else; and

(b) the information is false or misleading; and

(c) the person knows that the information—

(i) is false or misleading; or

(ii) omits anything without which the information is false or misleading; and

(d) any of the following applies:

(i) the person to whom the information is given is the Territory;

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(ii) the person to whom the information is given is a person who is exercising a function under a territory law;

(iii) the information is given in compliance or purported compliance with a territory law.

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

(2) Absolute liability applies to subsection (1) (d) (i), (ii) and (iii).

(3) Subsection (1) (b) and (c) (i) does not apply if the information is not false or misleading in a material particular.

(4) Subsection (1) (b) and (c) (ii) does not apply if the omission does not make the information false or misleading in a material particular.

(5) Subsection (1) (d) (i) does not apply if, before the information was given by the person to the Territory, the Territory did not take reasonable steps to tell the person about the existence of the offence against subsection (1).

(6) Subsection (1) (d) (ii) does not apply if, before the information was given by a person (***A***) to the person mentioned in that subparagraph (***B***), B did not take reasonable steps to tell A about the existence of the offence against subsection (1).

(7) For subsections (5) and (6), it is sufficient if the following form of words is used:

'Giving false or misleading information is a serious offence'.

(8) In this section:

Territory—see section 319.

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339 Producing false or misleading documents

(1) A person commits an offence if—

(a) the person produces a document to someone else; and

(b) the document is false or misleading; and

(c) the person knows that the document is false or misleading; and

(d) the document is produced in compliance or purported compliance with a territory law.

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

(2) Subsection (1) (b) and (c) does not apply if the document is not false or misleading in a material particular.

(3) Subsection (1) does not apply to a person who produces a document if the document is accompanied by a signed statement—

(a) stating that the document is, to the signing person's knowledge, false or misleading in a material particular; and

(b) setting out, or referring to, the material particular in which the document is, to the signing person's knowledge, false or misleading.

(4) The statement under subsection (3) must be signed by—

(a) the person; or

(b) if the person who produces the document is a corporation—a competent officer of the corporation.

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Part 3.5 Blackmail

340 Meaning of *menace* for pt 3.5

(1) A ***menace*** includes—

(a) an express or implied threat of action that is detrimental or unpleasant to someone else; or

(b) a general threat of detrimental or unpleasant action that is implied because the person making the demand is a public official.

(2) A threat against an individual is a ***menace*** only if—

(a) the threat would be likely to cause an individual of normal stability and courage to act unwillingly; or

(b) the threat would be likely to cause the individual to act unwillingly because of a particular vulnerability of which the maker of the threat is aware.

(3) A threat against an entity other than an individual is a ***menace*** only if—

(a) the threat would ordinarily cause an unwilling response; or

(b) the threat would be likely to cause an unwilling response because of a particular vulnerability of which the maker of the threat is aware.

341 Meaning of *unwarranted demand with a menace* for pt 3.5

(1) A person makes an ***unwarranted demand with a menace*** of someone else only if the person—

(a) makes a demand with a menace of the other person; and

(b) does not believe that he or she has reasonable grounds for making the demand; and

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(c) does not reasonably believe that the use of the menace is a proper means of reinforcing the demand.

(2) The demand need not be a demand for money or other property.

(3) It does not matter whether the menace relates to action to be taken by the person making the demand.

342 Blackmail

A person commits an offence if the person makes an unwarranted demand with a menace of someone else with the intention of—

(a) obtaining a gain; or

(b) causing a loss; or

(c) influencing the exercise of a public duty.

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

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Part 3.6 Forgery and related offences

Division 3.6.1 Interpretation for pt 3.6

343 Definitions—pt 3.6

In this part:

document includes any of the following:

(a) anything on which there are figures, marks, numbers, perforations, symbols or anything else that can be responded to by a computer, machine or electronic device;

(b) a credit card or debit card;

(c) a formal or informal document.

Note For further definition of ***document***, see the Legislation Act, dict, pt 1.

false document—see section 344.

344 Meaning of *false* document etc for pt 3.6

(1) A document is ***false*** only if the document, or any part of the document, purports—

(a) to have been made in the form in which it is made by a person who did not make it in that form; or

(b) to have been made in the form in which it is made on the authority of a person who did not authorise its making in that form; or

(c) to have been made in the terms in which it is made by a person who did not make it in those terms; or

(d) to have been made in the terms in which it is made on the authority of a person who did not authorise its making in those terms; or

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(e) to have been changed in any way by a person who did not change it in that way; or

(f) to have been changed in any way on the authority of a person who did not authorise it to be changed in that way; or

(g) to have been made or changed by an existing person who did not exist; or

(h) to have been made or changed on the authority of an existing person who did not exist; or

(i) to have been made or changed on a date on which, at a time or place at which, or otherwise in circumstances in which it was not made or changed.

(2) For this part, ***making*** a false document includes changing the document so as to make it a false document under subsection (1) (whether or not it already was false in some other way).

(3) For this section, a document that purports to be a true copy of another document is to be treated as if it were the original document.

345 Inducing acceptance that document genuine

For section 346 (Forgery), section 347 (Using false document) and section 348 (Possessing false document)—

(a) a reference to inducing a person to accept a document as genuine includes a reference to causing a computer, machine or electronic device to respond to the document as if it were genuine; and

(b) it is not necessary to prove an intention to induce a particular person to accept the false document as genuine.

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Division 3.6.2 Offences for pt 3.6

346 Forgery

A person commits an offence (***forgery***) if the person makes a false document with the intention that the person or someone else will use it—

(a) to dishonestly induce another person (***C***) to accept it as genuine; and

(b) because C accepts it as genuine, to dishonestly—

(i) obtain a gain; or

(ii) cause a loss; or

(iii) influence the exercise of a public duty.

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

347 Using false document

A person commits an offence if the person uses a false document, knowing that it is false, with the intention of—

(a) dishonestly inducing someone else to accept it as genuine; and

(b) because the other person accepts it as genuine, dishonestly—

(i) obtaining a gain; or

(ii) causing a loss; or

(iii) influencing the exercise of a public duty.

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

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348 Possessing false document

A person commits an offence if the person has in the person's possession a false document, knowing that it is false, with the intention that the person or someone else will use it—

(a) to dishonestly induce another person (***C***) to accept it as genuine; and

(b) because C accepts it as genuine, to dishonestly—

(i) obtain a gain; or

(ii) cause a loss; or

(iii) influence the exercise of a public duty.

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

349 Making or possessing device etc for making false document

(1) A person commits an offence if the person makes or adapts a device, material or other thing—

(a) knowing that the thing is designed or adapted for making a false document (whether or not it is designed or adapted for another purpose); and

(b) with the intention that the person or someone else will use the thing to commit forgery.

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

(2) A person commits an offence if—

(a) the person knows that a device, material or other thing is designed or adapted for making a false document (whether or not it is designed or adapted for another purpose); and

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(b) the person has the device, material or other thing in the person's possession with the intention that the person or someone else will use it to commit forgery.

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

(3) A person commits an offence if the person makes or adapts a device, material or other thing knowing that it is designed or adapted for making a false document (whether or not it is designed or adapted for another purpose).

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

(4) A person commits an offence if the person has in the person's possession a device, material or other thing knowing that it is designed or adapted for making a false document (whether or not it is designed or adapted for another purpose).

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

(5) Subsection (4) does not apply if the person has a reasonable excuse.

350 False accounting

(1) A person commits an offence if—

(a) the person dishonestly damages, destroys or conceals an accounting document; and

(b) the person does so with the intention of obtaining a gain or causing a loss.

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

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(2) A person commits an offence if—

(a) the person dishonestly—

(i) makes, or concurs in making, in an accounting document an entry that is false or misleading in a material particular; or

(ii) omits, or concurs in omitting, a material particular from an accounting document; and

(b) the person does so with the intention of obtaining a gain or causing a loss.

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

(3) A person commits an offence if, in giving information for any purpose—

(a) the person dishonestly produces to someone, or makes use of, an accounting document that is false or misleading in a material particular; and

(b) the person is reckless about whether the accounting document is false or misleading in a material particular; and

(c) the person produces or makes use of the accounting document with the intention of obtaining a gain or causing a loss.

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

(4) In this section:

accounting document means any account, record or other document made or required for an accounting purpose.

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351 False statement by officer of body

(1) An officer of a body commits an offence if—

(a) the officer dishonestly publishes or concurs in the publishing of a document containing a statement or account that is false or misleading in a material particular; and

(b) the officer is reckless about whether the statement or account is false or misleading in a material particular; and

(c) the officer publishes or concurs in the publishing of the document with the intention of deceiving members or creditors of the body about its affairs.

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

(2) In this section:

creditor, of a body, includes a person who has entered into a security for the benefit of the body.

officer, of a body, includes—

(a) any member of the body who is concerned in its management; and

(b) anyone purporting to act as an officer of the body.

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Part 3.7 Bribery and related offences

Division 3.7.1 Interpretation for pt 3.7

352 Definitions—pt 3.7

In this part:

agent—see section 353.

favour*—**an agent provides a ***favour if the agent—

(a) is influenced or affected in the exercise of his or her function as agent; or

(b) does or does not do something as agent, or because of his or her position as agent; or

(c) causes or influences his or her principal, or another agent of the principal, to do or not do something.

function, of an agent, includes a function the agent holds himself or herself out as having as agent.

principal—see section 353.

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353 Meaning of *agent* and *principal* for pt 3.7

(1) An ***agent*** (and the ***principal*** of the agent) includes the following:

column 1 item	column 2 agent	column 3 principal of the agent
1	a person acting for someone else with that other person's actual or implied authority	that other person
2	a public official	the government or other body for which the official acts
3	an employee	the employer
4	a lawyer acting for a client	the client
5	a partner	the partnership
6	an officer of a corporation (whether or not employed by it)	the corporation
7	an officer of another body (whether or not employed by it)	the body
8	a consultant to a person	that person

(2) A person is an agent or principal if the person is, or has been or intends to be, an agent or principal.

354 Dishonesty for pt 3.7

The provision of a benefit can be dishonest even if the provision of the benefit is customary in a trade, business, profession or calling.

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355 Meaning of *obtain* for pt 3.7

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

(2) The definition of ***obtain*** in section 300 does not apply to this part.

Division 3.7.2 Offences for pt 3.7

356 Bribery

(1) A person commits an offence if—

(a) the person dishonestly—

(i) provides a benefit to an agent or someone else; or

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

(iii) offers to provide, or promises to provide, a benefit to an agent or someone else; or

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

(b) the person does so with the intention that the agent will provide a favour.

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

(2) An agent commits an offence if—

(a) the agent dishonestly—

(i) asks for a benefit for the agent or someone else; or

(ii) obtains a benefit for the agent or someone else; or

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(iii) agrees to obtain a benefit for the agent or someone else; and

(b) the agent does so with the intention—

(i) that the agent will provide a favour; or

(ii) of inducing, fostering or sustaining a belief that the agent will provide a favour.

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

357 Other corrupting benefits

(1) A person commits an offence if—

(a) the person dishonestly—

(i) provides a benefit to an agent or someone else; or

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

(iii) offers to provide, or promises to provide, a benefit to an agent or someone else; or

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

(b) obtaining, or expecting to obtain, the benefit would tend to influence the agent to provide a favour.

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

(2) An agent commits an offence if—

(a) the agent dishonestly—

(i) asks for a benefit for the agent or someone else; or

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(ii) obtains a benefit for the agent or someone else; or

(iii) agrees to obtain a benefit for the agent or someone else; and

(b) obtaining, or expecting to obtain, the benefit would tend to influence the agent to provide a favour.

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

(3) For this section, it does not matter whether the benefit is in the nature of a reward.

358 Payola

A person commits an offence if—

(a) the person holds the person out to the public as being engaged in a business or activity of—

(i) making disinterested selections or examinations; or

(ii) expressing disinterested opinions in relation to property or services; and

(b) the person dishonestly asks for or obtains, or agrees to obtain, a benefit for the person or someone else in order to influence the selection, examination or opinion.

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

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359 Abuse of public office

(1) A public official commits an offence if—

(a) the official—

(i) exercises any function or influence that the official has as a public official; or

(ii) fails to exercise any function the official has as a public official; or

(iii) engages in any conduct in the exercise of the official's duties as a public official; or

(iv) uses any information that the official has gained as a public official; and

(b) the official does so with the intention of—

(i) dishonestly obtaining a benefit for the official or someone else; or

(ii) dishonestly causing a detriment to someone else.

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

(2) A person commits an offence if—

(a) the person has ceased to be a public official in a particular capacity; and

(b) the person uses any information the person gained in that capacity; and

(c) the person does so with the intention of—

(i) dishonestly obtaining a benefit for the person or someone else; or

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(ii) dishonestly causing a detriment to someone else.

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

(3) Subsection (2) (a) applies to a person—

(a) whether the person ceased to be a public official as mentioned in the paragraph before, at or after the commencement of this section; and

(b) whether or not the person continues to be a public official in another capacity.

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Part 3.8 Impersonation or obstruction of territory public officials

360 Impersonating territory public official

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

(a) on a particular occasion, impersonates someone else in the other person's capacity as a territory public official; and

(b) does so—

(i) knowing it to be in circumstances when the official is likely to be performing his or her duty; and

(ii) with intent to deceive.

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

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

(a) falsely represents the person to be a territory public official in a particular capacity (whether or not that capacity exists or is fictitious); and

(b) does so in the course of doing an act, or attending a place, in the assumed capacity of such an official.

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

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

(a) either—

(i) impersonates someone else in the other person's capacity as a territory public official; or

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(ii) falsely represents himself or herself to be a territory public official in a particular capacity (whether or not that capacity exists or is fictitious); and

(b) does so—

(i) with the intention of obtaining a gain, causing a loss or influencing the exercise of a public duty; and

(ii) if paragraph (a) (i) applies—also with intent to deceive.

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

(4) To remove any doubt, in this section:

false representation does not include conduct engaged in solely for entertainment.

impersonation does not include conduct engaged in solely for entertainment.

361 Obstructing territory public official

(1) A person commits an offence if—

(a) the person obstructs, hinders, intimidates or resists a public official in the exercise of his or her functions as a public official; and

(b) the person knows that the public official is a public official; and

(c) the public official is a territory public official; and

(d) the functions are functions as a territory public official.

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

(2) Absolute liability applies to subsection (1) (c).

(3) Strict liability applies to the circumstance that the public official was exercising the official's functions as a public official.

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(4) In this section:

function—

(a) in relation to a person who is a public official—means a function that is given to the person as a public official; and

(b) in relation to a person who is a territory public official—means a function given to the person as a territory public official.

362 Impersonating police officer

(1) A person who is not a police officer commits an offence if the person wears a uniform or badge of a police officer.

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

(2) A person who is not a police officer commits an offence if the person represents himself or herself to be a police officer.

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

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

(4) A person who is not a police officer commits an offence if the person wears clothing or a badge and is reckless about whether the clothing or badge would cause someone to believe that the person is a police officer.

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

(5) This section does not apply to conduct engaged in solely for entertainment.

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363 Obstructing territory public official—minor offence

(1) A person commits an offence if—

(a) the person obstructs, hinders, intimidates or resists a public official in the exercise of his or her functions as a public official; and

(b) the person is reckless about whether the public official is a public official; and

(c) the public official is a territory public official; and

(d) the functions are functions as a territory public official.

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

(2) Absolute liability applies to subsection (1) (c) and (d).

(3) Strict liability applies to the circumstance that the public official was exercising the official's functions as a public official.

(4) In this section:

function—see section 361.

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Part 3.8A Cheating at gambling

Division 3.8A.1 Interpretation—pt 3.8A

363A Definitions—pt 3.8A

(1) In this part:

bet, by a person on an event, includes placement, acceptance or withdrawal of a bet by the person on the event.

cause, in relation to an occurrence or state of affairs—see section 363B.

conduct means an act or an omission to do an act.

corrupts a betting outcome—see section 363C.

encourage, a person, includes command, request, propose, advise, incite, induce, persuade, authorise, urge, threaten or place pressure on the person.

event means an event, or contingency connected to an event, (in the ACT or elsewhere) on which it is lawful to bet under a territory law or a law of a State or the Commonwealth.

financial advantage means a permanent or temporary financial advantage.

financial disadvantage means a permanent or temporary financial disadvantage.

obtain—see section 363D.

(2) The definition of ***conduct*** in section 13 does not apply to this part.

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363B Meaning of *cause*—pt 3.8A

(1) In this part:

cause, in relation to an occurrence or state of affairs, means substantially contribute (directly or indirectly) to making the occurrence or state of affairs happen.

(2) The definition of ***cause*** in section 300 does not apply to this part.

363C Meaning of *corrupts a betting outcome*—pt 3.8A

In this part:

corrupts a betting outcome—conduct ***corrupts a betting outcome*** for an event if the conduct affects or is likely to affect the outcome of any type of betting on the event contrary to the standards of integrity reasonably expected of a person in a position to affect the outcome of any type of betting on the event.

363D Meaning of *obtain*—pt 3.8A

(1) In this part:

obtain includes—

(a) get or keep for oneself (directly or indirectly); or

(b) get or keep for another person (directly or indirectly).

(2) The definition of ***obtain*** in section 300 does not apply to this part.

363E Proof of certain matters not required for offences against part 3.8A

(1) In a proceeding for an offence against section 363F, a person (the ***accused person***) is taken to intend obtaining a financial advantage or causing a financial disadvantage in connection with a bet on an event if, and only if, it is proved that the accused person—

(a) intended to obtain a financial advantage or cause financial disadvantage in connection with betting on the event; or

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(b) was aware that another person intended to obtain a financial advantage or cause financial disadvantage in connection with betting on the event, as a result of the conduct that the accused person engaged in.

(2) In a proceeding for an offence against section 363F, it is not necessary to prove that a financial advantage was actually obtained or a financial disadvantage was actually caused.

(3) In a proceeding for an offence against section 363G or section 363H it is not necessary to prove that—

(a) a bet by a person was made personally by the person; or

(b) a person who was encouraged to bet, or to whom information was communicated, in relation to an event actually bet on the event; or

(c) a person who was encouraged to bet was encouraged to bet in a particular way.

Division 3.8A.2 Offences—pt 3.8A

363F Conduct that corrupts betting outcome

A person (the ***first person***) commits an offence if—

(a) the first person engages in conduct; and

(b) the conduct corrupts a betting outcome on an event; and

(c) the first person is reckless about whether the conduct corrupts a betting outcome for the event; and

Note The fault element of recklessness can be satisfied by proof of intention, knowledge or recklessness (see s 20 (4)).

(d) the first person intends—

(i) obtaining a financial advantage for the first person or another person from a bet on the event; or

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(ii) causing a financial disadvantage to another person who bets on the event.

Maximum penalty: imprisonment for 10 years.

363G Bet with information about corrupt betting outcome

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

(a) the first person engages in conduct that results in—

(i) a bet by the first person on an event; or

(ii) another person being encouraged to bet on an event; or

(iii) information being communicated to another person who the first person knows would, or would be likely to, bet on an event; and

(b) at the time of the conduct the first person—

(i) possesses corrupt conduct information for the event; and

(ii) is reckless about whether the information is corrupt conduct information.

Note The fault element of recklessness can be satisfied by proof of intention, knowledge or recklessness (see s 20 (4)).

Maximum penalty: imprisonment for 10 years.

(2) In this section:

corrupt conduct information, for an event, means information about—

(a) conduct that corrupts a betting outcome for the event; or

(b) proposed conduct that would corrupt a betting outcome for the event.

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363H Bet with inside information

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

(a) the first person engages in conduct that results in—

(i) a bet by the first person on an event; or

(ii) another person being encouraged to bet on an event; or

(iii) information being communicated to another person who the first person knows would, or would be likely to, bet on an event; and

(b) at the time of the conduct the first person—

(i) possesses inside information for the event; and

(ii) is reckless about whether the information is inside information.

Note The fault element of recklessness can be satisfied by proof of intention, knowledge or recklessness (see s 20 (4)).

Maximum penalty: imprisonment for 2 years.

(2) In this section:

generally available—information is ***generally available*** if it—

(a) consists of matter that is readily observable by the public; or

(b) has been made known in a way that would, or would be likely to, bring it to the attention of the public; or

(c) consists of deductions, conclusions or inferences made or drawn from information mentioned in paragraph (a) or (b).

inside information, about an event, means information that—

(a) is not generally available; and

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(b) if it were generally available, would, or would be likely to, influence a person who would commonly bet on the event in deciding—

(i) whether or not to bet on the event; or

(ii) any other betting decision.

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Part 3.9 Procedural matters for ch 3

Division 3.9.1 General—pt 3.9

364 Stolen property held by dealers etc—owners rights

(1) If the owner of stolen property makes a complaint to a magistrate that the property is in the possession of a dealer in second-hand goods or a person (the ***lender***) who has advanced money on the security of the property, the magistrate may—

(a) issue a summons for the appearance of the dealer or lender and for the production of the property; and

(b) order the dealer or lender to give the property to the owner on payment by the owner of the amount (if any) that the magistrate considers appropriate.

(2) A dealer or lender who contravenes an order under subsection (1) (b), or who disposes of any property after being told by the owner of the property that it is stolen, is liable to pay to the owner of the property the full value of the property as decided by a magistrate.

(3) In this section:

related offence means any of the following:

(a) robbery;

(b) aggravated robbery;

(c) burglary;

(d) aggravated burglary;

(e) obtaining property by deception.

stolen property means property appropriated or obtained in the course of theft or a related offence.

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365 Stolen property held by police—disposal

(1) This section applies if—

(a) property is lawfully in the custody of a police officer; and

(b) a person is charged with theft or a related offence in relation to the property; and

(c) the person charged—

(i) cannot be found; or

(ii) is convicted, discharged or acquitted in relation to the charge.

(2) A magistrate may—

(a) make an order for the property to be given to the person who appears to be the owner of the property; or

(b) if there is no-one who appears to be the owner—make any order in relation to the property that the magistrate considers just.

(3) An order under this section does not prevent anyone from recovering the property from the person to whom the property is given under the order if a proceeding for the recovery is begun within 6 months after the day the order is made.

(4) In this section:

related offence—see section 364.

366 Procedure and evidence—theft, receiving etc

(1) Any number of defendants may be charged in a single indictment with theft or receiving in relation to the same property and the defendants charged may be tried together.

(2) Any number of defendants may be charged in a single indictment with obtaining property by deception or receiving in relation to the same property and the defendants charged may be tried together.

