

2019

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Crimes Legislation Amendment Bill 2019

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2019

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FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Crimes Legislation Amendment Bill 2019

A Bill for

An Act to amend legislation about crimes, and for other purposes

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

J2018-789

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Crimes Legislation Amendment Act 2019*.

4 **2 Commencement**

5 (1) This Act (other than part 2) commences on the 7th day after its
6 notification day.

7 *Note* The naming and commencement provisions automatically commence on
8 the notification day (see [Legislation Act](#), s 75 (1)).

9 (2) Part 2 commences on a day fixed by the Minister by written notice.

10 *Note* A single day or time may be fixed, or different days or times may be
11 fixed, for the commencement of different provisions (see [Legislation Act](#),
12 s 77 (1)).

13 (3) If Part 2 has not commenced within 3 months beginning on this Act's
14 notification day, it automatically commences on the first day after that
15 period.

16 **3 Legislation amended**

17 This Act amends the legislation mentioned in parts 2 to 13.

1 **Part 2** **Bail Act 1992**

2 **4** **Rights following grant of bail**
3 **Section 6 (3)**

4 *omit*

5 section 56A (Arrest without warrant of person on bail)

6 *substitute*

7 section 56A (Arrest for failure to comply with bail condition)

8 **5** **Power in relation to bail—Magistrates Court**
9 **Section 20 (1) (b) (ii)**

10 *omit*

11 section 56A (Arrest without warrant of person on bail)

12 *substitute*

13 section 56A (Arrest for failure to comply with bail condition)

14 **6** **Section 56A**

15 *substitute*

16 **56A** **Arrest for failure to comply with bail condition**

17 (1) This section applies if—

18 (a) a person has been granted bail in the ACT or a State; and

19 *Note* **State** includes the Northern Territory (see [Legislation Act](#), dict,
20 pt 1).

21 (b) a police officer believes on reasonable grounds that the person—

22 (i) has failed to comply with a bail condition; or

23 (ii) will not comply with a bail condition.

24 (2) A police officer may, without a warrant, arrest the person.

- 1 **56AA Police power to enter premises to arrest**
- 2 (1) This section applies if—
- 3 (a) a police officer has power under section 56A to arrest a person
- 4 without a warrant; and
- 5 (b) the offence for which the person has been granted bail is a
- 6 relevant offence; and
- 7 (c) the police officer believes on reasonable grounds that the person
- 8 is on premises that are not a public place.
- 9 (2) The police officer may enter the premises to search the premises for
- 10 the person or to arrest the person, using the force that is necessary and
- 11 reasonable in the circumstances.
- 12 (3) However, the police officer must not enter a dwelling house under
- 13 this section unless the police officer believes on reasonable grounds
- 14 that—
- 15 (a) it is necessary having regard to the circumstances of the person’s
- 16 failure to comply, or expected failure to comply, with the bail
- 17 condition; and
- 18 (b) it would not be reasonable to arrest the person somewhere else;
- 19 and
- 20 (c) for entry before 6 am or after 9 pm on any day—
- 21 (i) it is necessary to do so to prevent the concealment, loss or
- 22 destruction of evidence of a matter relating to whether the
- 23 person has failed to comply, or will not comply, with a bail
- 24 condition; or
- 25 (ii) it would not be practicable to arrest the person at another
- 26 time.

1 (4) In this section:

2 *dwelling house*—see the *Crimes Act 1900*, section 220 (4).

3 *premises*—see the *Crimes Act 1900*, section 185.

4 *public place*—see the *Crimes Act 1900*, section 174.

5 *relevant offence*—see the *Crimes Act 1900*, section 220 (4).

6 **56AB Police officer must announce entry before entering**

7 (1) A police officer must, before entering premises under
8 section 56AA (2)—

9 (a) announce that the police officer is authorised to enter the
10 premises; and

11 (b) give any person at the premises an opportunity to allow entry to
12 the premises.

13 (2) A police officer is not required to comply with subsection (1) if they
14 believe on reasonable grounds that immediate entry to the premises
15 is required to ensure—

16 (a) the safety of a person (including a police officer); or

17 (b) that the arrest is not frustrated.

18 **56AC Police powers on arrest for failure to comply with bail**
19 **condition**

20 The following sections of the *Crimes Act 1900* apply in relation to the
21 arrest of a person under section 56A as if the person were arrested for
22 an offence:

23 (a) section 221 (Use of force in making arrest);

24 (b) section 222 (Persons to be informed of grounds of arrest);

25 (c) section 223 (Power to conduct frisk search of arrested person);

- 1 (d) section 224 (Power to conduct ordinary search of arrested
2 person);
- 3 (e) section 225 (Power to conduct search of arrested person's
4 premises);
- 5 (f) section 226 (Power to conduct search at police station);
- 6 (g) section 227 (Power to conduct strip search);
- 7 (h) section 228 (Rules for conduct of strip search);
- 8 (i) section 229 (Safekeeping of things seized).

