



Australian Capital Territory

Crimes Legislation Amendment Act 2008

A2008-44

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Australian Capital Territory

Crimes Legislation Amendment Act 2008

A2008-44

An Act to amend legislation in relation to criminal proceedings

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

1 Name of Act

This Act is the *Crimes Legislation Amendment Act 2008*.

2 Commencement

- (1) This Act commences on a day fixed by the Minister by written notice.

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

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

- (2) If this Act has not commenced within 9 months beginning on its notification day, it automatically commences on the first day after that period.
- (3) The Legislation Act, section 79 (Automatic commencement of postponed law) does not apply to this Act.

3 Legislation amended—sch 1

This Act amends the legislation mentioned in schedule 1.

Schedule 1 Legislation amended

(see s 3)

Part 1.1 Confiscation of Criminal Assets Act 2003

[1.1] Part 3, note 1, dot point

omit

- *indictable offence*—see s 13 (2)

[1.2] Part 3, note 1, dot point

omit

- *ordinary indictable offence*—see s 13 (2)

substitute

- *ordinary offence*—see s 13 (2)

[1.3] Part 3, note 1, new dot point

insert

- *relevant offence*—see s 13 (2)

[1.4] Section 13 (2)

substitute

(2) In this Act:

ordinary offence means a relevant offence other than a serious offence.

relevant offence—

- (a) means an offence punishable by imprisonment for longer than 12 months; and

- (b) includes an offence (however described) against the law of the Commonwealth, a State or another Territory that may be dealt with under a law of the Commonwealth, the State or the other Territory as an indictable offence (or in a way corresponding to the way in which an indictable offence against an ACT law may be dealt with), even if it may also be dealt with as a summary offence (however described) in some circumstances.

Note An offence against an ACT law is an indictable offence if it is punishable by imprisonment for longer than 2 years, or is declared by law to be an indictable offence (see Legislation Act, s 190 (1)).

serious offence means—

- (a) an offence punishable by imprisonment for 5 years or longer;
or
(b) any other offence prescribed by regulation.

[1.5] Section 83 (1), note 2

omit

[1.6] Section 129 (2), note

omit

[1.7] Section 157, note 3

omit

[1.8] Section 190 (4), note

omit

[1.9] Dictionary, note 2, dot point

omit

- indictable offence

[1.10] Dictionary, definition of *indictable offence*

omit

[1.11] Dictionary, definition of *ordinary indictable offence*

substitute

ordinary offence—see section 13 (2).

[1.12] Dictionary, new definition of *relevant offence*

insert

relevant offence—see section 13 (2).

[1.13] Further amendments, mentions of *indictable offence* and *ordinary indictable offence*

column 1 item	column 2 provision	column 3 omit	column 4 substitute
1	section 9, note 2	an indictable offence	a relevant offence
2	section 9, note 4	an indictable offence	a relevant offence
3	section 12 (2), example	an indictable offence	a relevant offence
4	section 16	an indictable offence	a relevant offence
5	section 27 (2)	ordinary indictable offence	ordinary offence
6	section 29 (1) (a)	indictable offence	relevant offence
7	section 29 (1) (b)	stated indictable offence	stated relevant offence
8	section 29 (1) (b) (i)	ordinary indictable offence	ordinary offence
9	section 29 (1) (b) (i)	related indictable offence	related relevant offence

Schedule 1
Part 1.1

Legislation amended
Confiscation of Criminal Assets Act 2003

Amendment [1.13]

column 1 item	column 2 provision	column 3 omit	column 4 substitute
10	section 31 (2) (b) (i)	ordinary indictable offence	ordinary offence
11	section 31 (2) (b) (i)	related indictable offence	related relevant offence
12	section 47 heading	ordinary indictable offences	ordinary offences
13	section 47 (1)	ordinary indictable offence	ordinary offence
14	section 47 (3), notes	ordinary indictable offences	ordinary offences
15	section 47 (6)	ordinary indictable offence	ordinary offence
16	table 47 heading	ordinary indictable offences	ordinary offences
17	section 48 (5) (b)	ordinary indictable offences	ordinary offences
18	section 49 (1)	an indictable offence	a relevant offence
19	section 52	an indictable offence	a relevant offence
20	section 53	an indictable offence	a relevant offence
21	section 54 (1)	indictable offence	relevant offence
22	section 76 heading	ordinary indictable offences	ordinary offences
23	section 76 (1)	ordinary indictable offence	ordinary offence
24	section 76 (4) (b) and (d)	relevant indictable offence	relevant offence