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(3) On the trial of a defendant or 2 or more defendants for theft, unless the court otherwise orders, a count on the indictment may include an allegation that the defendant or 1 or more of the defendants stole 2 or more items of property.

(4) On the trial of a defendant or 2 or more defendants for receiving, unless the court otherwise orders, a count on the indictment—

(a) may include an allegation that the defendant or 1 or more of the defendants received 2 or more items of property; and

(b) may include the allegation whether or not all the items of property were received from the same person or at the same time.

(5) If, on the trial of a defendant for receiving, it is proved that the defendant had 4 or more items of stolen property in his or her possession, it must be presumed, unless there is evidence to the contrary, that the defendant—

(a) received the items; and

(b) at the time of receiving them, knew or believed them to be items of stolen property.

(6) The defendant has an evidential burden in relation to evidence to the contrary mentioned in subsection (5).

(7) On the trial of 2 or more defendants for jointly receiving stolen property, the trier of fact may find a defendant guilty if satisfied that the defendant received all or any of the stolen property, whether or not the defendant received it jointly with 1 or more of the other defendants.

(8) On the trial of 2 or more defendants for theft and receiving, the trier of fact may find 1 or more of the defendants guilty of theft or receiving, or may find any of them guilty of theft and any other or others guilty of receiving.

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(9) On the trial of 2 or more defendants for obtaining property by deception and receiving, the trier of fact may find 1 or more of the defendants guilty of obtaining property by deception or receiving, or may find any of them guilty of obtaining property by deception and any other or others guilty of receiving.

(10) Subsection (11) applies to a proceeding for the theft of property in the course of transmission (whether by post or otherwise), or for receiving stolen property from such a theft.

(11) A statutory declaration by a person that the person sent, received or failed to receive goods or a postal packet, or that goods or a postal packet when sent or received by the person were or was in a particular state or condition, is admissible as evidence of the facts stated in the declaration—

(a) if and to the extent to which oral evidence to the same effect would have been admissible in the proceeding; and

(b) if, at least 7 days before the day of the beginning of the hearing or trial, a copy of the declaration is given to the defendant, and the defendant has not, at least 3 days before the day of the beginning of the hearing or trial, or within any further time that the court in special circumstances allows, given to the prosecution written notice requiring the attendance at the hearing or trial of the person making the declaration.

Note 1 The *Statutory Declarations Act 1959* (Cwlth) applies to the making of statutory declarations under ACT laws.

Note 2 It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see Criminal Code, pt 3.4).

(12) In this section:

stolen property—see section 314.

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367 Certain proceedings not to be heard together

If a person is charged with an offence against section 324 (Unlawful possession of stolen property) and an offence of receiving in relation to the same property, proceedings for the offences must not be heard together.

368 Indictment for offence relating to deeds, money etc

(1) In an indictment for an offence against this chapter in relation to a document of title to land, or a part of a document of title to land, it is sufficient to state that the document or the part of the document is or contains evidence of the title to the land, and to mention the person, or any of the people, with an interest in the land, or in any part of the land.

(2) In an indictment for an offence against this chapter in relation to money or a valuable security, it is sufficient to describe it as a certain amount of money, or a certain valuable security, without specifying a particular kind of money or security, and the description will be sustained by proof of the offence in relation to any money or valuable security even if it is agreed that part of the value of the money or security has been returned, or part was in fact returned.

(3) In this section:

document of title to land includes any document that is or contains evidence of title to the land or an interest in the land.

Note For definition of ***interest***, in relation to land, see the Legislation Act, dict, pt 1.

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369 Theft of motor vehicle—cancellation of licence

(1) This section applies if a person is found guilty of any of the following offences:

(a) theft of a motor vehicle;

(b) an offence against section 318 (Taking etc motor vehicle without consent).

Note A reference to an offence includes a reference to a related ancillary offence, eg attempt (see Legislation Act, s 189).

(2) The court may, by order—

(a) if the person holds a driver licence—disqualify the person from holding or obtaining a driver licence for the period the court considers appropriate; or

(b) if the person does not hold a driver licence—disqualify the person from obtaining a driver licence for the period the court considers appropriate.

Note The effect of disqualification is set out in the *Road Transport (General) Act 1999*, s 66.

(3) If the court makes an order under this section, the court must give particulars of the order to the road transport authority.

Division 3.9.2 Alternative verdicts—ch 3

369A Alternative verdicts—aggravated robbery and robbery

(1) This section applies if, in a prosecution for aggravated robbery, the trier of fact is not satisfied that the defendant committed the offence but is satisfied beyond reasonable doubt that the defendant committed robbery.

(2) The trier of fact may find the defendant guilty of robbery, but only if the defendant has been given procedural fairness in relation to that finding of guilt.

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369B Alternative verdicts—aggravated burglary and burglary

(1) This section applies if, in a prosecution for aggravated burglary, the trier of fact is not satisfied that the defendant committed the offence but is satisfied beyond reasonable doubt that the defendant committed burglary.

(2) The trier of fact may find the defendant guilty of burglary, but only if the defendant has been given procedural fairness in relation to that finding of guilt.

370 Alternative verdicts—theft and taking motor vehicle without consent

(1) This section applies if, in a prosecution for theft, the trier of fact is not satisfied that the defendant committed theft but is satisfied beyond reasonable doubt that the defendant committed an offence against section 318 (Taking etc motor vehicle without consent).

(2) The trier of fact may find the defendant guilty of the offence against section 318, but only if the defendant has been given procedural fairness in relation to that finding of guilt.

(3) In this section:

theft does not include an offence against section 321 (Minor theft).

371 Alternative verdicts—theft or obtaining property by deception and receiving

(1) If, in a prosecution for theft or obtaining property by deception, the trier of fact is not satisfied that the defendant committed the offence but is satisfied beyond reasonable doubt that the defendant committed an offence of receiving, the trier of fact may find the defendant guilty of receiving, but only if the defendant has been given procedural fairness in relation to that finding of guilt.

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(2) If, in a prosecution for an offence of receiving, the trier of fact is not satisfied that the defendant committed the offence but is satisfied beyond reasonable doubt that the defendant committed theft or obtaining property by deception, the trier of fact may find the defendant guilty of theft or obtaining property by deception, but only if the defendant has been given procedural fairness in relation to that finding of guilt.

372 Alternative verdicts—theft and obtaining property by deception

(1) If, in a prosecution for an offence of theft, the trier of fact is not satisfied that the defendant committed the offence but is satisfied beyond reasonable doubt that the defendant committed an offence of obtaining property by deception, the trier of fact may find the defendant guilty of obtaining property by deception, but only if the defendant has been given procedural fairness in relation to that finding of guilt.

(2) If, in a prosecution for an offence of obtaining property by deception, the trier of fact is not satisfied that the defendant committed the offence but is satisfied beyond reasonable doubt that the defendant committed an offence of theft, the trier of fact may find the defendant guilty of theft, but only if the defendant has been given procedural fairness in relation to that finding of guilt.

(3) In this section:

theft does not include an offence against section 321 (Minor theft).

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373 Verdict of 'theft or receiving' etc

(1) If, on the trial of a defendant charged with theft and receiving in relation to the same property, the trier of fact is satisfied beyond reasonable doubt that the defendant committed theft or receiving but cannot decide which of the offences the defendant committed, the trier of fact must find the defendant guilty of—

(a) the offence that is more probable; or

(b) if the trier of fact cannot decide which of the offences is more probable—theft.

(2) If, on the trial of a defendant charged with obtaining property by deception and receiving in relation to the same property, the trier of fact is satisfied beyond reasonable doubt that the defendant committed obtaining property by deception or receiving but cannot decide which of the offences the defendant committed, the trier of fact must find the defendant guilty of—

(a) the offence that is more probable; or

(b) if the trier of fact cannot decide which of the offences is more probable—obtaining property by deception.

(3) In this section:

theft does not include an offence against section 321 (Minor theft).

374 Alternative verdicts—making false or misleading statements

(1) This section applies if, in a prosecution for an offence against section 337 (1) (Making false or misleading statements), the trier of fact is not satisfied that the defendant committed the offence but is satisfied beyond reasonable doubt that the defendant committed an offence against section 337 (3).

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(2) The trier of fact may find the defendant guilty of the offence against section 337 (3), but only if the defendant has been given procedural fairness in relation to that finding of guilt.

Division 3.9.3 Forfeiture—ch 3

375 Going equipped offences—forfeiture

(1) If a person is found guilty of an offence against section 315 (Going equipped for theft etc) in relation to an article, the person must forfeit to the Territory the article and any other article of the kind mentioned in that section that is in the person's custody or possession.

(2) If a person is found guilty of an offence against section 316 (Going equipped with offensive weapon for theft etc) in relation to an offensive weapon, the person must forfeit to the Territory the weapon and any other offensive weapon of the kind mentioned in that section that is in the person's custody or possession.

376 Unlawful possession offence—forfeiture

(1) If a person is found guilty of an offence against section 324 (Unlawful possession of stolen property), the property to which the offence relates is forfeited to the Territory—

(a) if the person found guilty is the owner of the property—when the person is found guilty; or

(b) in any other case—at the end of 90 days after the day the person is found guilty of the offence unless the owner of the property is known.

(2) The forfeited property must be transferred to the public trustee and guardian.

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377 Unlawful possession offence—disposal of forfeited property by public trustee and guardian

(1) The public trustee and guardian must pay any forfeited money transferred to the public trustee and guardian under section 376 to the confiscated assets trust fund under the *Confiscation of Criminal Assets Act 2003*.

(2) The public trustee and guardian must sell or otherwise dispose of other property transferred to the public trustee and guardian under section 376.

(3) The public trustee and guardian must—

(a) apply the proceeds of the sale or disposition in payment of the public trustee and guardian's remuneration, and other costs, charges and expenses, in relation to the sale or disposition; and

(b) pay the remainder of the proceeds to the confiscated assets trust fund under the *Confiscation of Criminal Assets Act 2003*.

(4) However, the Minister may direct that, in a particular case, forfeited goods be dealt with in accordance with the direction (including in accordance with a law stated in the direction).

(5) The direction is a disallowable instrument.

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

(6) The public trustee and guardian must comply with the Minister's direction.

(7) Any interest held by the public trustee and guardian in relation to property transferred under section 376 (2) is a statutory interest of a kind to which the *Personal Property Securities Act 2009* (Cwlth), section 73 (2) applies.

(8) A regulation may make provision in relation to public trustee and guardian's remuneration, and other costs, charges and expenses, under subsection (3) (a).

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378 Unlawful possession offence—return of or compensation for forfeited property

(1) If, after the end of the 90-day period mentioned in section 376 (1) (b), the owner of the property claims the property, the public trustee and guardian must, if satisfied that the person is the owner—

(a) if the property is money—pay the money to the person; or

(b) in any other case—return the property to the person or pay the person reasonable compensation for the property.

(2) This section does not apply if the property is subject to forfeiture, or has been forfeited, under the *Confiscation of Criminal Assets Act 2003*.

Note The *Confiscation of Criminal Assets Act 2003* provides for compensation or the return of forfeited property in certain circumstances.

379 Forgery offences—forfeiture

(1) This section applies if a person is found guilty of an offence against any of the following sections:

(a) section 346 (Forgery);

(b) section 347 (Using false document);

(c) section 348 (Possessing false document);

(d) section 349 (Making or possessing device etc for making false document).

(2) The court may order, under the *Crimes Act 1900*, section 367 (Procedure on forfeiture), that any article used in relation to the offence be forfeited to the Territory.

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Chapter 4 Property damage and computer offences

Part 4.1 Property damage offences

Division 4.1.1 Interpretation for pt 4.1

400 Definitions—pt 4.1

In this part:

causes damage or another result—a person ***causes*** damage or another result if the person's conduct substantially contributes to the damage or other result.

damage property, includes the following:

(a) destroy the property;

(b) cause the physical loss of the property by interfering with the property (including by removing any restraint over the property or abandoning the property);

(c) cause loss of a use or function of the property by interfering with the property;

(d) deface the property;

(e) for a document—obliterate or make illegible the whole or part of the document;

(f) for an animal—harm or kill the animal;

(g) for a plant or other thing forming part of land—cut it from the land.

property means any property of a tangible nature.

Note For further definition of ***property***, see the dictionary and the Legislation Act, dict, pt 1.

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401 Person to whom property belongs

(1) For this part, property belongs to anyone having possession or control of it, or having any proprietary right or interest in it (other than an equitable interest arising only from an agreement to transfer or grant an interest or from a constructive trust).

(2) If property is subject to a trust, a reference to the people to whom it belongs includes a reference to anyone having a right to enforce the trust.

(3) If property belongs to 2 or more people, a reference to the person to whom the property belongs is a reference to all the people.

402 Meaning of *threat* for pt 4.1

For this part—

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

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

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

Division 4.1.2 Offences—pt 4.1

403 Damaging property

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

(a) causes damage to property belonging to someone else; and

(b) intends to cause, or is reckless about causing, damage to that property or any other property belonging to someone else.

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

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(2) A conviction for an offence against this section is an alternative verdict to a charge for—

(a) an offence against section 416 (Unauthorised modification of data to cause impairment); or

(b) an offence against section 417 (Unauthorised impairment of electronic communication).

404 Arson

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

(a) causes damage to a building or vehicle by fire or explosive; and

(b) intends to cause, or is reckless about causing, damage to that or any other building or vehicle.

Maximum penalty: 1 500 penalty units, imprisonment for 15 years or both.

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

(a) makes to someone else (***person B***) a threat to damage, by fire or explosive, a building or vehicle belonging to person B or to another person; and

(b) intends to cause, or is reckless about causing, person B to fear that the threat will be carried out.

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

(3) In a prosecution for an offence against subsection (2) it is not necessary to prove that the person threatened (person B) actually feared that the threat would be carried out.

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(4) In this section:

building includes—

(a) part of a building; or

(b) any structure (whether or not moveable) that is used, designed or adapted for residential purposes.

vehicle means motor vehicle, motorised vessel or aircraft.

405 Causing bushfires

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

(a) intentionally or recklessly causes a fire; and

(b) is reckless about the spread of the fire to vegetation on property belonging to someone else.

Maximum penalty: 1 500 penalty units, imprisonment for 15 years or both.

Note The fault element of recklessness can be satisfied by proof of intention, knowledge or recklessness (see s 20 (4)).

(2) In this section:

causes a fire—a person ***causes*** a fire if the person does any of the following:

(a) lights a fire;

(b) maintains a fire;

(c) fails to contain or extinguish a fire that was lit by the person if it is not beyond the person's capacity to contain or extinguish it.

spread, of a fire, means spread of the fire beyond the capacity of the person who caused the fire to contain or extinguish it.

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406 Threat to cause property damage—fear of death or serious harm

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

(a) intentionally makes to someone else a threat to damage property; and

(b) is reckless about causing that person to fear that the carrying out of the threat will kill or cause serious harm to that person or another person.

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

Note The fault element of recklessness can be satisfied by proof of intention, knowledge or recklessness (see s 20 (4)).

(2) In the prosecution of an offence against this section it is not necessary to prove that the person threatened actually feared that the threat would be carried out.

407 Threat to cause property damage

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

(a) intentionally makes to someone else a threat to damage property belonging to that person or another person; and

(b) intends that person to fear that the threat will be carried out.

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

(2) In a prosecution for an offence against this section it is not necessary to prove that the person threatened actually feared that the threat would be carried out.

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408 Possession of thing with intent to damage property

(1) A person commits an offence if the person possesses a thing with the intention that the person or someone else will use it to damage property belonging to another person.

Maximum penalty: 300 penalty units, imprisonment for 3 years or both.

(2) In this section:

possess a thing includes—

(a) have control over disposing of the thing (whether or not the thing is in the custody of the person); or

(b) have joint possession of the thing.

Division 4.1.3 Defences—pt 4.1

Note A defendant has an evidential burden in relation to the defences in this division (see s 58 (3)).

409 Consent—pt 4.1 offences

(1) A person (***person A***) is not criminally responsible for an offence against this part if, when the conduct required for the offence was carried out—

(a) a person entitled to consent to the damage to the property concerned had consented; or

(b) person A believed that a person entitled to consent to the damage to the property concerned—

(i) had consented; or

(ii) would have consented if the person had known about the damage to the property and its circumstances.

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(2) For the application of this defence to an offence against section 405 (Causing bushfires):

damage, to property, means the risk of fire spreading to the property.

410 Claim of right—pt 4.1 offences

(1) A person is not criminally responsible for an offence against this part if, when engaging in the conduct required for the offence, the person believed that the person had a right or interest in the property concerned that entitled the person to engage in the conduct.

(2) In this section:

right or interest in property includes a right or privilege in or over land or waters, whether created by grant, licence or otherwise.

411 Self-defence

To remove any doubt, section 42 (Self-defence) applies to an offence against this part.

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Part 4.2 Computer offences

412 Definitions—pt 4.2

In this part:

access, to data held in a computer, means—

(a) the display of the data by the computer or any other output of the data from the computer; or

(b) the copying or moving of the data to another place in the computer or to a data storage device; or

(c) for a program—the execution of the program.

causes—a person ***causes*** unauthorised access to or modification of data, or impairment of electronic communication or of the reliability, security or operation of data, if the person's conduct substantially contributes to the unauthorised access, modification or impairment.

data includes—

(a) information in any form; and

(b) a program (or part of a program).

data held in a computer includes—

(a) data entered or copied into the computer; and

(b) data held in a removable storage device in the computer; and

(c) data held in a data storage device on a computer network of which the computer forms part.

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data storage device means anything containing or designed to contain data for use by a computer.

Examples of data storage devices

1 a disc

2 a file server

electronic communication means a communication of information in any form by way of guided or unguided electromagnetic energy.

impairment, of electronic communication to or from a computer, includes—

(a) the prevention of the communication, and

(b) the impairment of the communication on an electronic link or network used by the computer;

but does not include a mere interception of the communication.

modification, of data held in a computer, means—

(a) the alteration or removal of the data, or

(b) an addition to the data.

serious computer offence means—

(a) an offence against section 415, section 416 or section 417; or

(b) conduct in another jurisdiction that is an offence in that jurisdiction and would be an offence against section 415, section 416 or section 417 if the conduct happened in the ACT.

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413 Limited meaning of *access to data* etc

In this part, a reference to—

(a) access to data held in a computer; or

(b) modification of data held in a computer; or

(c) impairment of electronic communication to or from a computer;

is limited to access, modification or impairment caused (directly or indirectly) by the execution of a function of a computer.

414 Meaning of *unauthorised* access, modification or impairment

(1) For this part, access to or modification of data, or impairment of electronic communication or of the reliability, security or operation of data, by a person is ***unauthorised*** if the person is not entitled to cause the access, modification or impairment.

(2) However, the access, modification or impairment is not unauthorised only because the person has an ulterior purpose for causing it.

415 Unauthorised access, modification or impairment with intent to commit serious offence

(1) A person commits an offence if—

(a) the person causes—

(i) unauthorised access to data held in a computer; or

(ii) unauthorised modification of data held in a computer, or

(iii) unauthorised impairment of electronic communication to or from a computer; and

(b) the person knows the access, modification or impairment is unauthorised; and

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(c) the person intends to commit, or enable the commission of, a serious offence (by the person or by someone else).

Maximum penalty: the maximum penalty applicable if the person had committed, or enabled the commission of, the serious offence in the ACT.

(2) In a prosecution for an offence against this section it is not necessary to prove that the defendant knew that the offence was a serious offence.

(3) A person can be found guilty of an offence against this section—

(a) even if committing the serious offence is impossible; or

(b) whether the serious offence is to be committed at the time of the unauthorised conduct or at a later time.

(4) It is not an offence to attempt to commit an offence against this section.

(5) In this section:

serious offence means an offence punishable by imprisonment for 5 years or longer, and includes an offence in another jurisdiction that would be a serious offence if committed in the ACT.

416 Unauthorised modification of data to cause impairment

(1) A person commits an offence if—

(a) the person causes unauthorised modification of data held in a computer; and

(b) the person knows the modification is unauthorised; and

(c) the person—

(i) intends by the modification to impair access to, or to impair the reliability, security or operation of, data held in a computer; or

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(ii) is reckless about any such impairment.

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

(2) A person can be found guilty of an offence against this section even if there is or will be no actual impairment to access to, or the reliability, security or operation of, data held in a computer.

(3) A conviction for an offence against this section is an alternative verdict to a charge for—

(a) an offence against section 403 (Damaging property); or

(b) an offence against section 417 (Unauthorised impairment of electronic communication).

417 Unauthorised impairment of electronic communication

(1) A person commits an offence if—

(a) the person causes an unauthorised impairment of electronic communication to or from a computer; and

(b) the person knows the impairment is unauthorised; and

(c) the person—

(i) intends to impair electronic communication to or from the computer; or

(ii) is reckless about any such impairment.

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

(2) A conviction for an offence against this section is an alternative verdict to a charge for—

(a) an offence against section 403 (Damaging property); or

(b) an offence against section 416 (Unauthorised modification of data to cause impairment).

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418 Possession of data with intent to commit serious computer offence

(1) A person commits an offence if the person has possession or control of data with the intention of—

(a) committing a serious computer offence; or

(b) enabling the commission of a serious computer offence (whether by the person or by someone else).

Maximum penalty: 300 penalty units, imprisonment for 3 years or both.

(2) For this section:

possession or control of data includes—

(a) possession of a computer or data storage device holding or containing the data; or

(b) possession of a document in which the data is recorded; or

(c) control of data held in a computer that is in the possession of someone else (whether the computer is in or outside the ACT).

(3) A person can be found guilty of an offence against this section even if committing the serious computer offence is impossible.

(4) It is not an offence to attempt to commit an offence against this section.

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419 Producing, supplying or obtaining data with intent to commit serious computer offence

(1) A person commits an offence if the person produces, supplies or obtains data with the intention of—

(a) committing a serious computer offence; or

(b) enabling the commission of a serious computer offence (whether by the person or by someone else).

Maximum penalty: 300 penalty units, imprisonment for 3 years or both.

(2) For this section:

produce, supply or obtain data includes—

(a) produce, supply or obtain data held or contained in a computer or data storage device; or

(b) produce, supply or obtain a document in which the data is recorded.

(3) A person can be found guilty of an offence against this section even if committing the serious computer offence concerned is impossible.

420 Unauthorised access to or modification of restricted data held in computer

(1) A person commits an offence if—

(a) the person causes unauthorised access to or modification of restricted data held in a computer; and

(b) the person knows the access or modification is unauthorised; and

(c) the person intends to cause the access or modification.

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

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(2) In this section:

restricted data means data held in a computer to which access is restricted by an access control system associated with a function of the computer.