9 **56AD Arrested person to be brought before court**

- 10 (1) If a police officer arrests a person under section 56A, the police
11 officer must bring the person before a court as soon as practicable.
- 12 (2) The court may—
- 13 (a) for a person granted bail in the ACT—exercise the same powers
14 in relation to bail as it has in relation to any other accused person
15 in custody; or
- 16 (b) for a person granted bail in a State—
- 17 (i) release the person unconditionally; or
- 18 (ii) grant the person bail subject to the conditions that the court
19 considers appropriate; or
- 20 (iii) remand the person in custody for a reasonable time while
21 a warrant for the person's arrest is obtained from the State.
- 22 (3) A release mentioned in subsection (2) (b) (i) does not affect the grant
23 of bail in the State.

24 *Note* **State** includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

1 **Part 3** **Confiscation of Criminal Assets**
2 **Act 2003**

3 **7** **Meaning of *narcotic substance* and *property* for div 7.3**
4 **Section 90, definition of *narcotic substance***

5 *substitute*

6 *narcotic substance*—

- 7 (a) see the *Customs Act 1901* (Cwlth), section 4; and
8 (b) includes anything prescribed by regulation for this definition;
9 but
10 (c) does not include cannabis food products.

11 **8** **New section 90 (2)**

12 *insert*

13 (2) In this section:

14 *cannabis food product*—see the *Drugs of Dependence Act 1989*,
15 section 6.

16 **9** **New division 10.1 etc**

17 *insert*

18 **Division 10.1** **Preliminary**

19 **127A** **Definitions—pt 10**

20 In this part:

21 *corresponding proceeds*, of a State or the Territory—see the
22 NCSUW agreement.

23 *Note* *State* includes the Northern Territory (see *Legislation Act*, dict).

1 **11 Section 128**

2 *omit*

3 In this part:

4 *substitute*

5 In this division:

6 **12 Meaning of *equitable sharing program***
7 **Section 129 (1)**

8 *omit*

9 In this part:

10 *substitute*

11 In this division:

12 **13 Section 129 (2), new definition of *proceeds of an unlawful***
13 ***activity***

14 *insert*

15 *proceeds of an unlawful activity* do not include proceeds of
16 confiscated assets, or corresponding proceeds, that are shareable
17 under the national cooperative scheme.

18 *Note* Proceeds that are shareable are dealt with in div 10.3 under the national
19 cooperative scheme on unexplained wealth.

20 **14 Payments into trust fund**
21 **New section 131 (1) (j)**

22 *insert*

23 (j) amounts paid to the Territory under the national cooperative
24 scheme.

1 **15 Purposes of trust fund**
2 **New section 132 (1) (g)**

3 *insert*

4 (g) payments by the Territory under the national cooperative
5 scheme.

6 **16 New division 10.3**

7 *insert*

8 **Division 10.3 National cooperative scheme on**
9 **unexplained wealth**

10 **Subdivision 10.3.1 Important concepts**

11 **135A Definitions—div 10.3**

12 In this division:

13 *CJC subcommittee*—see section 135E.

14 *contributing jurisdiction* means any of the following that make a
15 contribution for the purposes of the national cooperative scheme:

- 16 (a) the Commonwealth;
17 (b) a participating State;
18 (c) a cooperating State;
19 (d) the Northern Territory.

20 *contribution*—see the NCSUW agreement.

21 *cooperating jurisdiction committee*—see the NCSUW agreement.

22 *cooperating State*—see the *Proceeds of Crime Act 2002* (Cwlth),
23 section 14F.

24 *decision-making period*—see section 135B.

1 *non-participating State*—see the *Proceeds of Crime Act 2002*
2 (Cwlth), section 338.

3 *participating State*—see the *Proceeds of Crime Act 2002* (Cwlth),
4 section 14C.

5 **135B Meaning of *decision-making period*—div 10.3**

6 (1) In this division:

7 *decision-making period*—

8 (a) see the NCSUW agreement; or

9 (b) if paragraph (a) does not apply—means the period prescribed by
10 regulation as the decision-making period for the national
11 cooperative scheme.

12 (2) A decision-making period may start or end before an amount is paid
13 into the trust fund.

14 **Example**

15 The NCSUW agreement or a regulation may provide that, for shareable proceeds
16 that are to be paid to the Territory under a forfeiture order, the decision-making
17 period starts when the order is made.

18 **Subdivision 10.3.2 Sharing with the Commonwealth or a
19 State**

20 **135C Purpose of subdiv 10.3.2**

21 This subdivision sets out the process under the national cooperative
22 scheme for sharing with the Commonwealth or a State any
23 corresponding proceeds of the Territory that are shareable.

24 *Note* *State* includes the Northern Territory (see [Legislation Act](#), dict).