column 1 item	column 2 provision	column 3 omit	column 4 substitute
25	section 83 (1)	an indictable offence	a relevant offence
26	section 84 heading	ordinary indictable offences	ordinary offences
27	section 84 (1)	ordinary indictable offence	ordinary offence
28	section 91 heading	ordinary indictable offence	ordinary offence
29	section 91 (1)	ordinary indictable offence	ordinary offence
30	section 91 (1)	ordinary indictable offences	ordinary offences
31	section 91 (2), example	ordinary indictable offence	ordinary offence
32	section 93 (2), example 2	ordinary indictable offence	ordinary offence
33	section 95, example	ordinary indictable offence	ordinary offence
34	section 98 (a)	ordinary indictable offences	ordinary offences
35	section 129 (2) (a)	an indictable offence	a relevant offence
36	section 142 (1) (a)	an indictable offence	a relevant offence
37	section 157 (a) (ii)	an indictable offence	a relevant offence

Schedule 1
Part 1.1

Legislation amended
Confiscation of Criminal Assets Act 2003

Amendment [1.13]

column 1 item	column 2 provision	column 3 omit	column 4 substitute
38	section 158 (2) (a)	an indictable offence	a relevant offence
39	section 158 (2), note	<i>An indictable offence</i>	<i>A relevant offence</i>
40	section 164, definition of <i>investigation</i> , paragraph (a) (ii)	an indictable offence	a relevant offence
41	section 190 (4)	an indictable offence	a relevant offence
42	section 195, definition of <i>target material</i> , paragraphs (b) and (d)	an indictable offence	a relevant offence
43	section 202 (1) (c)	an indictable offence	a relevant offence
44	section 239 (3) (b)	an indictable offence	a relevant offence
45	section 239 (3), example	an indictable offence	a relevant offence
46	section 249	an indictable offence	a relevant offence

Part 1.2 **Corrections Management Act 2007**

[1.14] Section 31A, note

omit

indictable offences against ACT laws.

substitute

offences against ACT laws punishable by imprisonment for longer than 12 months.

Part 1.3 **Crimes Act 1900**

[1.15] Section 22 heading

substitute

22 Assault with intent to commit other offence

[1.16] Section 26A

omit

[1.17] Section 49, table 49, item 6, column 2

omit

(Assault with intent to commit indictable offence)

substitute

(Assault with intent to commit other offence)

[1.18] Section 114A, definition of *proceeds of crime*, paragraphs (a) and (b) (ii)

omit

an indictable offence

substitute

an offence punishable by imprisonment for longer than 12 months

[1.19] Section 185, definition of *evidential material*

substitute

evidential material means a thing relevant to an offence, including a thing in electronic form.

[1.20] Section 185, new definition of *serious offence*

insert

serious offence means an offence punishable by imprisonment for longer than 12 months.

[1.21] Section 185, definitions of *thing relevant to an indictable offence* and *thing relevant to a summary offence*

substitute

thing relevant to an offence means—

- (a) anything in relation to which the offence has been committed or is suspected on reasonable grounds to have been committed; or
- (b) anything suspected on reasonable grounds to provide evidence of the commission of the offence; or
- (c) anything suspected on reasonable grounds to be intended to be used for the purpose of committing the offence.

[1.22] Section 187 (1) and note

substitute

- (1) The Commonwealth Crimes Act, part 1C (Investigation of Commonwealth offences) and the schedule (Form of explanation under section 23V) apply to offences not punishable by imprisonment, or punishable by imprisonment for 12 months or less, in the same way as they apply to offences punishable by imprisonment for longer than 12 months.