421 Unauthorised impairment of data held in computer disc, credit card etc

A person commits an offence if—

(a) the person causes unauthorised impairment of the reliability, security or operation of data held in a computer disc, credit card or other device used to store data by electronic means; and

(b) the person knows the impairment is unauthorised; and

(c) the person intends to cause the impairment.

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

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Part 4.3 Sabotage

422 Definitions—pt 4.3

In this part:

causes damage or disruption—a person ***causes*** damage or disruption if the person's conduct substantially contributes to the damage or disruption.

damage, to a public facility, means—

(a) damage to the facility or part of the facility; or

(b) disruption to the use or operation of the facility.

property offence means—

(a) an offence against part 4.1 (Property damage offences); or

(b) conduct in another jurisdiction that is an offence in that jurisdiction and would be an offence against part 4.1 if the conduct happened in the ACT.

public facility means any of the following (whether publicly or privately owned):

(a) a government facility, including premises used by government employees for official duties;

(b) a public infrastructure facility, including a facility providing water, sewerage, energy, fuel, communication or other services to the public;

(c) a public information system, including a system used to generate, send, receive, store or otherwise process electronic communications;

(d) a public transport facility, including a vehicle used to transport people or goods;

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(e) a public place, including any premises, land or water open to the public.

unauthorised computer function means any of the following (within the meaning of part 4.2 (Computer offences)):

(a) unauthorised access to data held in a computer;

(b) unauthorised modification of data held in a computer;

(c) unauthorised impairment of electronic communication to or from a computer.

423 Sabotage

(1) A person commits an offence if—

(a) the person causes damage to a public facility by committing a property offence or by causing an unauthorised computer function; and

(b) the person intends to cause—

(i) major disruption to government functions; or

(ii) major disruption to the use of services by the public; or

(iii) major economic loss.

Maximum penalty: 2 500 penalty units, imprisonment for 25 years or both.

(2) To remove any doubt, a person does not commit an offence against this section only because the person takes part in a protest, strike or lockout.

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424 Threaten sabotage

(1) A person commits an offence if—

(a) the person intentionally makes to someone else a threat to cause damage to a public facility by committing a property offence or by causing an unauthorised computer function; and

(b) the person intends the other person to fear that the threat will be carried out and will cause—

(i) major disruption to government functions; or

(ii) major disruption to the use of services by the public; or

(iii) major economic loss.

Maximum penalty: 1 500 penalty units, imprisonment for 15 years or both.

(2) To remove any doubt, a person does not commit an offence against this section only because the person intends to or threatens to take part in a protest, strike or lockout.

(3) In a prosecution for an offence against this section it is not necessary to prove that the person threatened actually feared that the threat would be carried out.

(4) For this section—

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

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

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

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Chapter 6 Serious drug offences

Part 6.1 Interpretation for ch 6

600 Definitions—ch 6

(1) In this chapter:

cannabis—

(a) means a substance consisting of or containing—

(i) the fresh or dried parts of a cannabis plant; or

(ii) tetrahydrocannabinol; but

(b) does not include—

(i) goods that consist completely or mainly of cannabis fibre; or

(ii) cannabis food products.

cannabis plant means a plant of the genus Cannabis.

commercial quantity—see section 601.

conceal a thing includes conceal or disguise—

(a) the nature, source or location of the thing; or

(b) any movement of the thing; or

(c) someone's rights in relation to the thing; or

(d) the identity of any owner of the thing.

controlled drug means a substance prescribed by regulation as a controlled drug, but does not include a growing plant.

controlled plant means a growing plant prescribed by regulation as a controlled plant, and includes a seedling of the plant.

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controlled precursor means a substance prescribed by regulation as a controlled precursor.

cultivates a plant—see section 615.

cultivation, of a plant—see section 615.

large commercial quantity—see section 601.

manufacture—see section 606.

manufactures—see section 606.

possession, of a thing, includes the following:

(a) receiving or obtaining possession of the thing;

(b) having control over the disposition of the thing (whether or not having custody of the thing);

(c) having joint possession of the thing.

prepare a drug for supply includes pack the drug or separate the drug into discrete units.

sell includes—

(a) barter or exchange; and

(b) give to someone in the belief that the person will provide property or services in return at a later time, whether by agreement or otherwise; and

(c) agree to sell.

supply includes—

(a) supply by way of sale or otherwise; and

(b) agree to supply.

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trafficable quantity—see section 601.

traffics in a controlled drug—see section 602.

transport includes deliver.

(2) In this section:

cannabis food product—see the *Drugs of Dependence Act 1989*, section 6.

601 Meaning of *trafficable quantity*, *commercial quantity* and *large commercial quantity*

(1) In this chapter:

commercial quantity means—

(a) for a controlled drug—a quantity of the drug that is not less than the quantity prescribed by regulation as a commercial quantity of the drug; and

(b) for a controlled plant—a quantity of the plant that is not less than the quantity prescribed by regulation as a commercial quantity of the plant; and

(c) for a controlled precursor—a quantity of the precursor that is not less than the quantity prescribed by regulation as a commercial quantity of the precursor.

large commercial quantity means—

(a) for a controlled drug—a quantity of the drug that is not less than the quantity prescribed by regulation as a large commercial quantity of the drug; and

(b) for a controlled plant—a quantity of the plant that is not less than the quantity prescribed by regulation as a large commercial quantity of the plant; and

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(c) for a controlled precursor—a quantity of the precursor that is not less than the quantity prescribed by regulation as a large commercial quantity of the precursor.

trafficable quantity means—

(a) for a controlled drug—a quantity of the drug that is not less than the quantity prescribed by regulation as a trafficable quantity of the drug; and

(b) for a controlled plant—a quantity of the plant that is not less than the quantity prescribed by regulation as a trafficable quantity of the plant.

(2) For this chapter, a trafficable, commercial or large commercial quantity of a controlled drug in a mixture of substances is, subject to the regulations—

(a) if the prosecution elects to establish the quantity of the drug in the mixture—the relevant quantity of the drug worked out by reference to the quantity (if any) prescribed by regulation for the pure form of the drug; and

(b) if the prosecution elects to establish the quantity of the mixture instead of the quantity of the drug in the mixture—the relevant quantity of the mixture worked out by reference to the quantity (if any) prescribed by regulation for a mixture containing the drug.

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Part 6.2 Trafficking in controlled drugs

602 Meaning of *trafficking*

For this chapter, a person ***traffics*** in a controlled drug if the person—

(a) sells the drug; or

(b) prepares the drug for supply—

(i) with the intention of selling any of it; or

(ii) believing that someone else intends to sell any of it; or

(c) transports the drug—

(i) with the intention of selling any of it; or

(ii) believing that someone else intends to sell any of it; or

(d) guards or conceals the drug with the intention of—

(i) selling any of it; or

(ii) helping someone else to sell any of it; or

(e) possesses the drug with the intention of selling any of it.

603 Trafficking in controlled drug

(1) A person commits an offence if the person traffics in a large commercial quantity of a controlled drug.

Maximum penalty: imprisonment for life.

(2) Absolute liability applies to the circumstance that the quantity trafficked in was a large commercial quantity.

(3) A person commits an offence if the person traffics in a commercial quantity of a controlled drug.

Maximum penalty: 2 500 penalty units, imprisonment for 25 years or both.

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(4) Absolute liability applies to the circumstance that the quantity trafficked in was a commercial quantity.

(5) A person commits an offence if the person traffics in a trafficable quantity of cannabis.

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

(6) Absolute liability applies to the circumstance that the quantity trafficked in was a trafficable quantity.

(7) A person commits an offence if the person traffics in a controlled drug other than cannabis.

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

(8) A person commits an offence if the person traffics in cannabis.

Maximum penalty: 300 penalty units, imprisonment for 3 years or both.

Note For an alternative verdict provision applying to an offence against this section, see s 636A.

604 Trafficking offence—presumption if trafficable quantity possessed etc

(1) If, in a prosecution for an offence against section 603, it is proved that the defendant—

(a) prepared a trafficable quantity of a controlled drug for supply; or

(b) transported a trafficable quantity of a controlled drug; or

(c) guarded or concealed a trafficable quantity of a controlled drug; or

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(d) possessed a trafficable quantity of a controlled drug;

it is presumed, unless the contrary is proved, that the defendant had the intention or belief about the sale of the drug required for the offence.

Note A defendant has a legal burden of proving that the defendant did not have the intention or belief mentioned in this subsection (see s 59 (c)).

(2) This section does not apply to a single charge under section 629 (Single offence for trafficking etc on different occasions) if the conduct on each occasion to which the charge relates did not involve a trafficable quantity of the controlled drug.

605 Complicity, incitement and conspiracy offences do not apply to buyers of drugs

A person does not commit any of the following offences only because the person bought or intended to buy a controlled drug from someone else:

(a) an offence under section 45 (Complicity and common purpose);

(b) an offence against section 47 (Incitement);

(c) an offence against section 48 (Conspiracy).

Note For additional offences relating to possessing controlled drugs, see the *Drugs of Dependence Act 1989*, pt 10 and the *Medicines, Poisons and Therapeutic Goods Act 2008*, s 36.

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Part 6.3 Manufacturing controlled drugs and precursors

606 Meaning of *manufacture*

In this chapter:

manufacture—the ***manufacture*** of a substance is any process by which the substance is produced (other than the cultivation of a plant), and includes the process of—

(a) extracting or refining it; or

(b) transforming it into a different substance.

manufactures—a person ***manufactures*** a substance if the person—

(a) engages in its manufacture; or

(b) exercises control or direction over its manufacture; or

(c) provides or arranges finance for its manufacture.

607 Manufacturing controlled drug for selling

(1) A person commits an offence if the person manufactures a large commercial quantity of a controlled drug—

(a) with the intention of selling any of it; or

(b) believing that someone else intends to sell any of it.

Maximum penalty: imprisonment for life.

(2) Absolute liability applies to the circumstance that the quantity manufactured was a large commercial quantity.

(3) A person commits an offence if the person manufactures a commercial quantity of a controlled drug—

(a) with the intention of selling any of it; or

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(b) believing that someone else intends to sell any of it.

Maximum penalty: 2 500 penalty units, imprisonment for 25 years or both.

(4) Absolute liability applies to the circumstance that the quantity manufactured was a commercial quantity.

(5) A person commits an offence if the person manufactures a controlled drug—

(a) with the intention of selling any of it; or

(b) believing that someone else intends to sell any of it.

Maximum penalty: 1 500 penalty units, imprisonment for 15 years or both.

608 Manufacturing offence—presumption if trafficable quantity manufactured

If, in a prosecution for an offence against section 607 (Manufacturing controlled drug for selling), it is proved that the defendant manufactured a trafficable quantity of a controlled drug, it is presumed, unless the contrary is proved, that the defendant had the intention or belief about the sale of the drug required for the offence.

609 Manufacturing controlled drug

A person commits an offence if the person manufactures a controlled drug.

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

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610 Selling controlled precursor for manufacture of controlled drug

(1) A person commits an offence if the person sells a large commercial quantity of a controlled precursor believing that the person to whom it is sold, or someone else, intends to use any of it to manufacture a controlled drug.

Maximum penalty: 2 500 penalty units, imprisonment for 25 years or both.

(2) Absolute liability applies to the circumstance that the quantity sold was a large commercial quantity.

(3) A person commits an offence if the person sells a commercial quantity of a controlled precursor believing that the person to whom it is sold, or someone else, intends to use any of it to manufacture a controlled drug.

Maximum penalty: 1 500 penalty units, imprisonment for 15 years or both.

(4) Absolute liability applies to the circumstance that the quantity sold was a commercial quantity.

(5) A person commits an offence if the person sells a controlled precursor believing that the person to whom it is sold, or someone else, intends to use any of it to manufacture a controlled drug.

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

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611 Manufacturing controlled precursor for manufacture of controlled drug

(1) A person commits an offence if the person manufactures a large commercial quantity of a controlled precursor—

(a) with the intention of manufacturing a controlled drug; and

(b) with the intention of selling any of the manufactured drug or believing that someone else intends to sell any of the manufactured drug.

Maximum penalty: 2 500 penalty units, imprisonment for 25 years or both.

(2) Absolute liability applies to the circumstance that the quantity manufactured was a large commercial quantity.

(3) A person commits an offence if the person manufactures a large commercial quantity of a controlled precursor—

(a) with the intention of selling any of it to someone else; and

(b) believing that the other person intends to use it to manufacture a controlled drug.

Maximum penalty: 2 500 penalty units, imprisonment for 25 years or both.

(4) Absolute liability applies to the circumstance that the quantity manufactured was a large commercial quantity.

(5) A person commits an offence if the person manufactures a commercial quantity of a controlled precursor—

(a) with the intention of manufacturing a controlled drug; and

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(b) with the intention of selling any of the manufactured drug or believing that someone else intends to sell any of the manufactured drug.

Maximum penalty: 1 500 penalty units, imprisonment for 15 years or both.

(6) Absolute liability applies to the circumstance that the quantity manufactured was a commercial quantity.

(7) A person commits an offence if the person manufactures a commercial quantity of a controlled precursor—

(a) with the intention of selling any of it to someone else; and

(b) believing that the other person intends to use it to manufacture a controlled drug.

Maximum penalty: 1 500 penalty units, imprisonment for 15 years or both.

(8) Absolute liability applies to the circumstance that the quantity manufactured was a commercial quantity.

(9) A person commits an offence if the person manufactures a controlled precursor—

(a) with the intention of manufacturing a controlled drug; and

(b) with the intention of selling any of the manufactured drug or believing that someone else intends to sell any of the manufactured drug.

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

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(10) A person commits an offence if the person manufactures a controlled precursor—

(a) with the intention of selling any of it to someone else; and

(b) believing that the other person intends to use it to manufacture a controlled drug.

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

612 Possessing controlled precursor

(1) A person commits an offence if the person possesses a large commercial quantity of a controlled precursor—

(a) with the intention of using any of it to manufacture a controlled drug; and

(b) with the intention of selling any of the manufactured drug or believing that someone else intends to sell any of the manufactured drug.

Maximum penalty: 2 500 penalty units, imprisonment for 25 years or both.

(2) Absolute liability applies to the circumstance that the quantity possessed was a large commercial quantity.

(3) A person commits an offence if the person possesses a commercial quantity of a controlled precursor—

(a) with the intention of using any of it to manufacture a controlled drug; and

(b) with the intention of selling any of the manufactured drug or believing that someone else intends to sell any of the manufactured drug.

Maximum penalty: 1 500 penalty units, imprisonment for 15 years or both.

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(4) Absolute liability applies to the circumstance that the quantity possessed was a commercial quantity.

(5) A person commits an offence if the person possesses a controlled precursor—

(a) with the intention of using any of it to manufacture a controlled drug; and

(b) with the intention of selling any of the manufactured drug or believing that someone else intends to sell any of the manufactured drug.

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

612A Possessing offence—presumption if controlled precursor possessed to manufacture controlled drug

(1) This section applies if, in a prosecution for an offence against section 612 (5) (Possessing controlled precursor), it is proved that the defendant possessed a controlled precursor with the intention of using any of it to manufacture a controlled drug.

(2) It is presumed, unless the contrary is proved, that the defendant had the intention or belief about the sale of the drug required for the offence.

Note The defendant has a legal burden in relation to the matters mentioned in s (2) (see s 59).

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613 Supplying substance, equipment or instructions for manufacturing controlled drug

(1) A person commits an offence if the person supplies to someone else any substance, any equipment, or any document containing instructions, for manufacturing a controlled drug—

(a) believing that the other person intends to use it to manufacture a controlled drug; and

(b) with the intention of selling any of the manufactured drug or believing that the other person or someone else intends to sell any of the manufactured drug.

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

(2) A person commits an offence if the person possesses any substance, any equipment, or any document containing instructions, for manufacturing a controlled drug—

(a) with the intention of supplying it to someone else; and

(b) believing that the other person intends to use it to manufacture a controlled drug; and

(c) with the intention of selling any of the manufactured drug or believing that the other person or someone else intends to sell any of the manufactured drug.

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

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614 Possessing substance, equipment or instructions for manufacturing controlled drug

A person commits an offence if the person possesses any substance, any equipment, or any document containing instructions, for manufacturing a controlled drug—

(a) with the intention of using it to manufacture a controlled drug; and

(b) with the intention of selling any of the manufactured drug or believing that someone else intends to sell any of the manufactured drug.

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

Note For additional offences relating to possessing controlled drugs, see the *Drugs of Dependence Act 1989*, pt 10 and the *Medicines, Poisons and Therapeutic Goods Act 2008*, s 36.

614A Possessing tablet press

(1) A person commits an offence if—

(a) the person possesses a thing; and

(b) the thing is a tablet press; and

(c) the person is reckless about whether the thing is a tablet press.

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

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(2) Subsection (1) does not apply to a person if the person has a reasonable excuse for possessing the tablet press.

Examples—reasonable excuse

1 to manufacture a regulated substance in accordance with authorisation under the *Medicines, Poisons and Therapeutic Goods Act 2008*

2 to supply a regulated therapeutic good in accordance with authorisation under the *Medicines, Poisons and Therapeutic Goods Act 2008*

3 to give the tablet press to a person authorised under the *Medicines, Poisons and Therapeutic Goods Act 2008* to manufacture a regulated substance or to supply a regulated therapeutic good

Note The defendant has an evidential burden in relation to the matters mentioned in s (2) (see s 58).

(3) In this section:

tablet press means an instrument or machine that may be used to manufacture a controlled drug in tablet form.

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Part 6.4 Cultivating controlled plants

615 Meaning of *cultivate*

In this chapter:

cultivates*—**a person ***cultivates a plant if the person—

(a) engages in its cultivation; or

(b) exercises control or direction over its cultivation; or

(c) provides or arranges finance for its cultivation.

cultivation, of a plant, includes—

(a) planting a seed, seedling or cutting of the plant or transplanting the plant; or

(b) nurturing, tending or growing the plant; or

(c) guarding or concealing the plant (including against interference or discovery by humans or natural predators); or

(d) harvesting the plant (including picking any part of the plant or separating any resin or other substance from the plant).

product, of a plant, includes—

(a) a seed of the plant; and

(b) a part of the plant (whether live or dead); and

(c) a substance separated from the plant.

616 Cultivating controlled plant for selling

(1) A person commits an offence if the person cultivates a large commercial quantity of a controlled plant—

(a) with the intention of selling any of the plants or their products; or

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(b) believing that someone else intends to sell any of the plants or their products.

Maximum penalty: imprisonment for life.

(2) Absolute liability applies to the circumstance that the quantity cultivated was a large commercial quantity.

(3) A person commits an offence if the person cultivates a commercial quantity of a controlled plant—

(a) with the intention of selling any of the plants or their products; or

(b) believing that someone else intends to sell any of the plants or their products.

Maximum penalty: 2 500 penalty units, imprisonment for 25 years or both.

(4) Absolute liability applies to the circumstance that the quantity cultivated was a commercial quantity.

(5) A person commits an offence if the person cultivates a trafficable quantity of cannabis plants—

(a) with the intention of selling any of the plants or their products; or

(b) believing that someone else intends to sell any of the plants or their products.

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

(6) Absolute liability applies to the circumstance that the quantity cultivated was a trafficable quantity.

(7) A person commits an offence if the person cultivates a controlled plant (other than a cannabis plant)—

(a) with the intention of selling it or any of its products; or

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(b) believing that someone else intends to sell it or any of its products.

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

(8) A person commits an offence if the person cultivates a cannabis plant—

(a) with the intention of selling it or any of its products; or

(b) believing that someone else intends to sell it or any of its products.

Maximum penalty: 300 penalty units, imprisonment for 3 years or both.

617 Cultivating offence—presumption if trafficable quantity cultivated

If, in a prosecution for an offence against section 616 (Cultivating controlled plant for selling), it is proved that the defendant cultivated a trafficable quantity of a controlled plant, it is presumed, unless the contrary is proved, that the defendant had the intention or belief about the sale of the plant or its products required for the offence.

618 Cultivating controlled plant

(1) A person commits an offence if the person cultivates a controlled plant other than a cannabis plant.

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

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

(a) cultivates (artificially or otherwise) 3 or more cannabis plants; or

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(b) artificially cultivates 1 or 2 cannabis plants.

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

Note Non-artificial cultivation of 1 or 2 cannabis plants is a summary offence under the *Drugs of Dependence Act 1989*, s 162.

(3) In this section:

artificially cultivate means—

(a) hydroponically cultivate; or

(b) cultivate with the application of an artificial source of light or heat.

619 Selling controlled plant

(1) A person commits an offence if the person sells a large commercial quantity of a controlled plant.

Maximum penalty: imprisonment for life.

(2) Absolute liability applies to the circumstance that the quantity sold was a large commercial quantity.

(3) A person commits an offence if the person sells a commercial quantity of a controlled plant.

Maximum penalty: 2 500 penalty units, imprisonment for 25 years or both.

(4) Absolute liability applies to the circumstance that the quantity sold was a commercial quantity.

(5) A person commits an offence if the person sells a trafficable quantity of cannabis plants.

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

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(6) Absolute liability applies to the circumstance that the quantity sold was a trafficable quantity.

(7) A person commits an offence if the person sells a controlled plant other than a cannabis plant.

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

(8) A person commits an offence if the person sells a cannabis plant.

Maximum penalty: 300 penalty units, imprisonment for 3 years or both.

620 Supplying plant material, equipment or instructions for cultivating controlled plant

(1) A person commits an offence if the person supplies to someone else any controlled plant, any product of a controlled plant, any equipment, or any document containing instructions, for cultivating a controlled plant—

(a) believing that the other person intends to use it to cultivate a controlled plant; and

(b) with the intention of selling any of the cultivated plant or believing that the other person or someone else intends to sell any of the cultivated plant.

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

(2) A person commits an offence if the person possesses any controlled plant, any product of a controlled plant, any equipment, or any document containing instructions, for cultivating a controlled plant—

(a) with the intention of supplying it to someone else; and

(b) believing that the other person intends to use it to cultivate a controlled plant; and

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(c) with the intention of selling any of the cultivated plant or believing that the other person or someone else intends to sell any of the cultivated plant.

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

621 Possessing plant material, equipment or instructions for cultivating controlled plant

A person commits an offence if the person possesses any controlled plant, any product of a controlled plant, any equipment, or any document containing instructions, for cultivating a controlled plant—

(a) with the intention of using it to cultivate controlled plants; and

(b) with the intention of selling any of the cultivated plants or their products or believing that someone else intends to sell any of the cultivated plants or their products.

