

2010

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

## **Criminal Code Amendment Bill 2010**

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### **A Bill for**

An Act to amend the *Criminal Code 2002*

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

1 **1 Name of Act**

2 This Act is the *Criminal Code Amendment Act 2010*.

3 **2 Commencement**

4 This Act commences on the day after its notification day.

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

7 **3 Legislation amended**

8 This Act amends the *Criminal Code 2002*.

9 **4 New division 2.3.6**

10 *insert*

11 **Division 2.3.6 Lawful purpose**

12 **43A Lawful possession**

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

15 (a) the person is—

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

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

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

- 1 (b) the possession is—  
2 (i) for a law enforcement purpose; and  
3 (ii) reasonable in the circumstances for that purpose.
- 4 (2) Possession of a particular material or thing is for a law enforcement  
5 purpose if the possession is necessary for, or of assistance in, any of  
6 the following:
- 7 (a) enforcing a law of the Commonwealth, a State or Territory;  
8 (b) monitoring compliance with, or investigating a contravention  
9 of, a law of the Commonwealth, a State or Territory;  
10 (c) the administration of justice.
- 11 **Examples—law enforcement purpose**  
12 1 police investigation  
13 2 giving legal advice or providing legal representation  
14 3 carrying out analyses or tests for forensic reasons  
15 4 judicial service
- 16 *Note* An example is part of the Act, is not exhaustive and may extend, but  
17 does not limit, the meaning of the provision in which it appears (see  
18 Legislation Act, s 126 and s 132).
- 19 (3) In determining a person’s criminal responsibility, the question of  
20 whether a person’s possession of a particular material or thing is for  
21 a law enforcement purpose is a question of fact.

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2010.

**2 Notification**

Notified under the Legislation Act on 2010.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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