Note The Cwlth Crimes Act provisions apply to offences against ACT laws that are punishable by imprisonment for longer than 12 months if the investigating officer is a police officer (see that Act, s 23A (6)).

[1.23] Section 187 (3)

omit

a summary offence:

substitute

an offence not punishable by imprisonment, or punishable by imprisonment for 12 months or less:

[1.24] Section 194 (6) (ii) and (7) (ii)

omit

an indictable offence

substitute

a serious offence

[1.25] Section 195 (1) (d) (ii) and (2) (c) (ii)

omit

indictable offence

substitute

serious offence

[1.26] Section 207 (1) (a)

omit

an indictable offence

substitute

a serious offence

[1.27] Section 209 (1) (a)

omit

an indictable offence

substitute

a serious offence

[1.28] Section 217 (1)

omit

an indictable offence

substitute

a serious offence

[1.29] Section 220 (2) (b)

substitute

(b) the offence is a relevant offence; and

[1.30] Section 220 (4), definition of *relevant summary offence*

substitute

relevant offence means—

- (a) a serious offence; or
- (b) an offence against any of the following:
 - (i) section 380 (Possession of offensive weapons and disabling substances);
 - (ii) section 381 (Possession of offensive weapons and disabling substances with intent);
 - (iii) the Criminal Code, section 321 (Minor theft);
 - (iv) the *Road Transport (Alcohol and Drugs) Act 1977*, section 19 (Prescribed blood alcohol concentration exceeded).

[1.31] Section 253 (1), definition of *offence to which this Act applies*

omit

indictable offence

substitute

offence punishable by imprisonment for longer than 12 months

[1.32] Section 300, definition of *serious offence*, paragraph (a)

substitute

- (a) an offence involving actual or threatened violence and punishable by imprisonment for longer than 12 months; or

[1.33] Section 374

omit

[1.34] New section 375 (1) (c)

insert

- (c) an offence against the Criminal Code, section 310 (Aggravated robbery) or section 312 (Aggravated burglary).

[1.35] Section 375 (3) (b)

omit

\$10 000

substitute

\$30 000

[1.36] New section 375 (6A)

insert

- (6A) When the court is satisfied the case is ready to be listed for hearing, the court must ask the defendant whether the defendant consents to the case being disposed of summarily.

[1.37] Section 375 (7) (c)

substitute

- (c) the defendant consented to the case being disposed of summarily and the consent has not been withdrawn under section 375A; and
- (d) if the charge is for an offence against the Criminal Code, section 310 or section 312—the prosecutor also consents to the case being disposed of summarily.

[1.38] Section 375 (8) (c)

substitute

- (c) the defendant consents to the case being disposed of summarily and the consent is not withdrawn under section 375A; and
- (d) if the charge is for an offence against the Criminal Code, section 310 or section 312—the prosecutor also consents to the case being disposed of summarily.

[1.39] Section 375 (11) (b)

substitute

- (b) the defendant's consent to the case being disposed of summarily has been withdrawn under section 375A;

[1.40] New section 375 (11A)

insert

- (11A) If the Magistrates Court disposes of a case summarily under this section and convicts the defendant of the offence, the court must not impose a penalty that exceeds—
 - (a) a fine of \$15 000, imprisonment for 5 years or both; or
 - (b) if the maximum penalty provided for the offence by the law creating it is less than the penalty mentioned in paragraph (a)—the maximum penalty.

[1.41] Section 375 (12)

omit

If the court

substitute

If the Childrens Court

[1.42] New section 375A

insert

375A Withdrawal of consent to summary disposal of case

- (1) A consent given by a defendant under section 375 (6A) to summary disposal of a case can be withdrawn only if the court grants leave under this section.
- (2) The defendant may apply to the court for leave to withdraw the consent.
- (3) However, an application may not be made if a prosecution witness has given evidence in person at the hearing.
- (4) The court may grant leave only if satisfied on reasonable grounds that—
 - (a) a significant change in relation to the defendant or the case happened after the consent was given; and
 - (b) granting the leave is justified in all the circumstances.