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

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Part 6.4A Display of drug pipes

621A Display of drug pipes

(1) An occupier of a retail or wholesale outlet commits an offence if the occupier displays to customers at the outlet a drug pipe within, or adjacent to, the outlet.

Maximum penalty: 50 penalty units.

(2) In this section:

drug pipe—

(a) means—

(i) a device, or components that together make a device, for the purpose or apparent purpose of smoking, or drawing or inhaling smoke or fumes from, a controlled drug; or

(ii) a device that is intended to be used for the purpose or apparent purpose of smoking, or drawing or inhaling smoke or fumes from, a controlled drug, but that requires an adjustment or modification to be used for that purpose; and

(b) includes a device commonly known as—

(i) a hash pipe; or

(ii) an ice pipe; or

(iii) a bong.

occupier, of retail or wholesale outlet, means a person having the management or control, or otherwise being in charge, of the outlet.

retail outlet means premises where goods are for sale by retail.

wholesale outlet means premises where goods are available for sale exclusively by wholesale.

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Part 6.5 Drug offences involving children

622 Supplying controlled drug to child for selling

(1) A person commits an offence if—

(a) the person—

(i) supplies a commercial quantity of a controlled drug to a child; or

(ii) possesses a commercial quantity of a controlled drug with the intention of supplying any of the drug to a child; and

(b) the person does so believing that the child intends to sell any of the drug.

Maximum penalty: imprisonment for life.

(2) Absolute liability applies to—

(a) the circumstance that the quantity supplied or possessed was a commercial quantity; and

(b) the circumstance that the person to whom the controlled drug was supplied or intended to be supplied was a child.

(3) A person commits an offence if—

(a) the person—

(i) supplies a controlled drug to a child; or

(ii) possesses a controlled drug with the intention of supplying any of the drug to a child; and

(b) the person does so believing that the child intends to sell any of the drug.

Maximum penalty: 2 500 penalty units, imprisonment for 25 years or both.

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(4) Absolute liability applies to the circumstance that the person to whom the controlled drug was supplied or intended to be supplied was a child.

(5) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant—

(a) considered whether or not the person to whom the controlled drug was supplied or intended to be supplied was a child; and

(b) had no reasonable grounds for believing that the person was a child.

Note A reference to an offence against a territory law includes a reference to a related ancillary offence (see Legislation Act, s 189).

623 Supplying offence—presumption if trafficable quantity supplied etc

(1) If, in a prosecution for an offence against section 622 (Supplying controlled drug to child for selling), it is proved that the defendant—

(a) supplied a trafficable quantity of a controlled drug to a child; or

(b) possessed a trafficable quantity of a controlled drug with the intention of supplying any of it to a child;

it is presumed, unless the contrary is proved, that the defendant had the belief about the sale of the drug by the child required for the offence.

(2) This section does not apply to a single charge under section 629 (Single offence for trafficking etc on different occasions) if the conduct on each occasion to which the charge relates did not involve a trafficable quantity of the controlled drug.

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624 Procuring child to traffic in controlled drug

(1) A person commits an offence if the person procures a child to traffic in a commercial quantity of a controlled drug.

Maximum penalty: imprisonment for life.

(2) Absolute liability applies to—

(a) the circumstance that the person procured was a child; and

(b) the circumstance that the quantity the child was procured to traffic in was a commercial quantity.

(3) Subsection (1) applies whether the child was procured to traffic in a commercial quantity of a controlled drug on a single occasion or over a period.

(4) A person commits an offence if the person procures a child to traffic in a controlled drug.

Maximum penalty: 2 500 penalty units, imprisonment for 25 years or both.

(5) Absolute liability applies to the circumstance that the person procured was a child.

(6) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant—

(a) considered whether or not the person procured was a child; and

(b) had no reasonable grounds for believing that the person was a child.

(7) In this section:

procures a child to traffic in a controlled drug—a person ***procures*** a child to traffic in a controlled drug if—

(a) the person procures the child to sell the drug; or

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(b) the person, with the intention of selling any of the drug or believing that someone else intends to sell any of the drug, procures the child to prepare the drug for supply or to transport the drug; or

(c) the person, with the intention of selling any of the drug or assisting someone else to sell any of the drug, procures the child to guard or conceal the drug.

625 Supplying controlled drug to child

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

(a) supplies a controlled drug other than cannabis to a child; or

(b) possesses a controlled drug other than cannabis with the intention of supplying it to a child.

Maximum penalty: 2 000 penalty units, imprisonment for 20 years or both.

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

(a) supplies a trafficable quantity of cannabis to a child; or

(b) possesses a trafficable quantity of cannabis with the intention of supplying it to a child.

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

(3) Absolute liability applies to the circumstance that the quantity supplied or possessed was a trafficable quantity.

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

(a) supplies cannabis to a child; or

(b) possesses cannabis with the intention of supplying it to a child.

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

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(5) For this section, absolute liability applies to the circumstance that the person to whom the drug was supplied, or intended to be supplied, was a child.

(6) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant—

(a) considered whether or not the person to whom the controlled drug was supplied or intended to be supplied was a child; and

(b) had no reasonable grounds for believing that the person was a child.

626 Children not criminally responsible for offences against pt 6.5

A child is not criminally responsible for an offence against this part.

Note A reference to an offence against a territory law includes a reference to a related ancillary offence (see Legislation Act, s 189).

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Part 6.6 General provisions for drug offences

627 Application—pt 6.6

This part applies to offences against this chapter other than part 6.7 (Offences relating to property derived from drug offences).

628 Carrying on business of trafficking

(1) This section applies to an offence against—

(a) section 603 (1) (which is about trafficking in a large commercial quantity of a controlled drug); or

(b) section 603 (3) (which is about trafficking in a commercial quantity of a controlled drug); or

(c) section 603 (5) (which is about trafficking in a trafficable quantity of cannabis); or

(d) section 622 (1) (which is about supplying a commercial quantity of a controlled drug to a child for selling).

(2) For the application of this section to an offence against section 622 (1), a reference to trafficking in drugs is a reference to supplying drugs.

(3) In a prosecution for an offence, the prosecution may establish that the defendant trafficked in the quantity of a controlled drug required for the offence (the ***required quantity***), without proof of trafficking in the required quantity on a particular occasion, by establishing that—

(a) the person carried on a business of trafficking in controlled drugs; and

(b) the required quantity of the controlled drug (or a combination of controlled drugs) was trafficked over repeated transactions in the course of the business.

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(4) For a person's conduct to be the carrying on of a business, the trier of fact must be satisfied that the conduct establishes that the person was engaged in an organised commercial activity involving repeated transactions.

(5) In a prosecution in which this section is relied on—

(a) it is not necessary for the prosecution to state or prove the exact date of each transaction or the exact quantity trafficked in each transaction; and

(b) the prosecution may not rely on a transaction if the defendant has already been tried and found guilty or acquitted of an offence against this chapter in relation to the transaction; and

(c) section 604 (Trafficking offence—presumption if trafficable quantity possessed etc) and section 623 (Supplying offence—presumption if trafficable quantity supplied etc) do not apply.

(6) If the prosecution intends to rely on this section—

(a) that fact must be stated in the charge; and

(b) a description of the conduct that establishes, under this section, that the defendant trafficked in the required quantity of a controlled drug must be stated in the charge or given to the defendant within a reasonable time before the trial.

(7) If a person has been tried and found guilty or acquitted of an offence in a prosecution in which this section was relied on, the person may not be charged with another offence against this chapter that is claimed to have been committed in connection with any of the transactions on which the prosecution relied in that prosecution.

(8) Except as mentioned in subsection (5) (b) or (7), this section does not prevent a person being charged with separate offences in relation to conduct on different occasions.

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629 Single offence for trafficking etc on different occasions

(1) This section applies to an offence against this chapter that involves—

(a) trafficking in controlled drugs on different occasions; or

(b) supplying controlled drugs to a child on different occasions;

whether they are the same or different kinds of drugs.

(2) A person may be charged with a single offence in relation to trafficking in or supplying controlled drugs on different occasions if each occasion was not longer than 7 days apart from another of the occasions.

(3) For the single offence, the quantity of controlled drugs trafficked or supplied is the total of the quantities of the controlled drugs trafficked or supplied on the occasions stated in the charge.

(4) However, the same parcel of controlled drugs cannot be counted more than once.

Example

A person possesses a parcel of a controlled drug for sale (the 1st occasion) and later sells the parcel to someone else (the 2nd occasion) who in turn sells it to another person (the 3rd occasion). The same parcel of controlled drugs has been trafficked on 3 occasions but the quantity of drugs in the parcel can only be counted once under this section.

(5) If the prosecution intends to rely on this section, particulars of each occasion must be stated in the charge.

(6) This section does not prevent a person being charged with separate offences in relation to conduct on different occasions.

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630 Single offence for different parcels trafficked etc on the same occasion

(1) This section applies to an offence against this chapter that involves—

(a) trafficking in different parcels of controlled drugs on the same occasion; or

(b) manufacturing different parcels of controlled drugs on the same occasion; or

(c) selling different parcels of controlled precursors on the same occasion; or

(d) manufacturing different parcels of controlled precursors on the same occasion; or

(e) possessing different parcels of controlled precursors on the same occasion; or

(f) cultivating different parcels of controlled plants on the same occasion; or

(g) selling different parcels of controlled plants on the same occasion; or

(h) supplying different parcels of controlled drugs to a child on the same occasion;

whether they are the same or different kinds of drug, precursor or plant.

(2) A person may be charged with a single offence in relation to 2 or more of the different parcels of controlled drugs, precursors or plants.

(3) For the single offence, the quantity of controlled drugs, precursors or plants trafficked in, manufactured, sold, possessed, cultivated or supplied is the total of the quantities of the controlled drugs, precursors or plants in the different parcels.

(4) However, if there are different kinds of controlled drugs, precursors or plants in the parcels, this section is subject to section 631.

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(5) If the prosecution intends to rely on this section, particulars of each parcel of controlled drugs, precursors or plants must be stated in the charge.

(6) This section does not prevent a person being charged with separate offences in relation to different parcels of controlled drugs, precursors or plants.

631 Single offence—working out quantities if different kinds of controlled drug etc involved

(1) This section applies if a person is charged with a single offence against this chapter that involves—

(a) trafficking in 2 or more kinds of controlled drug; or

(b) manufacturing 2 or more kinds of controlled drug; or

(c) selling 2 or more kinds of controlled precursor; or

(d) manufacturing 2 or more kinds of controlled precursor; or

(e) possessing 2 or more kinds of controlled precursor; or

(f) cultivating 2 or more kinds of controlled plant; or

(g) selling 2 or more kinds of controlled plant; or

(h) supplying 2 or more kinds of controlled drug to a child.

(2) In a prosecution for the single offence—

(a) the quantity of drugs or plants is a trafficable quantity if the total of the required fractions of the trafficable quantity of each of the drugs or plants is 1 or more; or

(b) the quantity of drugs, precursors or plants is a commercial quantity if the total of the required fractions of the commercial quantity of each of the drugs, precursors or plants is 1 or more; or

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(c) the quantity of drugs, precursors or plants is a large commercial quantity if the total of the required fractions of the large commercial quantity of each of the drugs, precursors or plants is 1 or more.

(2) In this section, the ***required fraction*** of—

(a) a trafficable quantity of a drug or plant is the actual quantity of the drug or plant divided by the smallest trafficable quantity of the drug or plant; and

(b) a commercial quantity of a controlled drug, precursor or plant is the actual quantity of the drug, precursor or plant divided by the smallest commercial quantity of the drug, precursor or plant; and

(c) a large commercial quantity of a controlled drug, precursor or plant is the actual quantity of the drug, precursor or plant divided by the smallest large commercial quantity of the drug, precursor or plant.

(3) For a trafficable, commercial or large commercial quantity of a controlled drug—

(a) the required fraction must be worked out on the basis of quantities of the drug in pure form; and

(b) the required fraction is zero if—

(i) a regulation does not prescribe a trafficable, commercial or large commercial quantity of the controlled drug; or

(ii) a regulation prescribes a trafficable, commercial or large commercial quantity for a mixture of substances containing the controlled drug but not for the drug in pure form; or

(iii) a regulation prescribes different forms of the controlled drug by reference to the percentage of a particular substance in the drug.

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632 Knowledge or recklessness about identity of controlled drugs, plants and precursors

In a prosecution for an offence against this chapter that involves conduct relating to a controlled drug, plant or precursor, the prosecution—

(a) must establish that the defendant knew or was reckless about whether the substance or plant was a controlled drug, plant or precursor; but

(b) need not establish that the defendant knew or was reckless about the identity of the controlled drug, plant or precursor.

633 Alternative verdicts—mistaken belief about identity of controlled drug, precursor or plant

(1) This section applies if, in a prosecution for an offence against this chapter that involves conduct relating to a trafficable, commercial or large commercial quantity of a controlled drug, precursor or plant, the trier of fact is satisfied that—

(a) at the time of the conduct, the defendant had considered, and was under a mistaken belief about, the identity of the controlled drug, precursor or plant; and

(b) if the mistaken belief had been correct, the defendant would have committed an offence against this chapter, the *Drugs of Dependence Act 1989*, part 10 or the *Medicines, Poisons and Therapeutic Goods Act 2008*, chapter 4 for which the maximum penalty is the same as or less than the maximum penalty for the offence charged (the ***alternative offence***).

(2) The trier of fact may find the defendant not guilty of the offence charged but guilty of the alternative offence, but only if the defendant has been given procedural fairness in relation to that finding of guilt.

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(3) A defendant who claims to have considered, and been under a mistaken belief about, the identity of a drug, precursor or plant must prove that he or she was under that mistaken belief.

634 Alternative verdicts—mistaken belief about quantity of controlled drug, precursor or plant

(1) This section applies if, in a prosecution for an offence against this chapter that involves trafficking, manufacturing or cultivating a trafficable, commercial or large commercial quantity of a controlled drug, precursor or plant, the trier of fact is satisfied that—

(a) at the time of the conduct, the defendant had considered, and was under a mistaken belief about, the quantity of the controlled drug, precursor or plant trafficked, manufactured or cultivated; and

(b) if the mistaken belief had been correct, the defendant would have committed an offence against this chapter, the *Drugs of Dependence Act 1989*, part 10 or the *Medicines, Poisons and Therapeutic Goods Act 2008*, chapter 4 for which the maximum penalty is the same as or less than the maximum penalty for the offence charged (the ***alternative offence***).

(2) The trier of fact may find the defendant not guilty of the offence charged but guilty of the alternative offence, but only if the defendant has been given procedural fairness in relation to that finding of guilt.

(3) A defendant who claims to have considered, and been under a mistaken belief about, the quantity of a drug or plant must prove that he or she was under that mistaken belief.

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635 Alternative verdicts—different quantities

(1) This section applies if, in a prosecution for an offence against this chapter that involves conduct relating to a trafficable, commercial or large commercial quantity of a controlled drug, precursor or plant, the trier of fact—

(a) is not satisfied that the defendant committed the offence charged; but

(b) is satisfied beyond reasonable doubt that the defendant committed an offence against this chapter, the *Drugs of Dependence Act 1989*, part 10 or the *Medicines, Poisons and Therapeutic Goods Act 2008*, chapter 4 involving a lesser quantity of a controlled drug, precursor or plant than the quantity required to establish the offence charged (a ***lesser offence***).

(2) The trier of fact may find the defendant not guilty of the offence charged but guilty of the lesser offence, but only if the defendant has been given procedural fairness in relation to that finding of guilt.

636 Alternative verdicts—trafficking and obtaining property by deception

(1) This section applies if, in a prosecution for an offence against section 603 (Trafficking in controlled drug)—

(a) the trier of fact is satisfied beyond reasonable doubt that the defendant committed the offence charged or an offence against section 326 (Obtaining property by deception) but cannot decide which of the offences the defendant committed; or

(b) the trier of fact is not satisfied beyond reasonable doubt that the defendant committed the offence charged but is satisfied beyond reasonable doubt that the defendant committed an offence against section 326.

Note A reference to an offence against a territory law includes a reference to a related ancillary offence (see Legislation Act, s 189).

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(2) The trier of fact must find the defendant guilty of the offence against section 326, but only if the defendant has been given procedural fairness in relation to that finding of guilt.

636A Alternative verdicts—trafficking in or possessing controlled drug

(1) This section applies if, in a prosecution for an offence against section 603 (Trafficking in controlled drug), the trier of fact—

(a) is not satisfied beyond reasonable doubt that the defendant committed the offence; but

(b) is satisfied beyond reasonable doubt that the defendant committed an alternative offence.

(2) The trier of fact may find the defendant guilty of the alternative offence, but only if the defendant has been given procedural fairness in relation to that finding of guilt.

(3) In this section:

alternative offence means an offence against—

(a) the *Drugs of Dependence Act 1989*, section 169 (Possessing drugs of dependence); or

(b) that Act, section 171 (Possessing prohibited substances); or

(c) that Act, section 171AA; or

(d) the *Medicines, Poisons and Therapeutic Goods Act 2008*, section 36 (Possessing certain declared substances).

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Part 6.7 Offences relating to property derived from drug offences

637 Meaning of *drug offence*

In this part:

drug offence means—

(a) an offence against this chapter (other than this part); or

(b) conduct in another jurisdiction that is an offence in that jurisdiction and would be an offence against this chapter (other than this part) if the conduct happened in the ACT; or

(c) conduct before the commencement of this chapter that would be an offence against this chapter (other than this part) if the conduct happened after the commencement of this chapter.

638 Property *directly* or *indirectly* derived from drug offence

(1) For this part, property is ***directly derived*** from a drug offence if the property—

(a) is all or part of the proceeds of a drug offence; or

(b) is completely or partly acquired by disposing of, or using, the proceeds of a drug offence.

(2) The ***proceeds*** of a drug offence include the proceeds of any sale involved in committing the offence or any remuneration or other reward for committing the offence.

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(3) For this part, property is ***indirectly derived*** from a drug offence if the property—

(a) is completely or partly acquired by disposing of, or using, property directly derived from a drug offence; or

(b) is completely or partly acquired by disposing of, or using, property indirectly derived from a drug offence (including property indirectly derived because of a previous operation of paragraph (a))

(4) Property ***directly derived*** or ***indirectly derived*** from a drug offence does not include a controlled drug, plant or precursor.

(5) Property ***directly derived*** or ***indirectly derived*** from a drug offence does not lose its identity as such only because it is deposited with a financial institution or other entity for credit to an account or for investment.

639 Concealing etc property derived from drug offence

A person commits an offence if—

(a) the person—

(i) conceals property; or

(ii) transfers property to someone else; or

(iii) converts property; or

(iv) removes property from the ACT;

knowing that the property is directly or indirectly derived from a drug offence; and

(b) the person does so with the intention of evading or assisting someone else to evade—

(i) prosecution for a drug offence; or

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(ii) the imposition or enforcement of a pecuniary penalty for a drug offence; or

(iii) the making or enforcement of an order for the confiscation or forfeiture of property or any part of it.

Maximum penalty: imprisonment for 20 years, 2 000 penalty units or both.

640 Receiving property directly derived from drug offence

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

(a) knowing that the property is directly derived from a drug offence committed by someone else; and

(b) without any legal entitlement to the property.

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

(2) For this section, property to which a person is ***legally entitled***—

(a) includes property received under a will or as a reasonable payment for the legal supply of goods and services received or in repayment of a lawful debt; but

(b) does not include property received completely or partly as a gift.

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Chapter 6A Participation in criminal groups

650 Meaning of *criminal activity*—ch 6A

In this chapter:

criminal activity means conduct that constitutes an indictable offence.

651 Meaning of *criminal group*—ch 6A

(1) In this chapter:

criminal group means a group of 3 or more people who have either or both of the following objectives:

(a) to obtain a material benefit from conduct engaged in in or outside the ACT (including outside Australia) that, if it occurred in the ACT, would constitute an indictable offence under a territory law;

(b) to commit serious violence offences (whether in or outside the ACT).

(2) A group of people can be a ***criminal group*** whether or not—

(a) any of them are subordinates or employees of others; or

(b) only some of the people involved in the group are involved in planning, organising or carrying out a particular activity; or

(c) its membership changes from time to time.

(3) In this section:

serious violence offence—an offence is a ***serious violence offence*** if—

(a) it is punishable by imprisonment for a term of 5 years or more; and

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(b) the conduct constituting the offence involves any of the following:

(i) loss of a person's life or serious risk of loss of a person's life;

(ii) serious injury to a person or serious risk of serious injury to a person;

(iii) serious damage to property in circumstances endangering the safety of any person.

652 Participating in a criminal group

A person commits an offence if the person—

(a) participates in a criminal group; and

(b) knows that the group is a criminal group; and

(c) knows that, or was reckless about whether, the person's participation in the criminal group contributes to criminal activity.

Maximum penalty: imprisonment for 5 years.

653 Participating in a criminal group—causing harm

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

(a) participates in, or intends to participate in, a criminal group; and

(b) in the course of participating in, or intending to participate in, the criminal group, engages in conduct that causes harm to someone else; and

(c) is reckless about causing harm to that person or another person by the conduct.

Maximum penalty: imprisonment for 10 years.

Note The fault element of recklessness can be satisfied by proof of intention, knowledge or recklessness (see Criminal Code, s 20 (4)).

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

(a) participates in, or intends to participate in, a criminal group; and

(b) in the course of participating in, or intending to participate in, the criminal group, intentionally makes to someone else a threat to cause harm to the other person or a third person; and

(c) intends the other person to fear that the threat will be carried out.

Maximum penalty: imprisonment for 10 years.

(3) In the prosecution of an offence against subsection (2), it is not necessary to prove that the person threatened actually feared that the threat would be carried out.

(4) In this section:

threat includes the meaning given by section 402.

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

654 Participating in a criminal group—property damage

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

(a) participates in, or intends to participate in, a criminal group; and

(b) in the course of participating in, or intending to participate in, the criminal group, engages in conduct that causes damage to property belonging to someone else; and

(c) is reckless about causing damage to that property or any other property belonging to the other person.

Maximum penalty: imprisonment for 10 years.

Note The fault element of recklessness can be satisfied by proof of intention, knowledge or recklessness (see s 20 (4)).

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

(a) participates in, or intends to participate in, a criminal group; and

(b) in the course of participating in, or intending to participate in, the criminal group, intentionally makes to someone else a threat to damage property belonging to the other person or a third person; and

(c) intends the other person to fear that the threat will be carried out.

Maximum penalty: imprisonment for 10 years.

(3) In a prosecution for an offence against subsection (2), it is not necessary to prove that the person threatened actually feared that the threat would be carried out.

(4) In this section:

causes damage or another result—see section 400 (Definitions—pt 4.1).

damage property—see section 400 (Definitions—pt 4.1).

property—see section 400 (Definitions—pt 4.1).

threat includes the meaning given by section 402.

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

(5) Section 401 (Person to whom property belongs) applies for the purposes of this section.

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655 Recruiting people to engage in criminal activity

(1) A person commits an offence if the person recruits someone else to carry out, or assist in carrying out, a criminal activity.

Maximum penalty: imprisonment for 7 years.

(2) A person commits an offence if the person recruits a child to carry out, or assist in carrying out, a criminal activity.

Maximum penalty: imprisonment for 10 years.

(3) In this section:

recruit means counsel, procure, solicit, incite or induce.

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Chapter 7 Administration of justice offences

Part 7.1 Interpretation for ch 7

700 Definitions—ch 7

In this chapter:

aggravated perjury—see section 702.

causes a detriment or another result—a person ***causes*** a detriment or another result if the person's conduct substantially contributes to the detriment or other result.

evidence includes anything that may be used as evidence.

intermediary—see the *Evidence (Miscellaneous Provisions) Act 1991*, section 4AG.

interpreter includes a person who interprets signs or other things made or done by someone who cannot speak adequately for the purpose of giving evidence in a legal proceeding.

law enforcement officer means any of the following:

(a) a police officer;

(b) a member of the police service or force of a State, another Territory or a foreign country;

(c) a person exercising a law enforcement function for the Department of Home Affairs (Cwlth) or the Australian Crime Commission;

(d) the Attorney-General for the Territory, the Commonwealth, a State or another Territory;

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(e) the director of public prosecutions, or a person performing a similar function under a law of the Commonwealth, a State or another Territory;

(f) a person employed in the Office of the Director of Public Prosecutions or a similar entity established under a law of the Commonwealth, a State or another Territory;

(g) any other person responsible for the investigation or prosecution of offences against a territory law, or a law of the Commonwealth, a State or another Territory;

(h) a lawyer to the extent that the lawyer is engaged to prosecute offences against a territory law, or a law of the Commonwealth, a State or another Territory.

legal proceeding—see section 701.

perjury—see section 703.

statement means a statement made orally, in a document or in any other way.

subpoena includes a summons or notice (however described) issued by an entity for a legal proceeding before the entity.

sworn statement means a statement made or verified on oath.

Note ***Oath*** includes affirmation (see Legislation Act, dict, pt 1).

witness, in a legal proceeding, includes a witness not subpoened as a witness in the proceeding.

701 Meaning of *legal proceeding* for ch 7

(1) In this chapter:

legal proceeding means—

(a) a proceeding in which evidence may be taken on oath; or

(b) a proceeding in which judicial power is exercised; or

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(c) a proceeding or anything else that a law declares to be a legal proceeding for this chapter;

but does not include a proceeding or anything else that a law declares not to be a legal proceeding for this chapter.

Note A court, tribunal or other entity authorised by law to hear and decide a matter has power to receive evidence and administer oaths (see Legislation Act, s 178)

(2) A reference to a ***legal proceeding*** includes a reference to a legal proceeding that has been or may be started.

(3) In this chapter:

in a legal proceeding includes for the purposes of the legal proceeding.

(4) A declaration made for subsection (1) about a proceeding or other thing does not imply that, in the absence of a declaration about it, another proceeding is or is not a legal proceeding for this chapter.

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Part 7.2 Indictable offences for ch 7

Division 7.2.1 Perjury

702 Aggravated perjury

(1) A person commits an offence (***aggravated perjury***) if—

(a) the person makes a sworn statement in a legal proceeding with the intention of procuring the person's or someone else's conviction for, or acquittal of, an offence (the ***relevant offence***); and

(b) the relevant offence is punishable by imprisonment; and

(c) the statement is false; and

(d) the person is reckless about whether the statement is false.

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

(2) An interpreter commits an offence (also ***aggravated perjury***) if—

(a) the interpreter, by a sworn statement, gives an interpretation of a statement or other thing in a legal proceeding with the intention of procuring someone else's conviction for, or acquittal of, an offence (the ***relevant offence***); and

(b) the relevant offence is punishable by imprisonment; and

(c) the interpreter's statement is false or misleading; and

(d) the interpreter is reckless about whether the interpreter's statement is false or misleading.

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

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(3) An intermediary commits an offence (also ***aggravated perjury***) if—

(a) the intermediary, by a sworn statement, assists a witness to communicate evidence in a legal proceeding with the intention of procuring someone else's conviction for, or acquittal of, an offence (the ***relevant offence***); and

(b) the relevant offence is punishable by imprisonment; and

(c) the intermediary's statement is false or misleading; and

(d) the intermediary is reckless about whether the intermediary's statement is false or misleading.

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

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

703 Perjury

(1) A person commits an offence (***perjury***) if—

(a) the person makes a sworn statement in a legal proceeding; and

(b) the statement is false; and

(c) the person is reckless about whether the statement is false.

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

(2) An interpreter commits an offence (also ***perjury***) if—

(a) the interpreter, by a sworn statement, gives an interpretation of a statement or other thing in a legal proceeding; and

(b) the interpreter's statement is false or misleading; and

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(c) the interpreter is reckless about whether the interpreter's statement is false or misleading.

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

(3) An intermediary commits an offence (also ***aggravated perjury***) if—

(a) the intermediary, by a sworn statement, assists a witness to communicate evidence in a legal proceeding with the intention of procuring someone else's conviction for, or acquittal of, an offence (the ***relevant offence***); and

(b) the relevant offence is punishable by imprisonment; and

(c) the intermediary's statement is false or misleading; and

(d) the intermediary is reckless about whether the intermediary's statement is false or misleading.

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

704 Additional provisions about perjury or aggravated perjury

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

(a) the sworn statement related to something material to the legal proceeding; or

(b) the sworn statement was admitted in evidence in the proceeding; or

(c) the court or other entity dealing with the proceeding had jurisdiction, was properly constituted or was sitting in the proper place; or

(d) the person who made the sworn statement was competent to give evidence in the proceeding; or

(e) there was any formal defect in the sworn statement.

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(2) However, a person does not commit perjury or aggravated perjury if the person is not competent under the *Evidence Act 2011*, section 13 (Competence—lack of capacity) to give sworn evidence.

(3) If the trier of fact is satisfied beyond reasonable doubt that a person committed perjury or aggravated perjury in relation to 1 of 2 sworn statements made by the person that are irreconcilably in conflict, the trier of fact may find the person guilty of perjury or aggravated perjury even though the trier of fact cannot decide which of the statements is false.

(4) For subsection (3), it does not matter whether the 2 statements were made in the same proceeding.

(5) If a sworn statement is about an opinion of the person making the statement, the statement is false for the offence of perjury or aggravated perjury if the opinion is not genuinely held by the person.

(6) It is not necessary for the conviction of a person for perjury or aggravated perjury that evidence of the perjury be corroborated.

(7) In this section:

formal defect includes—

(a) any formal error; and

(b) any irregularity; and

(c) any noncompliance with a rule of court, approved form or rule of practice.

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Division 7.2.2 Falsifying, destroying or concealing evidence

705 Making or using false evidence

(1) A person commits an offence if the person makes false evidence with the intention of—

(a) influencing a decision about starting a legal proceeding; or

(b) influencing the outcome of a legal proceeding.

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

(2) A person commits an offence if—

(a) the person uses false evidence; and

(b) the person—

(i) knows the evidence is false; or

(ii) believes the evidence is false; and

(c) the person is reckless about whether the use of the evidence could—

(i) influence a decision about starting a legal proceeding; or

(ii) influence the outcome of a legal proceeding.

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

(3) Subsection (2) does not apply to—

(a) a lawyer or person assisting a lawyer who uses the evidence on instructions from a client and does not know that the evidence is false; or

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(b) a person who—

(i) is, or may be, involved in a legal proceeding as a law enforcement officer, lawyer, or party (or as a person assisting any of them); and

(ii) uses the evidence for a legitimate forensic purpose in the proceeding.

(4) Subsection (2) (b) (i) does not apply to a person who discloses, when or before using the evidence, that the evidence is false.

(5) Subsection (2) (b) (ii) does not apply to a person who discloses, when or before using the evidence, that the person believes the evidence is false.

(6) In this section:

legitimate forensic purpose includes the purpose of demonstrating that evidence is false or misleading.

make evidence includes change evidence, but does not include commit perjury or aggravated perjury.

706 Destroying or concealing evidence

(1) A person commits an offence if the person destroys or conceals evidence with the intention of—

(a) influencing a decision about starting a legal proceeding; or

(b) influencing the outcome of a legal proceeding.

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

(2) In this section:

destroy evidence includes—

(a) mutilate or change evidence; and

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

Division 7.2.3 Protection of people involved in legal proceedings

707 Corruption in relation to legal proceedings

(1) A person commits an offence if—

(a) the person—

(i) provides a benefit to someone else; or

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

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

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

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

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

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

(iii) withhold true evidence in a legal proceeding; or

(iv) give a false or misleading interpretation as an interpreter in a legal proceeding; or

(v) assist a witness to communicate evidence as an intermediary in a legal proceeding in a way that makes the evidence false or misleading; or

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

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(vii) improperly influence a juror in a legal proceeding.

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

(2) A person commits an offence if—

(a) the person—

(i) asks for a benefit for the person or someone else; or

(ii) obtains a benefit for the person or someone else; or

(iii) agrees to obtain a benefit for the person or someone else; and

(b) the person does so with the intention that, or with the intention of inducing, fostering or sustaining a belief that, the person or someone else will—

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

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

(iii) withhold true evidence in a legal proceeding; or

(iv) give a false or misleading interpretation as an interpreter in a legal proceeding; or

(v) assist a witness to communicate evidence as an intermediary in a legal proceeding in a way that makes the evidence false or misleading; or

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

(vii) improperly influence a juror in a legal proceeding.

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

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

708 Deceiving witness, interpreter, intermediary or juror

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

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

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

(c) withhold true evidence in a legal proceeding.

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

709 Threatening etc witness, interpreter, intermediary or juror

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

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

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

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

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

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

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

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

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709A Threatening etc participant in criminal investigation

(1) A person commits an offence if the person causes or threatens to cause a detriment to someone else with the intention that the other person or a third person will—

(a) not participate in a criminal investigation; or

(b) give false or misleading evidence in a criminal investigation; or

(c) withhold true evidence in a criminal investigation; or

(d) give a false or misleading interpretation as an interpreter in a criminal investigation; or

(e) assist a witness to communicate evidence as an intermediary in a criminal investigation in a way that makes the evidence false or misleading; or

(f) improperly make a decision as a participant in a criminal investigation; or

(g) improperly influence a participant in a criminal investigation.

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

(2) In this section, a person ***participates in a criminal investigation*** if the person participates in the investigation as a witness, victim or legal practitioner or is otherwise assisting police with their inquiries.

710 Preventing attendance etc of witness, interpreter, intermediary or juror

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

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

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

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

711 Preventing production of thing in evidence

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

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

712 Reprisal against person involved in proceeding

(1) A person commits an offence if the person causes or threatens to cause a detriment to a person involved in a legal proceeding—

(a) because of something done by the involved person in the proceeding; and

(b) in the belief that the involved person was an involved person who had done that thing.

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

(2) In this section:

intermediary includes a person who attends in the proceeding as an intermediary but is not called as an intermediary.

interpreter includes a person who attends in the proceeding as an interpreter but is not called as an interpreter.

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involved person, in relation to a legal proceeding, means—

(a) a judge, magistrate or member of a tribunal or other entity the proceeding is before; or

(b) a registrar, deputy registrar or other official of the court, tribunal or other entity the proceeding is before; or

(c) a witness, interpreter, intermediary, juror or lawyer involved in the proceeding; or

(d) for a criminal proceeding—a complainant, informant or party to the proceeding.

witness includes a person who attends in the proceeding as a witness but is not called as a witness.

712A Publishing identifying information about childrens proceedings

(1) A person commits an offence if the person publishes information that identifies someone else as a person who is or was a child or young person the subject of a childrens proceeding.

Maximum penalty: 300 penalty units, imprisonment for 3 years or both.

(2) Information that identifies someone includes information that—

(a) discloses the name, address or suburb of the person, or of a family member of the person; or

(b) would allow the identity of the person as a child or young person the subject of a childrens proceeding to be worked out.

Example—par (b)

the child's or young person's relationship to another person

(3) This section does not apply if—

(a) the person the subject of the proceeding is an adult and consents to the publication of the information; or

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(b) the person the subject of the proceeding has died and—

(i) the person's legal personal representative consents to the publication of the information; or

(ii) the information is published more than 100 years after the person's death.

(4) To remove any doubt, this section applies to everyone, including, for a proceeding under the *Children and Young People Act 2008*, people required or entitled to attend the proceeding.

(5) In this section:

child—see the *Children and Young People Act 2008*, section 11.

childrens proceeding—a child or young person is or was the subject of a childrens proceeding if—

(a) the child or young person is or was the subject of a proceeding under the *Children and Young People Act 2008*; or

(b) any of the following orders is or was in force under that Act for the child or young person:

(i) a care and protection order;

(ii) an interim care and protection order;

(iii) an appraisal order;

(iv) a therapeutic protection order; or

(v) an interim therapeutic protection order; or

(c) the child or young person is or was the subject of a child concern report under that Act; or

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(d) the child or young person is or was the subject of a proceeding for a protection order under that Act, division 14.3.5 (Protection orders); or

Note A ***protection order*** under the *Children and Young People Act 2008*, div 14.3.5 means a protection order under the *Family Violence Act 2016* or *Personal Violence Act 2016*.

(e) the child or young person is or was the subject of—

(i) a proceeding under the *Children and Young People Act 1999*; or

(ii) an order or report under that Act that corresponds to an order or report mentioned in paragraph (b) or (c); or

(f) a director-general has or had parental responsibility for the child or young person under the *Children and Young People Act 2008* or the *Children and Young People Act 1999*; or

(g) the child or young person is or was the subject of a criminal proceeding; or

(h) the child or young person is or was the subject of a proceeding under the *Bail Act 1992*; or

(i) the child or young person is or was the subject of a proceeding under the *Family Violence Act 2016* or *Personal Violence Act 2016*; or

(j) either of the following orders is or was in force under the *Mental Health Act 2015* for the child or young person:

(i) a forensic mental health order;

(ii) a forensic community care order.

proceeding includes a proceeding started, or that existed, before the commencement of this section.

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publish means communicate or disseminate information in a way or to an extent that makes it available to, or likely to come to the notice of, the public or a section of the public or anyone else not lawfully entitled to the information.

young person—see the *Children and Young People Act 2008*, section 12.

Division 7.2.4 Perverting the course of justice and related offences

713 Perverting the course of justice

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

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

(2) In this section:

perverts includes obstructs, prevents and defeats.

714 Publication that could cause miscarriage of justice

(1) A person commits an offence if—

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

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

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

(2) A person commits an offence if—

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

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

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

715 False accusation of offence

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

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

(b) intending that—

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

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

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

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

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

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

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

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

716 Compounding of offence

(1) A person commits an offence if—

(a) the person—

(i) provides a benefit to someone else; or

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

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

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

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

(i) conceal the commission of an offence; or

(ii) not start, or discontinue or delay, a prosecution for an offence; or

(iii) withhold information, or provide false or misleading information, in relation to the commission of an offence; or

(iv) obstruct or hinder the investigation of an offence by law enforcement officers.

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

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(2) A person commits an offence if—

(a) the person—

(i) asks for a benefit for the person or someone else; or

(ii) obtains a benefit for the person or someone else; or

(iii) agrees to obtain a benefit for the person or someone else; and

(b) the person does so with the intention that, or with the intention of inducing, fostering or sustaining a belief that, the person or someone else will—

(i) conceal the commission of an offence; or

(ii) not start, or discontinue or delay, a prosecution for an offence; or

(iii) withhold information, or provide false or misleading information, in relation to the commission of an offence; or

(iv) obstruct or hinder the investigation of an offence by law enforcement officers.

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

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

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717 Accessory after the fact

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

(a) someone else (the ***principal offender***) has committed an offence; and

(b) the accessory assists the principal offender—

(i) knowing the principal offender committed the offence; or

(ii) believing the principal offender committed the offence or a related offence; and

(c) the accessory does so with the intention of allowing the principal offender to—

(i) escape apprehension or prosecution; or

(ii) obtain, keep or dispose of the proceeds of the offence.

Maximum penalty:

(a) if the offence committed by the principal offender is murder—imprisonment for 20 years, 2 000 penalty units or both; or

(b) if the offence committed by the principal offender has a maximum penalty of at least 2 000 penalty units, imprisonment for 20 years or both (but is not murder)—1 500 penalty units, imprisonment for 15 years or both; or

(c) if the offence committed by the principal offender has a maximum penalty of at least 1 500 penalty units, imprisonment for 15 years or both but less than 2 000 penalty units, imprisonment for 20 years or both—700 penalty units, imprisonment for 7 years or both; or

(d) if the offence committed by the principal offender has a maximum penalty of at least 1 000 penalty units, imprisonment for 10 years or both but less than 1 500 penalty units, imprisonment for 15 years or both—500 penalty units, imprisonment for 5 years or both; or

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(e) in any other case—the lesser of—

(i) 300 penalty units, imprisonment for 3 years or both; and

(ii) the maximum penalty for the principal offence.

(2) However, if the offence the accessory believes the principal offender committed is not the offence the principal offender committed, the maximum penalty is the lesser of—

(a) the maximum penalty applying under subsection (1); and

(b) the maximum penalty that would apply under that subsection if the principal offender had committed the offence the accessory believed the principal offender had committed.

(3) For this section, an offence the accessory believes the principal offender committed is a ***related offence*** to the offence the principal offender committed if the circumstances in which the accessory believes the offence to have been committed are the same, or partly the same, as the circumstances in which the actual offence was committed.

(4) It is not an offence to attempt to commit an offence against this section.

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Part 7.3 Summary offences for ch 7

718 Pleading guilty in another's name

(1) A person commits an offence if the person pleads guilty to a charge for an offence knowing the charge is in someone else's name.

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

(2) In a prosecution for an offence against this section it is not necessary to prove the identity or existence of the other person.

719 Failing to attend

(1) A person commits an offence if—

(a) the person is served with a subpoena to attend to give evidence or information, or answer questions, in a legal proceeding; and

(b) the person—

(i) fails to attend as required by the subpoena; or

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

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

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

720 Failing to produce document or other thing

(1) A person commits an offence if—

(a) the person—

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

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

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

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

Note The Legislation Act, s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

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

721 Failing to take oath

(1) A person commits an offence if—

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

(b) the person fails to take the oath when required.

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

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

722 Failing to answer question or give information

(1) A person commits an offence if—

(a) the person is required by law to answer a question or give information in a legal proceeding; and

(b) the person fails to answer the question or give the information when required.

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

Note The Legislation Act, s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

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

723 Making etc false or misleading statements in legal proceeding

(1) A person commits an offence if—

(a) the person makes a sworn or unsworn statement in a legal proceeding before a court; and

(b) the statement is false; and

(c) the person is reckless about whether the statement is false.

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

(2) A person commits an offence if—

(a) the person makes a sworn or unsworn statement in a legal proceeding before an entity that is not a court; and

(b) the statement is false or misleading; and

(c) the person is reckless about whether the statement is false or misleading.

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

(3) Subsection (2) (b) and (c) does not apply if the statement is not false or misleading in a material particular.

(4) Subsections (1) and (2) do not apply in relation to an unsworn statement if, before the statement was made, the entity did not take reasonable steps to tell the person making the statement about the existence of the offence against the subsection.

(5) For subsection (4), it is sufficient if the following form of words is used:

'Making false or misleading statements is a serious offence'.

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(6) A person commits an offence if—

(a) the person files or gives a sworn document in a legal proceeding; and

(b) the document contains false or misleading information; and

(c) the person is reckless about whether the document contains false or misleading information.

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

(7) Subsection (6) does not apply to—

(a) a lawyer or person assisting a lawyer who—

(i) files or gives the document on instructions from a client; and

(ii) does not know the document contains false or misleading information; or

(b) a person involved in the legal proceeding as a law enforcement officer, lawyer, or party (or as a person assisting any of them) who files or gives the document for a legitimate forensic purpose; or

(c) a person who, when filing or giving the document, discloses that it contains or may contain false or misleading information.

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

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(9) In this section:

file includes lodge for filing.

legitimate forensic purpose—see section 705 (6).

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

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

724 Obstructing etc legal proceeding

A person commits an offence if the person—

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

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

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

725 Obstructing or hindering investigation

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

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

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Part 7.4 Procedural matters for ch 7

726 Consent required for certain prosecutions

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

(a) section 702 (Aggravated perjury);

(b) section 703 (Perjury);

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

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

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

(f) section 716 (Compounding of offence);

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

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

727 Alternative verdicts—aggravated perjury and perjury

(1) This section applies if, in a prosecution for an offence against section 702 (Aggravated perjury), the trier of fact is not satisfied that the defendant committed the offence but is satisfied beyond reasonable doubt that the defendant committed an offence against section 703 (Perjury).

(2) The trier of fact may find the defendant guilty of the offence against section 703, but only if the defendant has been given procedural fairness in relation to that finding of guilt.

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

(1) This section applies if, in a prosecution for an offence against section 714 (Publication that could cause miscarriage of justice), the trier of fact is not satisfied that the defendant committed the offence but is satisfied beyond reasonable doubt that the defendant committed an offence against section 713 (Perverting the course of justice).

(2) The trier of fact may find the defendant guilty of the offence against section 713, but only if the defendant has been given procedural fairness in relation to that finding of guilt.

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Chapter 7A Other offences

750 Serious vilification

(1) A person commits an offence if—

(a) the person intentionally carries out an act; and

(b) the act is a threatening act; and

(c) the person is reckless about whether the act incites hatred toward, revulsion of, serious contempt for, or severe ridicule of, a person or group of people on the ground of any of the following:

(i) disability;

(ii) gender identity;

(iii) HIV/AIDS status;

(iv) intersex status;

(v) race;

(vi) religious conviction;

(vii) sexuality; and

(d) the act is done other than in private; and

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(e) the person is reckless about whether the act is done other than in private.

Examples—other than in private

1 screening recorded material at an event that is open to the public, even if privately organised

2 writing a publicly viewable post on social media

3 speaking in an interview intended to be broadcast or published

4 actions or gestures observable by the public

5 wearing or displaying clothes, signs or flags observable by the public

Maximum penalty: 50 penalty units.