Examples—par (a)

- 1 the defendant changed his or her legal representative before the start of the hearing
- 2 the prosecution provided new evidence before the start of the hearing.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

[1.43] New part 30

insert

**Part 30 Transitional—Crimes Legislation
Amendment Act 2008**

600 Application of amendments

The amendments of part 17 (Offences punishable summarily and summary procedure generally) made by the *Crimes Legislation Amendment Act 2008* do not apply to a proceeding for an offence if the hearing in the proceeding has started before the amendments commence.

601 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Crimes Legislation Amendment Act 2008*.
- (2) A regulation may modify this part (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.
- (3) A regulation under subsection (2) has effect despite anything else in this Act or another territory law.

602 Expiry—pt 30

This part expires 1 year after the day it commences.

Part 1.4 Crimes (Forensic Procedures) Act 2000

[1.44] Meaning of *serious offence* and *serious offender* Section 9 (1) (a)

substitute

- (a) an offence against a territory law punishable by imprisonment for longer than 12 months; or

Part 1.5 Crimes (Sentencing) Act 2005

[1.45] Section 48 (b)

substitute

- (b) an offence against any of the following provisions of the *Crimes Act 1900*;
 - (i) section 25 (Causing grievous bodily harm);
 - (ii) section 26 (Common assault);
 - (iii) section 35 (Stalking);
 - (iv) section 39 (Neglect etc of children);
 - (v) section 47 (Concealment of birth); or

[1.46] Section 48, note

omit

punishable by imprisonment for longer than 1 year

substitute

punishable by imprisonment for longer than 2 years

Part 1.6 Criminal Code 2002

[1.47] Section 317

relocate as section 322A

[1.48] Division 3.2.3 heading

relocate before section 319

[1.49] Division 3.8.1 heading

omit

[1.50] Division 3.8.2 heading

omit

[1.51] Section 363 heading

substitute

363 Obstructing territory official—minor offence

Part 1.7 Domestic Violence and Protection Orders Act 2001

[1.52] Schedule 1, item 6

substitute

6 22 assault with intent to commit other offence

[1.53] Schedule 1, item 10A

omit

Part 1.8 Domestic Violence and Protection Orders Act 2008

[1.54] Schedule 1, item 6

substitute

6 Crimes Act 22 assault with intent to commit other offence

[1.55] Schedule 1, item 11

omit

Part 1.9 Evidence (Miscellaneous Provisions) Act 1991

[1.56] Section 38 (4)

omit

committal proceeding

substitute

committal hearing

[1.57] Section 38 (4), note

omit

[1.58] Section 38A (3)

omit

committal proceeding

substitute

committal hearing

[1.59] Section 41 (4)

omit

committal proceeding

substitute

committal hearing

[1.60] Section 41 (4), note

omit

[1.61] Section 41A (3)

omit

committal proceeding

substitute

committal hearing

Part 1.10 Legislation Act 2001

[1.62] Section 190 (1)

substitute

- (1) An offence is an *indictable offence* if—
- (a) it is punishable by imprisonment for longer than 2 years; or
 - (b) it is declared by an ACT law to be an indictable offence.

Part 1.11 Magistrates Court Act 1930

[1.63] Section 17B

omit

[1.64] Section 89A (5) (b)

substitute

- (b) all the evidence for the prosecution has been taken;

[1.65] Section 90

substitute

90 **Committal proceedings—prosecution evidence to be given to accused person**

- (1) This section applies if a person (the *accused person*) is charged with an indictable offence and a committal hearing is to be held in relation to the charge.
- (2) Within the period, prescribed under the rules, before the date set for the committal hearing, the informant must serve the following documents on the accused person:
 - (a) a copy of the written statements that the informant proposes to tender at the hearing;
 - (b) for each exhibit identified in the statements—a copy of the exhibit or a notice relating to inspection of it.
- (3) A copy of the documents served must be filed in the court within the period prescribed under the rules.
- (4) Before the committal hearing, the accused person or the person's lawyer may ask the informant to allow the accused person or the person's lawyer to—
 - (a) inspect the exhibits mentioned in the notice (if any) served on the accused person under subsection (2) (b); and

- (b) if a statement is in the form of a transcript of a recording as mentioned in section 90AA (3A)—listen to or view the recording.
- (5) The informant must comply with a request under subsection (4).
- (6) Subsection (4) (b) does not entitle the accused person or the person's lawyer to be given or make a copy of the recording.