(2) In this section:

disability—see the *Discrimination Act 1991*, section 5AA.

gender identity—see the *Discrimination Act 1991*, dictionary.

HIV/AIDS status means status as a person who has the Human Immunodeficiency Virus or Acquired Immune Deficiency Syndrome.

intersex status—see the *Discrimination Act 1991*, dictionary.

race—see the *Discrimination Act 1991*, dictionary.

religious conviction—see the *Discrimination Act 1991*, dictionary.

sexuality—see the *Discrimination Act 1991*, dictionary.

threatening act means an act carried out by a person only if the person—

(a) by the act, intentionally threatens physical harm toward, or toward any property of, the person, or members of the group mentioned in subsection (1) (c) (i) to (vi); or

(b) is reckless about whether the act incites others to threaten the harm.

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Chapter 8 Miscellaneous

800 Regulation-making power

The Executive may make regulations for this Act.

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

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Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- Act
- ACT
- contravene
- corporation
- found guilty (of an offence)
- function
- indictable offence (see s 190)
- person
- proceeding
- provision
- public trustee and guardian
- statutory declaration
- subordinate law
- summary offence (see s 190).

access, to data held in a computer, for part 4.2 (Computer offences)—see section 412.

account, for part 3.3 (Fraudulent conduct)—see section 325.

agent, for part 3.7 (Bribery and related offences)—see section 353.

aggravated burglary—see section 312.

aggravated perjury—see section 702.

aggravated robbery—see section 310.

application date—see section 10.

applied provisions—see section 10.

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belongs, in relation to property, for chapter 3 (Theft, fraud, bribery and related offences)—see section 301.

benefit includes any advantage and is not limited to property.

bet, by a person on an event, for part 3.8A (Cheating at gambling)—see section 363A.

burglary—see section 311.

cannabis—see section 600.

cannabis plant—see section 600.

cause—

(a) for chapter 3 (Theft, fraud, bribery and related offences) other than part 3.8A (Cheating at gambling)—see section 300; and

(b) for part 3.8A (Cheating at gambling)—see section 363B.

causes—

(a) for part 4.1 (Property damage offences)—see section 400; and

(b) for part 4.2 (Computer offences)—see section 412; and

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

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

commercial quantity, for chapter 6 (Serious drug offences)—see section 601.

conceal a thing, for chapter 6 (Serious drug offences)—see section 600.

conduct—

(a) for the Act (other than part 3.8A (Cheating at gambling))—see section 13; and

(b) for part 3.8A (Cheating at gambling)—see section 363A.

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controlled drug—see section 600.

controlled plant—see section 600.

controlled precursor—see section 600.

corrupts a betting outcome, for part 3.8A (Cheating at gambling)—see section 363C.

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

criminal activity, for chapter 6A (Participation in criminal groups)—see section 650.

criminal group, for chapter 6A (Participation in criminal groups)—see section 651.

cultivates a plant, for chapter 6 (Serious drug offences)—see section 615.

cultivation, of a plant, for chapter 6 (Serious drug offences)—see section 615.

damage—

(a) for part 4.1 (Property damage offences)—see section 400; and

(b) for part 4.3 (Sabotage)—see section 422.

data, for part 4.2 (Computer offences)—see section 412.

data held in a computer, for part 4.2 (Computer offences)—see section 412.

data storage device, for part 4.2 (Computer offences)—see section 412.

death means—

(a) the irreversible cessation of all function of a person's brain (including the brain stem); or

(b) the irreversible cessation of circulation of blood in a person's body.

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deception, for part 3.3 (Fraudulent conduct)—see section 325.

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

directly derived, for part 6.7 (Offences relating to property derived from drug offences)—see section 638.

dishonest, for chapter 3 (Theft, fraud, bribery and related offences)—see section 300.

document, for part 3.6 (Forgery and related offences)—see section 343.

drug offence, for part 6.7 (Offences relating to property derived from drug offences)—see section 637.

duty, of a person who is a public official, for chapter 3 (Theft, fraud, bribery and related offences)—see section 300.

electronic communication, for part 4.2 (Computer offences)—see section 412.

employee includes a servant.

encourage, for part 3.8A (Cheating at gambling)—see section 363A.

engage in conduct—see section 13.

event, for part 3.8A (Cheating at gambling)—see section 363A.

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

evidential burden—see section 58 (7).

explosive means a substance or article that—

(a) is manufactured for the purpose of producing an explosion; or

(b) a person has with the intention of using it to produce an explosion.

false document, for part 3.6 (Forgery and related offences)—see section 344.

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fault element—see section 17.

fault element of basic intent—see section 30 (1).

favour, for part 3.7 (Bribery and related offences)—see section 352.

financial advantage, for part 3.8A (Cheating at gambling)—see section 363A.

financial disadvantage, for part 3.8A (Cheating at gambling)—see section 363A.

firearm includes an airgun and an airpistol.

forgery—see section 346.

function, of an agent, for part 3.7 (Bribery and related offences)—see section 352.

gain, for chapter 3 (Theft, fraud, bribery and related offences)—see section 300.

harm means—

(a) physical harm to a person, including unconsciousness, pain, disfigurement, infection with a disease and any physical contact with the person that a person might reasonably object to in the circumstances (whether or not the person was aware of it at the time); and

(b) harm to a person's mental health, including psychological harm, but not including mere ordinary emotional reactions (for example, distress, grief, fear or anger);

whether temporary or permanent, but does not include being subjected to any force or impact that is within the limits of what is acceptable as incidental to social interaction or to life in the community.

impairment, for part 4.2 (Computer offences)—see section 412.

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

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indirectly derived, for part 6.7 (Offences relating to property derived from drug offences)—see section 638.

intention—see section 18.

interpreter, for chapter 7 (Administration of justice offences)—see section 700.

intoxication—see section 30 (1).

irreversible means irreversible by natural or artificial means.

knife includes—

(a) a knife blade; and

(b) a razor blade; and

(c) any other blade.

knowledge—see section 19.

large commercial quantity, for chapter 6 (Serious drug offences)—see section 601.

law means an Act or subordinate law, and includes a provision of an Act or subordinate law.

law enforcement officer, for chapter 7 (Administration of justice offences)—see section 700.

legal burden—see section 56 (3).

legal proceeding, for chapter 7 (Administration of justice offences)—see section 701.

loss, for chapter 3 (Theft, fraud, bribery and related offences)—see section 300.

manufacture, for chapter 6 (Serious drug offences)—see section 606.

manufactures, for chapter 6 (Serious drug offences)—see section 606.

menace, for part 3.5 (Blackmail)—see section 340.

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mental impairment—see section 27.

modification, for part 4.2 (Computer offences)—see section 412.

motor vehicle—see the *Road Transport (General) Act 1999*, dictionary.

negligent—see section 21.

obtain—

(a) for chapter 3 (Theft, fraud, bribery and related offences) other than part 3.8A (Cheating at gambling)—see section 300; and

(b) for part 3.8A (Cheating at gambling)—see section 363D.

obtaining property by deception—see section 326.

offence means an offence against a law.

offensive weapon includes the following:

(a) anything made or adapted for use for causing injury to or incapacitating a person;

(b) anything that a person has with the intention of using, or threatening to use, to cause injury to or incapacitate someone else;

(c) a firearm, or anything that may reasonably be taken in the circumstances to be a firearm;

(d) a knife, or anything that may reasonably be taken in the circumstances to be a knife;

(e) an explosive, or anything that may reasonably be taken in the circumstances to be or contain an explosive.

perjury—see section 703.

physical element of an offence—see section 14.

possession, of a thing, for chapter 6 (Serious drug offences)—see section 600.

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prepare a drug for supply, for chapter 6 (Serious drug offences)—see section 600.

principal, for part 3.7 (Bribery and related offences)—see section 353.

proceeds of a drug offence, for part 6.7 (Offences relating to property derived from drug offences)—see section 638.

product, of a plant, for chapter 6 (Serious drug offences)—see section 615.

property—

(a) for this Act generally—includes the following:

(i) electricity;

(ii) gas;

(iii) water;

(iv) a wild creature that is tamed or ordinarily kept in captivity or that is, or is being taken into, someone's possession;

(v) any organ or part of a human body and any blood, ova, semen or other substance extracted from a human body; and

(b) for part 4.1 (Property damage offences)—see section 400.

Note For further definition of ***property***, see the Legislation Act, dict, pt 1.

property offence, for part 4.3 (Sabotage)—see section 422.

public duty, for chapter 3 (Theft, fraud, bribery and related offences)—see section 300.

public facility, for part 4.3 (Sabotage)—see section 422.

public official, for chapter 3 (Theft, fraud, bribery and related offences)—see section 300.

receiving—see section 313.

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reckless—see section 20.

required geographical nexus, for part 2.7 (Geographical application)—see section 63.

robbery—see section 309.

self-induced intoxication—see section 30 (2).

sell, for chapter 6 (Serious drug offences)—see section 600.

serious computer offence, for part 4.2 (Computer offences)—see section 412.

serious harm means any harm (including the cumulative effect of more than 1 harm) that—

(a) endangers, or is likely to endanger, human life; or

(b) is, or is likely to be, significant and longstanding.

services, for chapter 3 (Theft, fraud, bribery and related offences)—see section 300.

special liability provision means—

(a) a provision providing that absolute liability applies to 1 or more (but not all) of the physical elements of an offence; or

(b) a provision providing that, in a prosecution for an offence, it is not necessary to prove that the defendant knew something; or

(c) a provision providing that, in a prosecution for an offence, it is not necessary to prove that the defendant knew or believed something.

statement, for chapter 7 (Administration of justice offences)—see section 700.

subpoena, for chapter 7 (Administration of justice offences)—see section 700.

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supply—

(a) for chapter 3 (Theft, fraud, bribery and related offences)—see section 300; and

(b) for chapter 6 (Serious drug offences)—see section 600.

sworn statement, for chapter 7 (Administration of justice offences)—see section 700.

territory public official, for chapter 3 (Theft, fraud, bribery and related offences)—see section 300.

theft—see section 308 (Theft) and section 321 (Minor theft).

threat—

(a) for this Act generally—includes a threat made by any conduct, whether explicit or implicit and whether conditional or unconditional; and

(b) for part 4.1 (Property damage offences)—see section 402.

trafficable quantity, for chapter 6 (Serious drug offences)—see section 601.

traffics in a controlled drug—see section 602.

transport, for chapter 6 (Serious drug offences)—see section 600.

unauthorised computer function, for part 4.3 (Sabotage)—see section 422.

unwarranted demand with a menace, for part 3.5 (Blackmail)—see section 341.

witness, for chapter 7 (Administration of justice offences)—see section 700.

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Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act
AF = Approved form
am = amended
amdt = amendment
AR = Assembly resolution
ch = chapter
CN = Commencement notice
def = definition
DI = Disallowable instrument
dict = dictionary
disallowed = disallowed by the Legislative Assembly
div = division
exp = expires/expired
Gaz = gazette
hdg = heading
IA = Interpretation Act 1967
ins = inserted/added
LA = Legislation Act 2001
LR = legislation register
LRA = Legislation (Republication) Act 1996
mod = modified/modification
NI = Notifiable instrument
o = order
om = omitted/repealed
ord = ordinance
orig = original
par = paragraph/subparagraph
pres = present
prev = previous
(prev...) = previously
pt = part
r = rule/subrule
reloc = relocated
renum = renumbered
R[X] = Republication No
RI = reissue
s = section/subsection
sch = schedule
sdiv = subdivision
SL = Subordinate law
sub = substituted
underlining = whole or part not commenced or to be expired

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3 Legislation history

Criminal Code 2002 A2002-51
notified LR 20 December 2002
s 1, s 2 commenced 20 December 2002 (LA s 75 (1))
sch 1 pt 1.23 commenced 1 July 2003 (s 2 (2) and see Territory Records Act 2002 A2002-18, s 2 (2))
remainder commenced 1 January 2003 (s 2 (1))

as amended by

Justice and Community Safety Legislation Amendment Act 2003 (No 2) A2003-47 pt 3
notified LR 31 October 2003
s 1, s 2 commenced 31 October 2003 (LA s 75 (1))
pt 3 commenced 1 November 2003 (s 2)

Statute Law Amendment Act 2003 (No 2) A2003-56 sch 3 pt 3.7
notified LR 5 December 2003
s 1, s 2 commenced 5 December 2003 (LA s 75 (1))
sch 3 pt 3.7 commenced 19 December 2003 (s 2)

Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 ss 3-10
notified LR 26 March 2004
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))
ss 3-10 commenced 9 April 2004 (s 2 (1))

Criminal Code (Serious Drug Offences) Amendment Act 2004 A2004-56
notified LR 6 September 2004
s 1, s 2 commenced 6 September 2004 (LA s 75 (1))
remainder commenced 6 March 2005 (s 2 and LA s 79)

Criminal Code (Administration of Justice Offences) Amendment Act 2005 A2005-53
notified LR 26 October 2005
s 1, s 2 commenced 26 October 2005 (LA s 75 (1))
remainder commenced 23 November 2005 (s 2)

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Criminal Code (Mental Impairment) Amendment Act 2006 A2006-14
notified LR 6 April 2006
s 1, s 2 commenced 6 April 2006 (LA s 75 (1))
remainder commenced 7 April 2006 (s 2)

Justice and Community Safety Legislation Amendment Act 2007 A2007-22 sch 1 pt 1.6
notified LR 5 September 2007
s 1, s 2 commenced 5 September 2007 (LA s 75 (1))
sch 1 pt 1.6 commenced 6 September 2007 (s 2)

Children and Young People Act 2008 A2008-19 sch 1 pt 1.6
notified LR 17 July 2008
s 1, s 2 commenced 17 July 2008 (LA s 75 (1))
sch 1 pt 1.6 commenced 27 February 2009 (s 2 and CN2008-17 (and see CN2008-13))

Medicines, Poisons and Therapeutic Goods Act 2008 A2008-26 sch 2 pt 2.6
notified LR 14 August 2008
s 1, s 2 commenced 14 August 2008 (LA s 75 (1))
sch 2 pt 2.6 commenced 14 February 2009 (s 2 and LA s 79)

Crimes Legislation Amendment Act 2008 A2008-44 sch 1 pt 1.6
notified LR 9 September 2008
s 1, s 2 commenced 9 September 2008 (LA s 75 (1))
sch 1 pt 1.6 commenced 30 May 2009 (s 2 and CN2009-4)

Crimes Legislation Amendment Act 2009 A2009-24 sch 1 pt 1.6
notified LR 3 September 2009
s 1, s 2 commenced 3 September 2009 (LA s 75 (1))
sch 1 pt 1.6 commenced 4 September 2009 (s 2)

Personal Property Securities Act 2010 A2010-15 sch 2 pt 2.2
notified LR 1 April 2010
s 1, s 2 commenced 1 April 2010 (LA s 75 (1))
sch 2 pt 2.2 commenced 30 January 2012 (s 2 (2) (b))

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Crimes (Serious Organised Crime) Amendment Act 2010 A2010-25 pt 3

notified LR 8 July 2010
s 1, s 2 commenced 8 July 2010 (LA s 75 (1))
pt 3 commenced 9 July 2010 (s 2)

Criminal Code Amendment Act 2010 A2010-44

notified LR 24 November 2010
s 1, s 2 commenced 24 November 2010 (LA s 75 (1))
remainder commenced 25 November 2010 (s 2)

Crimes Legislation Amendment Act 2011 A2011-7 pt 4

notified LR 16 March 2011
s 1, s 2 commenced 16 March 2011 (LA s 75 (1))
pt 4 commenced 17 March 2011 (s 2)

Administrative (One ACT Public Service Miscellaneous Amendments) Act 2011 A2011-22 sch 1 pt 1.48

notified LR 30 June 2011
s 1, s 2 commenced 30 June 2011 (LA s 75 (1))
sch 1 pt 1.48 commenced 1 July 2011 (s 2 (1))

Evidence (Consequential Amendments) Act 2011 A2011-48 sch 1 pt 1.15

notified LR 22 November 2011
s 1, s 2 commenced 22 November 2011 (LA s 75 (1))
sch 1 pt 1.15 commenced 1 March 2012 (s 2 (1) and see Evidence Act 2011 A2011-12, s 2 and CN2012-4)

Statute Law Amendment Act 2012 A2012-21 sch 3 pt 3.11

notified LR 22 May 2012
s 1, s 2 commenced 22 May 2012 (LA s 75 (1))
sch 3 pt 3.11 commenced 5 June 2012 (s 2 (1))

Crimes Legislation Amendment Act 2013 A2013-12 pt 5

notified LR 17 April 2013
s 1, s 2 commenced 17 April 2013 (LA s 75 (1))
pt 5 commenced 24 April 2013 (s 2)

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Statute Law Amendment Act 2013 A2013-19 sch 3 pt 3.10
notified LR 24 May 2013
s 1, s 2 commenced 24 May 2013 (LA s 75 (1))
sch 3 pt 3.10 commenced 14 June 2013 (s 2)

Criminal Code (Cheating at Gambling) Amendment Act 2013 A2013-26
notified LR 20 August 2013
s 1, s 2 commenced 20 August 2013 (LA s 75 (1))
remainder commenced 21 August 2013 (s 2)

Crimes Legislation Amendment Act 2013 (No 2) A2013-50 pt 7
notified LR 9 December 2013
s 1, s 2 commenced 9 December 2013 (LA s 75)
pt 7 commenced 10 December 2013 (s 2 (2))

Mental Health (Treatment and Care) Amendment Act 2014 A2014-51 sch 1 pt 1.6 (as am by A2015-38 amdt 2.54)
notified LR 12 November 2014
s 1, s 2 commenced 12 November 2014 (LA s 75 (1))
sch 1 pt 1.6 commenced 1 March 2016 (s 2 (as am by A2015-38 amdt 2.54))

Crimes Legislation Amendment Act 2015 A2015-3 pt 8
notified LR 2 March 2015
s 1, s 2 commenced 2 March 2015 (LA s 75 (1))
s 32 commenced 2 June 2015 (s 2 (2))
pt 8 remainder commenced 3 March 2015 (s 2 (1))

Courts Legislation Amendment Act 2015 A2015-10 pt 8
notified LR 7 April 2015
s 1, s 2 commenced 7 April 2015 (LA s 75 (1))
pt 8 commenced 21 April 2015 (s 2 (2))

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Mental Health Act 2015 A2015-38 sch 2 pt 2.2, sch 2 pt 2.4 div 2.4.9

notified LR 7 October 2015

s 1, s 2 commenced 7 October 2015 (LA s 75 (1))

sch 2 pt 2.2 (amdt 2.54) commenced 8 October 2015 (s 2 (2))

sch 2 pt 2.4 div 2.4.9 commenced 1 March 2016 (s 2 (1) and see Mental Health (Treatment and Care) Amendment Act 2014 A2014-51, s 2 (as am by A2015-38 amdt 2.54))

Note Sch 2 pt 2.2 (amdt 2.54) only amends the Mental Health (Treatment and Care) Amendment Act 2014 A2014-51

Statute Law Amendment Act 2015 (No 2) A2015-50 sch 3 pt 3.13

notified LR 25 November 2015

s 1, s 2 commenced 25 November 2015 (LA s 75 (1))

sch 3 pt 3.13 commenced 9 December 2015 (s 2)

Protection of Rights (Services) Legislation Amendment Act 2016 (No 2) A2016-13 sch 1 pt 1.17

notified LR 16 March 2016

s 1, s 2 commenced 16 March 2016 (LA s 75 (1))

sch 1 pt 1.17 commenced 1 April 2016 (s 2 and see Protection of Rights (Services) Legislation Amendment Act 2016 A2016-1 s 2)

Family Violence Act 2016 A2016-42 sch 3 pt 3.10 (as am by A2017-10 s 7)

notified LR 18 August 2016

s 1, s 2 commenced 18 August 2016 (LA s 75 (1))

sch 3 pt 3.10 commenced 1 May 2017 (s 2 (2) as am by A2017-10 s 7)

Discrimination Amendment Act 2016 A2016-49 sch 1 pt 1.1

notified LR 23 August 2016

s 1, s 2 commenced 23 August 2016 (LA s 75 (1))

amdt 1.2, amdt 1.3 commenced 3 April 2017 (s 2 (2))

sch 1 pt 1.1 remainder commenced 24 August 2016 (s 2 (1))

Crimes Legislation Amendment Act 2017 (No 2) A2017-9 pt 5

notified LR 5 April 2017

s 1, s 2 commenced 5 April 2017 (LA s 75 (1))

pt 5 commenced 6 April 2017 (s 2)

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Family and Personal Violence Legislation Amendment Act 2017 A2017-10 s 7

notified LR 6 April 2017

s 1, s 2 commenced 6 April 2017 (LA s 75 (1))

s 7 commenced 30 April 2017 (s 2 (1))

Note This Act only amends the Family Violence Act 2016 A2016-42.

Justice and Community Safety Legislation Amendment Act 2017 (No 2) A2017-14 pt 4

notified LR 17 May 2017

s 1, s 2 commenced 17 May 2017 (LA s 75 (1))

pt 4 commenced 24 May 2017 (s 2 (1))

Road Transport Reform (Light Rail) Legislation Amendment Act 2017 A2017-21 sch 1 pt 1.5

notified LR 8 August 2017

s 1, s 2 commenced 8 August 2017 (LA s 75 (1))

sch 1 pt 1.5 commenced 15 August 2017 (s 2)

Crimes Legislation Amendment Act 2018 A2018-6 pt 4

notified LR 1 March 2018

s 1, s 2 commenced 1 March 2018 (LA s 75 (1))

pt 4 commenced 2 March 2018 (s 2 (1))

Statute Law Amendment Act 2018 A2018-42 sch 3 pt 3.11

notified LR 8 November 2018

s 1, s 2 taken to have commenced 1 July 2018 (LA s 75 (2))

sch 3 pt 3.11 commenced 22 November 2018 (s 2 (1))

Integrity Commission Act 2018 A2018-52 sch 1 pt 1.9 (as am by A2019-18 s 4)

notified LR 11 December 2018

s 1, s 2 commenced 11 December 2018 (LA s 75 (1))

sch 1 pt 1.9 commenced 1 December 2019 (s 2 (2) (a) as am by A2019-18 s 4)

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Integrity Commission Amendment Act 2019 A2019-18

notified LR 14 June 2019

s 1, s 2 commenced 14 June 2019 (LA s 75 (1))

s 3, s 4 commenced 15 June 2019 (s 2 (1))

Note This Act only amends the Integrity Commission Act 2018 A2018-52.

Crimes Legislation Amendment Act 2019 A2019-23 pt 6

notified LR 8 August 2019

s 1, s 2 commenced 8 August 2019 (LA s 75 (1))

pt 6 commenced 15 August 2019 (s 2 (1))

Drugs of Dependence (Personal Cannabis Use) Amendment Act 2019 A2019-34 sch 1 pt 1.1

notified LR 10 October 2019

s 1, s 2 commenced 10 October 2019 (LA s 75 (1))

sch 1 pt 1.1 commenced 31 January 2020 (s 2 (1) and CN2020-1))

Evidence (Miscellaneous Provisions) Amendment Act 2019 A2019-41 sch 1 pt 1.1

notified LR 31 October 2019

s 1, s 2 commenced 31 October 2019 (LA s 75 (1))

s 3 commenced 31 January 2020 (s 2 and CN2020-2)

amdt 1.1, amdt 1.12 commenced 31 January 2020 (s 2 and CN2020-2)

sch 1 pt 1.1 remainder commenced 9 March 2020 (s 2 and CN2020-4)

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4 Amendment history

Commencement
s 2 om LA s 89 (4)

Codification
s 5 am A2017-14 s 11
(2), (3) exp on the application date (s 5 (3) and see s 10)

Delayed application of ch 2 to certain offences
s 8 am A2003-47 s 9, s 10; ss renum R3 LA (see A2003-47 s 11); A2005-53 s 4; A2017-14 s 12
exp on the application date (s 8 (5) and see s 10)

Delayed application of div 2.3.2 etc
s 9 om A2006-14 s 4

Definitions—*applied provisions* and *application date*
s 10 am A2003-56 amdt 3.128, amdt 3.129; A2004-15 s 4
sub A2005-53 s 5
am A2006-14 ss 5-7; A2007-22 amdt 1.23; A2009-24 amdt 1.18; A2013-50 s 17
sub A2017-14 s 13
exp on the application date (s 10 (3) and see s 10 (1))

Establishing guilt of offences
s 12 am A2005-53 s 6, s 7

Definitions—*conduct* and *engage in conduct*
s 13 am A2013-26 s 4

Omissions
s 16 am A2013-50 s 18

Mental impairment and criminal responsibility
s 28 am A2005-53 amdt 2.2; A2006-14 s 8

Mental impairment and other defences
s 29 am A2005-53 amdt 2.3

Intoxication—interpretation
s 30 textual correction R3 (RI)-R47 (RI)

Mistake or ignorance of fact—fault elements other than negligence
s 35 am A2005-53 amdt 2.4

Mistake or ignorance of law creating offence
s 37 om A2005-53 s 8

Lawful purpose
div 2.3.6 hdg ins A2010-44 s 4

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Lawful possession
s 43A ins A2010-44 s 4

Complicity and common purpose
s 45 am A2005-53 s 9
(9)-(11) exp 23 November 2006 (s 45 (11))
am A2010-25 s 6

Joint commission
s 45A ins A2010-25 s 7

Commission by proxy
s 46 hdg sub A2005-53 amdt 2.5; A2010-25 s 8

Incitement
s 47 am A2018-6 s 17, s 18; ss renum R42 LA

Geographical application—double criminality
s 65 am A2005-53 amdt 2.6

Geographical application—procedure
s 66 am A2005-53 amdt 2.7; A2006-14 s 9

Definitions—pt 4.1
s 100 renum as s 400

Person to whom property belongs
s 101 renum as s 401

Threats
s 102 renum as s 402

Damaging property
s 103 renum as s 403

Arson
s 104 renum as s 404

Causing bushfires
s 105 renum as s 405

Threat to cause property damage—fear of death or serious harm
s 106 renum as s 406

Threat to cause property damage
s 107 renum as s 407

Possession of thing with intent to damage property
s 108 renum as s 408

Consent—pt 4.1 offences
s 109 renum as s 409

Claim of right—pt 4.1 offences
s 110 renum as s 410

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Self-defence
s 111 renum as s 411

Definitions—pt 4.2
s 112 renum as s 412

Limited meaning of *access to data* etc
s 113 renum as s 413

Meaning of *unauthorised* access, modification or impairment
s 114 renum as s 414

Unauthorised access, modification or impairment with intent to commit serious offence
s 115 renum as s 415

Unauthorised modification of data to cause impairment
s 116 renum as s 416

Unauthorised impairment of electronic communication
s 117 renum as s 417

Possession of data with intent to commit serious computer offence
s 118 renum as s 418

Producing, supplying or obtaining data with intent to commit serious computer offence
s 119 renum as s 419

Unauthorised access to or modification of restricted data held in computer
s 120 renum as s 420

Unauthorised impairment of data held in computer disc, credit card etc
s 121 renum as s 421

Definitions—pt 4.3
s 122 renum as s 422

Sabotage
s 123 renum as s 423

Threaten sabotage
s 124 renum as s 424

Regulation-making power
s 125 renum as s 425

Repeal of Criminal Code 2001
s 126 om LA s 89 (3)

Consequential amendments—sch 1
s 127 om R1 LA

Theft, fraud, bribery and related offences
ch 3 hdg ins A2004-15 s 5

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Interpretation for ch 3
pt 3.1 hdg ins A2004-15 s 5

Definitions—ch 3
s 300 ins A2004-15 s 5
def ***belongs*** ins A2004-15 s 5
def ***cause*** ins A2004-15 s 5
def ***dishonest*** ins A2004-15 s 5
def ***duty*** ins A2004-15 s 5
def ***gain*** ins A2004-15 s 5
def ***loss*** ins A2004-15 s 5
def ***obtain*** ins A2004-15 s 5
am A2013-26 s 5
def ***public duty*** ins A2004-15 s 5
def ***public official*** ins A2004-15 s 5
def ***services*** ins A2004-15 s 5
def ***supply*** ins A2004-15 s 5
def ***territory public official*** ins A2004-15 s 5
am A2007-22 amdt 1.24; A2015-10 s 29; A2018-52 amdt 1.73; pars renum R45 LA

Person to whom property belongs for ch 3
s 301 ins A2004-15 s 5

Dishonesty a matter for trier of fact
s 302 ins A2004-15 s 5

Theft and related offences
pt 3.2 hdg ins A2004-15 s 5

Interpretation for pt 3.2
div 3.2.1 hdg ins A2004-15 s 5

Dishonesty for pt 3.2
s 303 ins A2004-15 s 5
am A2013-19 amdt 3.70

Appropriation of property for pt 3.2
s 304 ins A2004-15 s 5

Person to whom property belongs for pt 3.2
s 305 ins A2004-15 s 5

Intention of permanently depriving for pt 3.2
s 306 ins A2004-15 s 5

General deficiency
s 307 ins A2004-15 s 5

Indictable offences for pt 3.2
div 3.2.2 hdg ins A2004-15 s 5

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Theft
s 308 ins A2004-15 s 5

Robbery
s 309 ins A2004-15 s 5

Aggravated robbery
s 310 ins A2004-15 s 5

Burglary
s 311 ins A2004-15 s 5

Aggravated burglary
s 312 ins A2004-15 s 5

Receiving
s 313 ins A2004-15 s 5
am A2013-50 s 19

Receiving—meaning of *stolen property*
s 314 ins A2004-15 s 5
sub A2013-50 s 20

Going equipped for theft etc
s 315 ins A2004-15 s 5

Going equipped with offensive weapon for theft etc
s 316 ins A2004-15 s 5

Making off without payment
s 317 reloc and renum as s 322A

Taking etc motor vehicle without consent
s 318 ins A2004-15 s 5
am A2017-21 amdt 1.14

Summary offences for pt 3.2
div 3.2.3 hdg ins A2004-15 s 5
reloc A2008-44 amdt 1.48

Dishonestly taking territory property
s 319 ins A2004-15 s 5

Dishonestly retaining territory property
s 320 ins A2004-15 s 5

Minor theft
s 321 ins A2004-15 s 5

Removal of articles on public exhibition
s 322 ins A2004-15 s 5

Making off without payment
s 322A (prev s 317) ins A2004-15 s 5

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reloc and renum as s 322A A2008-44 amdt 1.47

Making off without payment—minor offence
s 323 ins A2004-15 s 5

Unlawful possession of stolen property
s 324 ins A2004-15 s 5
am A2011-7 s 10

Fraudulent conduct
pt 3.3 hdg ins A2004-15 s 5

Interpretation for pt 3.3
div 3.3.1 hdg ins A2004-15 s 5

Definitions—pt 3.3
s 325 ins A2004-15 s 5
def ***account*** ins A2004-15 s 5
def ***deception*** ins A2004-15 s 5

Obtaining property by deception
div 3.3.2 hdg ins A2004-15 s 5

Obtaining property by deception
s 326 ins A2004-15 s 5

Dishonesty for div 3.3.2
s 327 ins A2004-15 s 5

Meaning of *obtains* for div 3.3.2
s 328 ins A2004-15 s 5

Intention of permanently depriving—div 3.3.2
s 329 ins A2004-15 s 5

Money transfers
s 330 ins A2004-15 s 5

General deficiency for div 3.3.2
s 331 ins A2004-15 s 5

Other indictable offences for pt 3.3
div 3.3.3 hdg ins A2004-15 s 5

Obtaining financial advantage by deception
s 332 ins A2004-15 s 5

General dishonesty
s 333 ins A2004-15 s 5

Conspiracy to defraud
s 334 ins A2004-15 s 5

Summary offences for pt 3.3
div 3.3.4 hdg ins A2004-15 s 5

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Obtaining financial advantage from the Territory
s 335 ins A2004-15 s 5
am A2005-53 s 10, s 11

Passing valueless cheques
s 336 ins A2004-15 s 5
am A2005-53 amdt 2.8

False or misleading statements, information and documents
pt 3.4 hdg ins A2004-15 s 5

Making false statements on oath or in statutory declarations
s 336A ins A2005-53 s 12

Making false or misleading statements
s 337 ins A2004-15 s 5
am A2005-53 amdt 2.9, amdt 2.10; A2013-19 amdt 3.71

Giving false or misleading information
s 338 ins A2004-15 s 5
am A2005-53 amdt 2.11, amdt 2.12

Producing false or misleading documents
s 339 ins A2004-15 s 5

Blackmail
pt 3.5 hdg ins A2004-15 s 5

Meaning of *menace* for pt 3.5
s 340 ins A2004-15 s 5

Meaning of *unwarranted demand with a menace* for pt 3.5
s 341 ins A2004-15 s 5

Blackmail
s 342 ins A2004-15 s 5

Forgery and related offences
pt 3.6 hdg ins A2004-15 s 5

Interpretation for pt 3.6
div 3.6.1 hdg ins A2004-15 s 5

Definitions—pt 3.6
s 343 ins A2004-15 s 5
def ***document*** ins A2004-15 s 5
def ***false document*** ins A2004-15 s 5

Meaning of *false document* etc for pt 3.6
s 344 ins A2004-15 s 5

Inducing acceptance that document genuine
s 345 ins A2004-15 s 5

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Offences for pt 3.6
div 3.6.2 hdg ins A2004-15 s 5

Forgery
s 346 ins A2004-15 s 5

Using false document
s 347 ins A2004-15 s 5

Possessing false document
s 348 ins A2004-15 s 5

Making or possessing device etc for making false document
s 349 ins A2004-15 s 5

False accounting
s 350 ins A2004-15 s 5

False statement by officer of body
s 351 ins A2004-15 s 5
am A2015-3 s 31

Bribery and related offences
pt 3.7 hdg ins A2004-15 s 5

Interpretation for pt 3.7
div 3.7.1 hdg ins A2004-15 s 5

Definitions—pt 3.7
s 352 ins A2004-15 s 5
def ***agent*** ins A2004-15 s 5
def ***benefit*** ins A2004-15 s 5
om A2005-53 amdt 2.13
def ***favour*** ins A2004-15 s 5
def ***function*** ins A2004-15 s 5
def ***principal*** ins A2004-15 s 5

Meaning of *agent* and *principal* for pt 3.7
s 353 ins A2004-15 s 5

Dishonesty for pt 3.7
s 354 ins A2004-15 s 5

Meaning of *obtain* for pt 3.7
s 355 ins A2004-15 s 5

Offences for pt 3.7
div 3.7.2 hdg ins A2004-15 s 5

Bribery
s 356 ins A2004-15 s 5
am A2005-53 amdt 2.14, amdt 2.15

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Other corrupting benefits
s 357 ins A2004-15 s 5
am A2005-53 amdt 2.16

Payola
s 358 ins A2004-15 s 5
am A2005-53 amdt 2.17, amdt 2.18

Abuse of public office
s 359 ins A2004-15 s 5
am A2005-53 amdt 2.19, amdt 2.20

Impersonation or obstruction of territory public officials
pt 3.8 hdg ins A2004-15 s 5

Indictable offences for pt 3.8
div 3.8.1 hdg ins A2004-15 s 5
om A2008-44 amdt 1.49

Impersonating territory public official
s 360 ins A2004-15 s 5
am A2005-53 amdt 2.21

Obstructing territory public official
s 361 ins A2004-15 s 5

Summary offences for pt 3.8
div 3.8.2 hdg ins A2004-15 s 5
om A2008-44 amdt 1.50

Impersonating police officer
s 362 ins A2004-15 s 5
am A2012-21 amdt 3.37

Obstructing territory public official—minor offence
s 363 hdg sub A2008-44 amdt 1.51
am R43 LA
s 363 ins A2004-15 s 5

Cheating at gambling
pt 3.8A hdg ins A2013-26 s 6

Interpretation—pt 3.8A
div 3.8A.1 hdg ins A2013-26 s 6

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Definitions—pt 3.8A
s 363A ins A2013-26 s 6
def ***bet*** ins A2013-26 s 6
def ***cause*** ins A2013-26 s 6
def ***conduct*** ins A2013-26 s 6
def ***corrupts a betting outcome*** ins A2013-26 s 6
def ***encourage*** ins A2013-26 s 6
def ***event*** ins A2013-26 s 6
def ***financial advantage*** ins A2013-26 s 6
def ***financial disadvantage*** ins A2013-26 s 6
def ***obtain*** ins A2013-26 s 6

Meaning of *cause*—pt 3.8A
s 363B ins A2013-26 s 6

Meaning of *corrupts a betting outcome*—pt 3.8A
s 363C ins A2013-26 s 6

Meaning of *obtain*—pt 3.8A
s 363D ins A2013-26 s 6

Proof of certain matters not required for offences against part 3.8A
s 363E ins A2013-26 s 6

Offences—pt 3.8A
div 3.8A.2 hdg ins A2013-26 s 6

Conduct that corrupts betting outcome
s 363F ins A2013-26 s 6

Bet with information about corrupt betting outcome
s 363G ins A2013-26 s 6

Bet with inside information
s 363H ins A2013-26 s 6

Procedural matters for ch 3
pt 3.9 hdg ins A2004-15 s 5

General—pt 3.9
div 3.9.1 hdg ins A2004-15 s 5

Stolen property held by dealers etc—owners rights
s 364 ins A2004-15 s 5

Stolen property held by police—disposal
s 365 ins A2004-15 s 5

Procedure and evidence—theft, receiving etc
s 366 ins A2004-15 s 5
am A2015-50 amdt 3.85

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Certain proceedings not to be heard together
s 367 ins A2004-15 s 5

Indictment for offence relating to deeds, money etc
s 368 ins A2004-15 s 5

Theft of motor vehicle—cancellation of licence
s 369 ins A2004-15 s 5
am A2017-21 amdt 1.15

Alternative verdicts—ch 3
div 3.9.2 hdg ins A2004-15 s 5

Alternative verdicts—aggravated robbery and robbery
s 369A ins A2017-9 s 7

Alternative verdicts—aggravated burglary and burglary
s 369B ins A2017-9 s 7

Alternative verdicts—theft and taking motor vehicle without consent
s 370 ins A2004-15 s 5

Alternative verdicts—theft or obtaining property by deception and receiving
s 371 ins A2004-15 s 5

Alternative verdicts—theft and obtaining property by deception
s 372 ins A2004-15 s 5

Verdict of 'theft or receiving' etc
s 373 ins A2004-15 s 5

Alternative verdicts—making false or misleading statements
s 374 ins A2004-15 s 5

Forfeiture—ch 3
div 3.9.3 hdg ins A2004-15 s 5

Going equipped offences—forfeiture
s 375 ins A2004-15 s 5

Unlawful possession offence—forfeiture
s 376 ins A2004-15 s 5;
am A2016-13 amdt 1.52

Unlawful possession offence—disposal of forfeited property by public trustee and guardian
s 377 hdg am A2016-13 amdt 1.52
s 377 ins A2004-15 s 5
am A2010-15 amdt 2.2; ss renum R21 LA; A2012-21 amdt 3.38; A2016-13 amdt 1.52, amdt 1.53

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Unlawful possession offence—return of or compensation for forfeited property
s 378 ins A2004-15 s 5
am A2016-13 amdt 1.54

Forgery offences—forfeiture
s 379 ins A2004-15 s 5

Definitions—pt 4.1
s 400 (prev s 100) def ***property*** sub A2004-15 s 6
renum A2004-15 s 7

Person to whom property belongs
s 401 (prev s 101) renum A2004-15 s 7

Meaning of *threat* for pt 4.1
s 402 (prev s 102) renum A2004-15 s 7
sub A2005-53 amdt 2.22

Damaging property
s 403 (prev s 103) renum A2004-15 s 7

Arson
s 404 (prev s 104) renum A2004-15 s 7
am A2013-19 amdt 3.72

Causing bushfires
s 405 (prev s 105) renum A2004-15 s 7

Threat to cause property damage—fear of death or serious harm
s 406 (prev s 106) renum A2004-15 s 7

Threat to cause property damage
s 407 (prev s 107) renum A2004-15 s 7
am A2013-19 amdt 3.72

Possession of thing with intent to damage property
s 408 (prev s 108) renum A2004-15 s 7

Defences—pt 4.1
div 4.1.3 hdg note sub A2013-19 amdt 3.73

Consent—pt 4.1 offences
s 409 (prev s 109) renum A2004-15 s 7

Claim of right—pt 4.1 offences
s 410 (prev s 110) renum A2004-15 s 7

Self-defence
s 411 (prev s 111) renum A2004-15 s 7

Definitions—pt 4.2
s 412 (prev s 112) renum A2004-15 s 7

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Limited meaning of *access to data* etc
s 413 (prev s 113) renum A2004-15 s 7

Meaning of *unauthorised* access, modification or impairment
s 414 (prev s 114) renum A2004-15 s 7

Unauthorised access, modification or impairment with intent to commit serious offence
s 415 (prev s 115) renum A2004-15 s 7
am A2013-19 amdt 3.74

Unauthorised modification of data to cause impairment
s 416 (prev s 116) renum A2004-15 s 7

Unauthorised impairment of electronic communication
s 417 (prev s 117) renum A2004-15 s 7

Possession of data with intent to commit serious computer offence
s 418 (prev s 118) renum A2004-15 s 7

Producing, supplying or obtaining data with intent to commit serious computer offence
s 419 (prev s 119) renum A2004-15 s 7

Unauthorised access to or modification of restricted data held in computer
s 420 (prev s 120) renum A2004-15 s 7

Unauthorised impairment of data held in computer disc, credit card etc
s 421 (prev s 121) renum A2004-15 s 7

Definitions—pt 4.3
s 422 (prev s 122) renum A2004-15 s 7

Sabotage
s 423 (prev s 123) renum A2004-15 s 7

Threaten sabotage
s 424 (prev s 124) renum A2004-15 s 7
am A2005-53 amdt 2.23; A2013-19 amdt 3.74

Miscellaneous
ch 5 hdg reloc and renum as ch 8 hdg

Regulation-making power
s 425 reloc and renum as s 800

Serious drug offences
ch 6 hdg ins A2004-56 s 5

Interpretation for ch 6
pt 6.1 hdg ins A2004-56 s 5

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Definitions—ch 6

s 600 am A2019-23 s 27
def ***cannabis*** ins A2004-56 s 5
sub A2019-23 s 26
def ***cannabis plant*** ins A2004-56 s 5
def ***commercial quantity*** ins A2004-56 s 5
def ***conceal*** ins A2004-56 s 5
def ***controlled drug*** ins A2004-56 s 5
def ***controlled plant*** ins A2004-56 s 5
def ***controlled precursor*** ins A2004-56 s 5
def ***cultivates*** ins A2004-56 s 5
def ***cultivation*** ins A2004-56 s 5
def ***large commercial quantity*** ins A2004-56 s 5
def ***manufacture*** ins A2004-56 s 5
def ***manufactures*** ins A2004-56 s 5
def ***possession*** ins A2004-56 s 5
def ***prepare*** ins A2004-56 s 5
def ***sell*** ins A2004-56 s 5
def ***supply*** ins A2004-56 s 5
def ***trafficable quantity*** ins A2004-56 s 5
def ***traffics*** ins A2004-56 s 5
am R7 LA
def ***transport*** ins A2004-56 s 5

Meaning of *trafficable quantity*, *commercial quantity* and *large commercial quantity*

s 601 ins A2004-56 s 5

Trafficking in controlled drugs

pt 6.2 hdg ins A2004-56 s 5

Meaning of *trafficking*

s 602 ins A2004-56 s 5

Trafficking in controlled drug

s 603 ins A2004-56 s 5
am A2011-7 s 11

Trafficking offence—presumption if trafficable quantity possessed etc

s 604 ins A2004-56 s 5
am A2015-50 amdt 3.86

Complicity, incitement and conspiracy offences do not apply to buyers of drugs

s 605 ins A2004-56 s 5
am A2008-26 amdt 2.14; A2019-34 amdt 1.1

Manufacturing controlled drugs and precursors

pt 6.3 hdg ins A2004-56 s 5

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Meaning of *manufacture*
s 606 ins A2004-56 s 5

Manufacturing controlled drug for selling
s 607 ins A2004-56 s 5

Manufacturing offence—presumption if trafficable quantity manufactured
s 608 ins A2004-56 s 5

Manufacturing controlled drug
s 609 ins A2004-56 s 5

Selling controlled precursor for manufacture of controlled drug
s 610 ins A2004-56 s 5

Manufacturing controlled precursor for manufacture of controlled drug
s 611 ins A2004-56 s 5

Possessing controlled precursor
s 612 ins A2004-56 s 5

Possessing offence—presumption if controlled precursor possessed to manufacture controlled drug
s 612A ins A2013-12 s 23