[1.66] Section 90AA (1)

substitute

- (1) If the informant has served a copy of a written statement on the accused person in accordance with section 90, the court at the committal hearing must admit the statement (and any exhibit identified in it) as evidence of the matters in it unless the statement (or exhibit) is inadmissible under this section or according to the rules of evidence.

[1.67] Section 90AA (4) to (8)

omit

[1.68] Section 90AA (10) and (11)

substitute

- (10) A prosecution witness may give evidence-in-chief in person at a committal hearing only with the court's leave.
- (11) The court may give leave only—
 - (a) on application by the prosecution; and
 - (b) if it considers that the interests of justice cannot adequately be satisfied if the witness's evidence-in-chief is not given in person at the hearing.

[1.69] Section 90AA (12), definitions of *proceeding for a sexual offence* and *sexual offence*

omit

[1.70] Section 90A heading

substitute

90A Plea of guilty at committal hearing

[1.71] Section 90AB

substitute

90AB Witnesses generally not to be cross-examined at committal hearing

- (1) A witness must not be cross-examined at a committal hearing if—
 - (a) the hearing relates to a sexual offence (whether or not it relates also to another offence); and
 - (b) the witness is a complainant in relation to the sexual offence.
- (2) A witness (other than a witness mentioned in subsection (1)) must not be cross-examined at a committal hearing unless, on application by the party seeking to cross-examine the witness, the court is satisfied that—
 - (a) the party has—
 - (i) identified an issue to which the proposed questioning relates; and
 - (ii) provided a reason why the evidence of the witness is relevant to the issue; and
 - (iii) explained why the evidence disclosed by the prosecution does not address the issue; and

- (iv) identified to the court the purpose and general nature of the questions to be put to the witness to address the issue; and
- (b) the interests of justice cannot adequately be satisfied by leaving cross-examination of the witness about the issue to the trial.
- (3) In this section:

sexual offence means an offence against the *Crimes Act 1900*, part 3 (Sexual offences), part 4 (Female genital mutilation) or part 5 (Sexual servitude).

[1.72] Section 90ABA

substitute

90ABA Attendance of accused not required if order made under s 89A

The accused person is not required to be present at the committal hearing if the person is excused from attending the hearing under section 89A.

[1.73] Section 91

omit

[1.74] Section 92 heading

substitute

91 Proceeding following prosecution evidence

[1.75] Section 92 (1)

omit everything before

the court must charge

substitute

When all the evidence offered by the prosecution in relation to the indictable offence with which the accused person is charged has been taken,

[1.76] Section 94 (a) and (b)

substitute

- (a) if the court is of the opinion, having regard to all the evidence before it, that there is a reasonable prospect that the person would be convicted of the offence—commit the person for trial for the offence; or
- (b) otherwise—if the person is in custody in relation to the offence, immediately order that the person be released from custody in relation to the offence.

[1.77] Section 97 (a)

substitute

- (a) in a proceeding under this part, the court is of the opinion, having regard to all the evidence before it, that there is no reasonable prospect that the person would be convicted of the offence; or

[1.78] New section 110 (1A)

insert

- (1A) However, the court may proceed under subsection (1) (a) only if satisfied on reasonable grounds that the defendant—
 - (a) knows the hearing date; and

- (b) understands that the court can proceed to hear and decide the case in the defendant's absence if the defendant fails to appear; and
- (c) has decided not to appear at the hearing.

[1.79] Section 207 (1) (c)

substitute

- (c) review appeals under division 3.10.3 (Review appeals in criminal matters).