Supplying substance, equipment or instructions for manufacturing controlled drug
s 613 ins A2004-56 s 5
am A2013-12 s 24

Possessing substance, equipment or instructions for manufacturing controlled drug
s 614 ins A2004-56 s 5
am A2008-26 amdt 2.14; A2013-12 s 24; A2019-34 amdt 1.1

Possessing tablet press
s 614A ins A2013-12 s 25

Cultivating controlled plants
pt 6.4 hdg ins A2004-56 s 5

Meaning of *cultivate*
s 615 ins A2004-56 s 5

Cultivating controlled plant for selling
s 616 ins A2004-56 s 5

Cultivating offence—presumption if trafficable quantity cultivated
s 617 ins A2004-56 s 5

Cultivating controlled plant
s 618 ins A2004-56 s 5

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Selling controlled plant
s 619 ins A2004-56 s 5

Supplying plant material, equipment or instructions for cultivating controlled plant
s 620 ins A2004-56 s 5
am A2013-12 s 26

Possessing plant material, equipment or instructions for cultivating controlled plant
s 621 ins A2004-56 s 5
am A2013-12 s 26

Display of drug pipes
pt 6.4A hdg ins A2015-3 s 32

Display of drug pipes
s 621A ins A2015-3 s 32

Drug offences involving children
pt 6.5 hdg ins A2004-56 s 5

Supplying controlled drug to child for selling
s 622 ins A2004-56 s 5

Supplying offence—presumption if trafficable quantity supplied etc
s 623 ins A2004-56 s 5

Procuring child to traffic in controlled drug
s 624 ins A2004-56 s 5

Supplying controlled drug to child
s 625 ins A2004-56 s 5

Children not criminally responsible for offences against pt 6.5
s 626 ins A2004-56 s 5

General provisions for drug offences
pt 6.6 hdg ins A2004-56 s 5

Application—pt 6.6
s 627 ins A2004-56 s 5

Carrying on business of trafficking
s 628 ins A2004-56 s 5

Single offence for trafficking etc on different occasions
s 629 ins A2004-56 s 5

Single offence for different parcels trafficked etc on the same occasion
s 630 ins A2004-56 s 5

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Single offence—working out quantities if different kinds of controlled drug etc involved
s 631 ins A2004-56 s 5

Knowledge or recklessness about identity of controlled drugs, plants and precursors
s 632 ins A2004-56 s 5

Alternative verdicts—mistaken belief about identity of controlled drug, precursor or plant
s 633 ins A2004-56 s 5
am A2008-26 amdt 2.15

Alternative verdicts—mistaken belief about quantity of controlled drug, precursor or plant
s 634 ins A2004-56 s 5
am A2008-26 amdt 2.15

Alternative verdicts—different quantities
s 635 ins A2004-56 s 5
am A2008-26 amdt 2.15

Alternative verdicts—trafficking and obtaining property by deception
s 636 ins A2004-56 s 5

Alternative verdicts—trafficking in or possessing controlled drug
s 636A ins A2011-7 s 12
am A2019-34 amdt 1.2; pars renum R46 LA

Offences relating to property derived from drug offences
pt 6.7 hdg ins A2004-56 s 5

Meaning of *drug offence*
s 637 ins A2004-56 s 5

Property *directly* or *indirectly* derived from drug offence
s 638 ins A2004-56 s 5

Concealing etc property derived from drug offence
s 639 ins A2004-56 s 5

Receiving property directly derived from drug offence
s 640 ins A2004-56 s 5

Application of ch 6
pt 6.8 hdg ins A2004-56 s 5
om R16 LA

Uncertainty about when conduct engaged in
s 641 ins A2004-56 s 5
exp 6 March 2010 (s 641 (3))

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Participation in criminal groups
ch 6A hdg ins A2010-25 s 9

Meaning of *criminal activity*—ch 6A
s 650 ins A2010-25 s 9

Meaning of *criminal group*—ch 6A
s 651 ins A2010-25 s 9

Participating in a criminal group
s 652 ins A2010-25 s 9

Participating in a criminal group—causing harm
s 653 ins A2010-25 s 9
am A2013-12 s 27

Participating in a criminal group—property damage
s 654 ins A2010-25 s 9
am A2013-12 ss 28-30; A2013-19 amdt 3.75

Recruiting people to engage in criminal activity
s 655 ins A2010-25 s 9

Administration of justice offences
ch 7 hdg ins A2005-53 s 13

Interpretation for ch 7
pt 7.1 hdg ins A2005-53 s 13

Definitions—ch 7
s 700 ins A2005-53 s 13
def ***aggravated perjury*** ins A2005-53 s 13
def ***causes*** ins A2005-53 s 13
def ***evidence*** ins A2005-53 s 13
def ***intermediary*** ins A2019-41 amdt 1.1
def ***interpreter*** ins A2005-53 s 13
def ***law enforcement officer*** ins A2005-53 s 13
am A2015-50 amdt 3.87; A2018-42 amdt 3.40
def ***legal proceeding*** ins A2005-53 s 13
def ***perjury*** ins A2005-53 s 13
def ***statement*** ins A2005-53 s 13
def ***sworn statement*** ins A2005-53 s 13
def ***subpoena*** ins A2005-53 s 13
def ***witness*** ins A2005-53 s 13

Meaning of *legal proceeding* for ch 7
s 701 ins A2005-53 s 13

Indictable offences for ch 7
pt 7.2 hdg ins A2005-53 s 13

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Perjury
div 7.2.1 hdg ins A2005-53 s 13

Aggravated perjury
s 702 ins A2005-53 s 13
am A2019-41 amdt 1.2

Perjury
s 703 ins A2005-53 s 13
am A2019-41 amdt 1.3

Additional provisions about perjury or aggravated perjury
s 704 ins A2005-53 s 13
am A2011-48 amdt 1.21

Falsifying, destroying or concealing evidence
div 7.2.2 hdg ins A2005-53 s 13

Making or using false evidence
s 705 ins A2005-53 s 13

Destroying or concealing evidence
s 706 ins A2005-53 s 13

Protection of people involved in legal proceedings
div 7.2.3 hdg ins A2005-53 s 13

Corruption in relation to legal proceedings
s 707 ins A2005-53 s 13
am A2019-41 amdts 1.4-1.7; pars renum R47 LA

Deceiving witness, interpreter, intermediary or juror
s 708 hdg sub A2019-41 amdt 1.10
s 708 ins A2005-53 s 13
am A2019-41 amdt 1.9

Threatening etc witness, interpreter, intermediary or juror
s 709 hdg sub A2019-41 amdt 1.10
s 709 ins A2005-53 s 13
am A2019-41 amdt 1.11

Threatening etc participant in criminal investigation
s 709A ins A2010-25 s 10
am A2019-41 amdt 1.12; pars renum R46 LA

Preventing attendance etc of witness, interpreter, intermediary or juror
s 710 hdg sub A2019-41 amdt 1.13
s 710 ins A2005-53 s 13
am A2019-41 amdt 1.14

Preventing production of thing in evidence
s 711 ins A2005-53 s 13

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Reprisal against person involved in proceeding
s 712 ins A2005-53 s 13
am A2019-41 amdt 1.15, amdt 1.16

Publishing identifying information about childrens proceedings
s 712A ins A2008-19 amdt 1.84
am A2011-22 amdt 1.151; A2014-51 amdt 1.37; A2015-38 amdt 2.77; A2016-42 amdt 3.51, amdt 3.52; pars renum R39 LA

Perverting the course of justice and related offences
div 7.2.4 hdg ins A2005-53 s 13

Perverting the course of justice
s 713 ins A2005-53 s 13

Publication that could cause miscarriage of justice
s 714 ins A2005-53 s 13

False accusation of offence
s 715 ins A2005-53 s 13

Compounding of offence
s 716 ins A2005-53 s 13

Accessory after the fact
s 717 ins A2005-53 s 13

Indictable offences for ch 7
pt 7.3 hdg ins as pt 7.2 hdg A2005-53 s 13
renum R7 LA

Pleading guilty in another's name
s 718 ins A2005-53 s 13

Failing to attend
s 719 ins A2005-53 s 13

Failing to produce document or other thing
s 720 ins A2005-53 s 13

Failing to take oath
s 721 ins A2005-53 s 13

Failing to answer question or give information
s 722 ins A2005-53 s 13

Making etc false or misleading statements in legal proceeding
s 723 ins A2005-53 s 13

Obstructing etc legal proceeding
s 724 ins A2005-53 s 13

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Obstructing or hindering investigation
s 725 ins A2005-53 s 13

Procedural matters for ch 7
pt 7.4 hdg ins as pt 7.3 hdg A2005-53 s 13
renum R7 LA

Consent required for certain prosecutions
s 726 ins A2005-53 s 13
am A2019-41 amdt 1.17

Alternative verdicts—aggravated perjury and perjury
s 727 ins A2005-53 s 13

Alternative verdicts—perverting the course of justice and publication that could cause miscarriage of justice
s 728 ins A2005-53 s 13

Other offences
ch 7A hdg ins A2016-49 amdt 1.1

Serious vilification
s 750 ins A2016-49 amdt 1.1
am A2016-49 amdt 1.2, amdt 1.3; pars renum R37 LA

Miscellaneous
ch 8 hdg (prev ch 5 hdg) reloc and renum as ch 8 hdg by A2004-56 s 4

Regulation-making power
s 800 (prev s 125) renum as s 425 by A2004-15 s 7
reloc and renum as s 800 by A2004-56 s 4

Consequential amendments
sch 1 om R1 LA

Dictionary
dict am A2005-53 s 14; A2010-25 s 11; A2012-21 amdt 3.39; A2016-13 amdt 1.55
def ***account*** ins A2004-15 s 8
def ***agent*** ins A2004-15 s 8
def ***aggravated burglary*** ins A2004-15 s 8
def ***aggravated perjury*** ins A2005-53 s 15
def ***aggravated robbery*** ins A2004-15 s 8
def ***application date*** ins A2017-14 s 14
def ***applied provisions*** ins A2005-53 s 15
def ***belongs*** ins A2004-15 s 8
def ***benefit*** ins A2004-15 s 8
sub A2005-53 s 16
def ***bet*** ins A2013-26 s 7
def ***burglary*** ins A2004-15 s 8
def ***cannabis*** ins A2004-56 s 6
def ***cannabis plant*** ins A2004-56 s 6

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def ***cause*** ins A2004-15 s 8
sub A2013-26 s 8
def ***causes*** am A2005-53 s 17
def ***commercial quantity*** ins A2004-56 s 6
def ***conceal*** ins A2004-56 s 6
def ***conduct*** sub A2013-26 s 9
def ***controlled drug*** ins A2004-56 s 6
def ***controlled plant*** ins A2004-56 s 6
def ***controlled precursor*** ins A2004-56 s 6
def ***corrupts a betting outcome*** ins A2013-26 s 10
def ***create*** ins A2005-53 s 18
def ***creates*** om A2005-53 s 18
def ***criminal activity*** ins A2010-25 s 12
def ***criminal group*** ins A2010-25 s 12
def ***cultivates*** ins A2004-56 s 6
def ***cultivation*** ins A2004-56 s 6
def ***deception*** ins A2004-15 s 8
def ***default application date*** om A2017-14 s 15
def ***detriment*** ins A2005-53 s 19
def ***directly derived*** ins A2004-56 s 6
def ***dishonest*** ins A2004-15 s 8
def ***document*** ins A2004-15 s 8
def ***drug offence*** ins A2004-56 s 6
def ***duty*** ins A2004-15 s 8
def ***encourage*** ins A2013-26 s 10
def ***event*** ins A2013-26 s 10
def ***evidence*** ins A2005-53 s 19
def ***explosive*** ins A2004-15 s 8
def ***false*** document ins A2004-15 s 8
def ***fault element of basic intent*** am A2015-50 amdt 3.88
def ***favour*** ins A2004-15 s 8
def ***financial advantage*** ins A2013-26 s 10
def ***financial disadvantage*** ins A2013-26 s 10
def ***firearm*** ins A2004-15 s 8
def ***forgery*** ins A2004-15 s 8
def ***function*** ins A2004-15 s 8
def ***gain*** ins A2004-15 s 8
def ***harm*** am A2015-50 amdt 3.89
def ***immediately applied provisions*** om A2005-53 s 20
def ***in*** ins A2005-53 s 21
def ***indirectly derived*** ins A2004-56 s 6
def ***interpreter*** ins A2005-53 s 21
def ***intoxication*** am A2015-50 amdt 3.90
def ***irreversible*** ins A2004-15 s 8
def ***knife*** ins A2004-15 s 8
def ***large commercial quantity*** ins A2004-56 s 6
def ***law enforcement officer*** ins A2005-53 s 21

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def ***legal burden*** am A2015-50 amdt 3.91
def ***legal proceeding*** ins A2005-53 s 21
def ***loss*** ins A2004-15 s 8
def ***manufacture*** ins A2004-56 s 6
def ***manufactures*** ins A2004-56 s 6
def ***menace*** ins A2004-15 s 8
def ***motor vehicle*** ins A2017-21 amdt 1.16
def ***obtain*** ins A2004-15 s 8
sub A2013-26 s 11
def ***obtaining property by deception*** ins A2004-15 s 8
def ***offensive weapon*** ins A2004-15 s 8
def ***perjury*** ins A2005-53 s 21
def ***possession*** ins A2004-56 s 6
def ***prepare*** ins A2004-56 s 6
def ***principal*** ins A2004-15 s 8
def ***proceeds*** ins A2004-56 s 6
def ***product*** ins A2004-56 s 6
def ***property*** sub A2004-15 s 9; A2013-19 amdt 3.76
def ***public duty*** ins A2004-15 s 10
def ***public official*** ins A2004-15 s 10
def ***receiving*** ins A2004-15 s 10
def ***robbery*** ins A2004-15 s 10
def ***sell*** ins A2004-56 s 6
def ***self induced*** am A2015-50 amdt 3.92
def ***services*** ins A2004-15 s 10
def ***statement*** ins A2005-53 s 21
def ***subpoena*** ins A2005-53 s 21
def ***supply*** ins R7 LA
def ***supply***, for ch 3, ins A2004-15 s 10
om R7 LA
def ***supply***, for ch 6, ins A2004-56 s 6
om R7 LA
def ***sworn statement*** ins A2005-53 s 21
def ***territory public official*** ins A2004-15 s 10
def ***theft*** ins A2004-15 s 10
def ***threat*** ins A2005-53 s 21
sub A2013-19 amdt 3.77
def ***trafficable quantity*** ins A2004-56 s 6
def ***traffics*** ins A2004-56 s 6
am R7 LA
def ***transport*** ins A2004-56 s 6
def ***unwarranted demand with a menace*** ins A2004-15 s 10
def ***witness*** ins A2005-53 s 21

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5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 1 Jan 2003	1 Jan 2003– 1 July 2003	not amended	new Act
R2 31 July 2003	2 July 2003– 31 Oct 2003	not amended	commenced provision
R3 (RI) 29 July 2025	1 Nov 2003– 18 Dec 2003	A2003-47	amendments by A2003-47 reissued for textual correction in s 30 (3)
R4 (RI) 29 July 2025	19 Dec 2003– 8 Apr 2004	A2003-56	amendments by A2003-56 reissued for textual correction in s 30 (3)
R5 (RI) 29 July 2025	9 Apr 2004 5 Mar 2005	A2004-15	amendments by A2004-15 reissued for textual correction in s 30 (3)
R6 (RI) 29 July 2025	6 Mar 2005– 22 Nov 2005	A2004-56	amendments by A2004-56 reissue of printed version for textual correction in s 30 (3)

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Republication No and date	Effective	Last amendment made by	Republication for
R7 (RI) 29 July 2025	23 Nov 2005– 6 Apr 2006	A2005-53	amendments by A2005-53 reissued for textual correction in s 30 (3)
R8 (RI) 29 July 2025	7 Apr 2006– 23 Nov 2006	A2006-14	amendments by A2006-14 reissued for textual correction in s 30 (3)
R9 (RI) 29 July 2025	24 Nov 2006– 5 Sept 2007	A2006-14	commenced expiry reissued for textual correction in s 30 (3)
R10 (RI) 29 July 2025	6 Sept 2007– 13 Feb 2009	A2007-22	amendments by A2007-22 reissued for textual correction in s 30 (3)
R11 (RI) 29 July 2025	14 Feb 2009– 26 Feb 2009	A2008-44	amendments by A2008-26 reissued for textual correction in s 30 (3)
R12 (RI) 29 July 2025	27 Feb 2009– 29 May 2009	A2008-44	amendments by A2008-19 reissued for textual correction in s 30 (3)

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Republication No and date	Effective	Last amendment made by	Republication for
R13 (RI) 29 July 2025	30 May 2009– 1 June 2009	A2008-44	amendments by A2008-44 reissued for textual correction in s 30 (3)
R14 (RI) 29 July 2025	2 June 2009– 3 Sept 2009	A2008-44	default application date under s 10 prescribed by SL2009-25 reissue of printed version for textual correction in s 30 (3)
R15 (RI) 29 July 2025	4 Sept 2009– 6 Mar 2010	A2009-24	amendments by A2009-24 reissued for textual correction in s 30 (3)
R16 (RI) 29 July 2025	7 Mar 2010– 8 July 2010	A2009-24	commenced expiry reissued for textual correction in s 30 (3)
R17 (RI) 29 July 2025	9 July 2010– 24 Nov 2010	A2010-25	amendments by A2010-25 reissued for textual correction in s 30 (3)
R18 (RI) 29 July 2025	25 Nov 2010– 16 Mar 2011	A2010-44	amendments by A2010-44 reissued for textual correction in s 30 (3)

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Republication No and date	Effective	Last amendment made by	Republication for
R19 (RI) 29 July 2025	17 Mar 2011– 30 June 2011	A2011-7	amendments by A2011-7 reissued for textual correction in s 30 (3)
R20 (RI) 29 July 2025	1 July 2011– 29 Jan 2012	A2011-22	amendments by A2011-22 reissued for textual correction in s 30 (3)
R21 (RI) 29 July 2025	30 Jan 2012– 29 Feb 2012	A2011-22	amendments by A2010-15 reissued for textual correction in s 30 (3)
R22 (RI) 29 July 2025	1 Mar 2012– 4 June 2012	A2011-48	amendments by A2011-48 reissued for textual correction in s 30 (3)
R23 (RI) 29 July 2025	5 June 2012– 23 Apr 2013	A2012-21	amendments by A2012-21 reissued for textual correction in s 30 (3)
R24 (RI) 29 July 2025	24 Apr 2013– 9 May 2013	A2013-12	amendments by A2013-12 reissued for textual correction in s 30 (3)

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Republication No and date	Effective	Last amendment made by	Republication for
R25 (RI) 29 July 2025	10 May 2013– 13 June 2013	A2013-12	default application date under s 10 prescribed by SL2013-10 reissued for textual correction in s 30 (3)
R26 (RI) 29 July 2025	14 June 2013– 20 Aug 2013	A2013-19	amendments by A2013-19 reissued for textual correction in s 30 (3)
R27 (RI) 29 July 2025	21 Aug 2013– 9 Dec 2013	A2013-26	amendments by A2013-26 reissue of printed version for textual correction in s 30 (3)
R28 (RI) 29 July 2025	10 Dec 2013– 2 Mar 2015	A2013-50	amendments by A2013-50 reissued for textual correction in s 30 (3)
R29 (RI) 29 July 2025	3 Mar 2015– 20 Apr 2015	A2015-3	amendments by A2015-3 reissued for textual correction in s 30 (3)
R30 (RI) 29 July 2025	21 Apr 2015– 1 June 2015	A2015-10	amendments by A2015-10 reissued for textual correction in s 30 (3)

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Republication No and date	Effective	Last amendment made by	Republication for
R31 (RI) 29 July 2025	2 June 2015– 7 Oct 2015	A2015-10	amendments by A2015-3 reissued for textual correction in s 30 (3)
R32 (RI) 29 July 2025	8 Oct 2015– 8 Dec 2015	A2015-10	republication for updated endnotes as amended by A2015-38 reissued for textual correction in s 30 (3)
R33 (RI) 29 July 2025	9 Dec 2015– 29 Feb 2015	A2015-50	amendments by A2015-50 reissued for textual correction in s 30 (3)
R34 (RI) 29 July 2025	1 Mar 2016– 31 Mar 2016	A2015-50	republication for amendments by A2014-51 and A2015-38 reissued for textual correction in s 30 (3)
R35 (RI) 29 July 2025	1 April 2016– 23 Aug 2016	A2016-13	amendments by A2016-13 reissued for textual correction in s 30 (3)

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Republication No and date	Effective	Last amendment made by	Republication for
R36 (RI) 29 July 2025	24 Aug 2016- 2 Apr 2017	A2016-49	amendments by A2016-49 reissued for textual correction in s 30 (3)
R37 (RI) 29 July 2025	3 Apr 2017- 5 Apr 2017	A2016-49	amendments by A2016-49 reissued for textual correction in s 30 (3)
R38 (RI) 29 July 2025	6 Apr 2017- 30 Apr 2017	A2017-9	amendments by A2017-9 reissued for textual correction in s 30 (3)
R39 (RI) 29 July 2025	1 May 2017- 23 May 2017	A2017-10	amendments by A2016-42 as amended by A2017-10 reissued for textual correction in s 30 (3)
R40 (RI) 29 July 2025	24 May 2017- 14 Aug 2017	A2017-14	amendments by A2017-14 reissued for textual correction in s 30 (3)
R41 (RI) 29 July 2025	15 Aug 2017– 1 Mar 2018	A2017-21	amendments by A2017-21 reissued for textual correction in s 30 (3)

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Republication No and date	Effective	Last amendment made by	Republication for
R42 (RI) 29 July 2025	2 Mar 2018– 21 Nov 2018	A2018-6	amendments by A2018-6 reissued for textual correction in s 30 (3)
R43 (RI) 29 July 2025	22 Nov 2018– 14 Aug 2019	A2018-42	amendments by A2018-42 reissued for textual correction in s 30 (3)
R44 (RI) 29 July 2025	15 Aug 2019– 30 Nov 2019	A2019-23	amendments by A2019-23 reissued for textual correction in s 30 (3)
R45 (RI) 29 July 2025	1 Dec 2019– 30 Jan 2020	A2019-23	amendments by A2018-52 as amended by A2019-18 reissued for textual correction in s 30 (3)
R46 (RI) 29 July 2025	31 Jan 2020– 8 Mar 2020	A2019-41	amendments by A2019-34 and A2019-41 reissued for textual correction in s 30 (3)

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