[1.80] Section 219

substitute

219 No right of appeal under div 3.10.2 if review appeal

- (1) A person is not entitled to appeal to the Supreme Court under this division against a decision of the Magistrates Court if the person has instituted an appeal against the decision under division 3.10.3 (Review appeals in criminal matters).
- (2) If a person institutes an appeal under division 3.10.3 in relation to a decision of the Magistrates Court, any appeal against the decision that has been instituted under this division is taken to be withdrawn.

[1.81] Division 3.10.3 heading

substitute

Division 3.10.3 Review appeals in criminal matters

[1.82] Section 219B heading

substitute

219B Decisions subject to review appeal

[1.83] Section 219B (1)

omit everything before

in accordance with this division

substitute

Each of the following is a decision of the Magistrates Court from which an appeal by way of review (a *review appeal*) may be made

[1.84] Section 219C

substitute

219C How review appeal is instituted

- (1) A review appeal must be instituted by the appellant filing a notice of appeal in the Supreme Court within 28 days after the day the conviction was entered, the order or decision was made or the sentence or penalty imposed, or within any further time the Supreme Court allows.
- (2) As soon as practicable after instituting the appeal, the appellant must—
 - (a) file a copy of the notice of appeal in the Magistrates Court; and
 - (b) serve a copy of the notice of appeal on—
 - (i) for an appeal mentioned in section 219B (1) (b) or (c)—the director of public prosecutions; and
 - (ii) for any other appeal—the person who was the defendant in the proceeding in the Magistrates Court.

219D Grounds for review

The Supreme Court may review a decision of the Magistrates Court under this division on any 1 or more of the following grounds:

- (a) that there was a prima facie case of error or mistake on the part of the Magistrates Court;

- (b) that the Magistrates Court did not have jurisdiction or authority to make the decision;
- (c) that the decision of the Magistrates Court should not in law have been made;
- (d) for a decision mentioned in section 219B (1) (d) or (e)—that, in the circumstances of the case, the decision should not have been made;
- (e) for a decision mentioned in section 219B (1) (f)—that the sentence or penalty was manifestly inadequate or otherwise in error.

219E Report by Magistrate

On a review appeal, the Supreme Court may, if it considers appropriate, make an order requiring the magistrate by whom the Magistrates Court was constituted to give to the Supreme Court a report setting out the reasons for the decision of the Magistrates Court and any facts or matters that in the view of the magistrate were relevant to the decision of the Magistrates Court.

[1.85] Section 219F (1)

substitute

- (1) On a review appeal, the Supreme Court may, after considering the evidence before the Magistrates Court and any further evidence called by leave of the Supreme Court—
 - (a) dismiss the appeal if satisfied that the decision of the Magistrates Court should be confirmed; or
 - (b) set aside or quash, in whole or part, or otherwise vary or amend, the decision of the Magistrates Court.

[1.86] Section 219F (2) (b)

omit

preliminary examination

substitute

committal hearing

[1.87] Section 219F (5) and (6)

substitute

- (5) The Supreme Court may, despite the ground or any of the grounds for review mentioned in section 219D being established, dismiss the appeal if the court considers that no substantial miscarriage of justice has happened.
- (6) On the dismissal of an appeal, the decision of the Magistrates Court appealed from may be enforced, executed or given effect to as if the appeal had not been instituted.

[1.88] Section 219F (9)

substitute

- (9) Subsection (8) applies whether the Supreme Court dismisses the appeal or exercises any of the other powers given to it by this section.

[1.89] Section 244

substitute

244 Costs in criminal matters

- (1) The power of the court to award costs is subject to the following:
 - (a) if the court makes a conviction or order in favour of the informant—it may order that the defendant must pay to the informant the informant's costs;

- (b) if the court dismisses the information, or makes an order in favour of the defendant—it may order that the informant must pay to the defendant the defendant's costs;
 - (c) if a matter is adjourned—the court may order that the costs of and caused by the adjournment be paid by any party to any other party;
 - (d) costs ordered to be paid—
 - (i) must be awarded in the way prescribed by regulation; and
 - (ii) may be recovered under the rules about the enforcement of judgments of the court in civil proceedings.
- (2) Subject to any order of the court, the expenses of a person who attends at court to give evidence or to produce documents must be allowed to the person (whether or not they have been examined or produced documents and whether or not they were subpoenaed to attend).

[1.90] Section 289 (2)

substitute

- (2) Section 288 does not apply to the committal hearing for an indictable offence alleged to have been committed jointly by a child and an adult if a magistrate, having regard to the nature of the alleged offence and the time and expense involved in carrying out the committal hearings separately, orders that the section does not apply.

[1.91] New chapter 11

insert

Chapter 11 Transitional—Crimes Legislation Amendment Act 2008

450 Application of amendments—indictable offences

- (1) In this section:

commencement day means the day the *Crimes Legislation Amendment Act 2008*, part 1.10 (Legislation Act 2001) commences.

- (2) This section applies if, before the commencement day—

- (a) a person has been committed to the Supreme Court under this Act in relation to an offence punishable by imprisonment for longer than 1 year but not longer than 2 years; and
- (b) the matter has not been finally decided.

- (3) The Supreme Court may deal with the matter as if the offence were still an indictable offence.

451 Application of certain other amendments

- (1) The amendments of the following provisions made by the *Crimes Legislation Amendment Act 2008* do not apply to a proceeding for an offence if the hearing in the proceeding has started before the amendments commence:

- (a) section 90AA;
- (b) section 90AB;
- (c) section 90ABA;
- (d) section 92;

- (e) section 94;
 - (f) section 97;
 - (g) section 110.
- (2) The amendments of part 3.10 (Criminal appeals) made by the *Crimes Legislation Amendment Act 2008* do not apply to a proceeding on an appeal if the proceeding has started before the amendments commence.

452 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Crimes Legislation Amendment Act 2008*.
- (2) A regulation may modify this chapter (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this chapter.
- (3) A regulation under subsection (2) has effect despite anything else in this Act or another territory law.

453 Expiry—ch 11

This chapter expires 1 year after the day it commences.

[1.92] Dictionary, new definition of *review appeal*

insert

review appeal, for division 1.10.3 (Review appeals in criminal matters)—see section 219B (1).

Part 1.12 Prostitution Act 1992

[1.93] Schedule 1, item 4

substitute

4 22 assault with intent to commit other offence

Part 1.13 Supreme Court Act 1933

[1.94] Section 58A (1)

omit

preliminary examination

substitute

committal hearing

[1.95] Section 58A (1) (b) and (c)

substitute

- (b) if the witness gave evidence in person at the committal hearing, the accused person or the accused person's lawyer had the opportunity to cross-examine the witness;

[1.96] New part 10

insert

Part 10 Transitional—Crimes Legislation Amendment Act 2008

100 Application of amendments

- (1) In this section:

commencement day means the day the *Crimes Legislation Amendment Act 2008*, part 1.10 (Legislation Act 2001) commences.

- (2) This section applies if, before the commencement day, a proceeding had been commenced but not finally decided in the Supreme Court in relation to an offence punishable by imprisonment for longer than 1 year but not longer than 2 years.
- (3) The Supreme Court may deal with the matter as if the offence were still an indictable offence.

101 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Crimes Legislation Amendment Act 2008*.
- (2) A regulation may modify this part (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.
- (3) A regulation under subsection (2) has effect despite anything else in this Act or another territory law.

102 Expiry—pt 10

This part expires 1 year after the day it commences.

Part 1.14 Witness Protection Act 1996

[1.97] Section 8 (a) (i)

substitute

- (i) was a witness to or has knowledge of an offence punishable by imprisonment for longer than 12 months and is or has been a witness in a criminal proceeding relating to the offence; or

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 7 August 2008.

2 Notification

Notified under the Legislation Act on 9 September 2008.

3 Republications of amended laws

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

I certify that the above is a true copy of the Crimes Legislation Amendment Bill 2008, which was passed by the Legislative Assembly on 26 August 2008.

Clerk of the Legislative Assembly