- 1 **135D Shareable proceeds of the Territory to be reduced to net**
2 **amount**
- 3 (1) The corresponding proceeds of the Territory that are shareable with
4 the Commonwealth or a State under the national cooperative scheme
5 must be reduced by any amount payable under the following sections:
6 (a) section 132 (1) (a), (d) and (e) (Purposes of trust fund);
7 (b) section 235 (Compensation).
8 (2) The amount remaining after the reduction is the *net amount*.
- 9 **135E Cooperating jurisdiction committee to establish**
10 **CJC subcommittee**
- 11 (1) The cooperating jurisdiction committee must establish a
12 subcommittee (the *CJC subcommittee*) to decide matters under this
13 division about the net amount.
14 (2) The CJC subcommittee must consist of the following members of the
15 cooperating jurisdiction committee:
16 (a) the Territory;
17 (b) if, in the decision-making period, the cooperating jurisdiction
18 committee makes a unanimous decision that the
19 Commonwealth, a participating State, a cooperating State or the
20 Northern Territory made a contribution to the recovery of the
21 corresponding proceeds of the Territory—each contributing
22 jurisdiction.
- 23 **135F Non-participating non-cooperating States' share**
- 24 (1) This section applies if, in the decision-making period, the
25 CJC subcommittee makes a unanimous decision that—
26 (a) a non-participating non-cooperating State made a contribution
27 to the recovery of the corresponding proceeds of the Territory;
28 and

1 (b) it is appropriate that a stated proportion of the net amount be
2 payable to the State.

3 (2) The stated proportion of the net amount is payable to the State under
4 the national cooperative scheme.

5 (3) In this section:

6 *non-participating non-cooperating state* means a non-participating
7 state that is not a cooperating state.

8 **135G Participating States', cooperating States' and Northern**
9 **Territory's share**

10 (1) If the CJC subcommittee includes a contributing jurisdiction—

11 (a) any remaining net amount is to be divided into equal proportions
12 between the Territory and each contributing jurisdiction; and

13 (b) the proportion for each contributing jurisdiction is payable to the
14 jurisdiction under the national cooperative scheme.

15 (2) However, if, in the decision-making period, the CJC subcommittee
16 makes a unanimous decision that it is inappropriate for the remaining
17 net amount to be divided equally—

18 (a) any remaining net amount is to be divided into the proportions
19 considered appropriate by the CJC subcommittee; and

20 (b) the proportion for each contributing jurisdiction is payable to the
21 jurisdiction under the national cooperative scheme.

22 (3) In this section:

23 *remaining net amount* means any proportion of the net amount
24 remaining after the stated proportion is deducted under section 135F
25 (Non-participating non-cooperating States' share).

1 **135H When decisions about amounts may be made**

2 A decision may be made under this division in relation to an amount
3 before the amount is paid into the trust fund or becomes the net
4 amount.

5 **Example**

6 If a forfeiture order is made that requires a person to pay to the Territory an amount,
7 the cooperating jurisdiction committee may establish a CJC subcommittee, and the
8 CJC subcommittee may make decisions under this division about the sharing of the
9 amount, before the amount is paid into the trust fund or becomes the net amount.

10 **135I Payment period**

11 (1) If an amount is payable to the Commonwealth or a State under this
12 division, the Minister must ensure that the amount is paid to the
13 Commonwealth or State before the end of—

14 (a) the payment period; or

15 (b) if paragraph (a) does not apply—the period prescribed by
16 regulation.

17 (2) In this section:

18 *payment period*—see the NCSUW agreement.

19 **17 Dictionary, new definitions**

20 *insert*

21 *CJC subcommittee*, for division 10.3 (National cooperative scheme
22 on unexplained wealth)—see section 135E.

23 *contributing jurisdiction*, for division 10.3 (National cooperative
24 scheme on unexplained wealth)—see section 135A.

25 *contribution*, for division 10.3 (National cooperative scheme on
26 unexplained wealth)—see section 135A.

27 *cooperating jurisdiction committee*, for division 10.3 (National
28 cooperative scheme on unexplained wealth)—see section 135A.

1 *cooperating State*, for division 10.3 (National cooperative scheme on
2 unexplained wealth)—see section 135A.

3 *corresponding proceeds*, of a State or the Territory, for part 10
4 (Confiscated assets trust fund)—see section 127A.

5 *decision-making period*, for division 10.3 (National cooperative
6 scheme on unexplained wealth)—see section 135B.

7 **18 Dictionary, definitions of *distributable funds* and**
8 ***equitable sharing program***

9 *substitute*

10 *distributable funds*, for division 10.2 (Establishment and payments
11 into and out of the trust fund)—see section 128.

12 *equitable sharing program*, for division 10.2 (Establishment and
13 payments into and out of the trust fund)—see section 129.

14 **19 Dictionary, new definitions**

15 *insert*

16 *national cooperative scheme*, for part 10 (Confiscated assets trust
17 fund)—see section 127A.

18 *national cooperative scheme on unexplained wealth*, for part 10
19 (Confiscated assets trust fund)—see section 127A.

20 *NCSUW agreement*, for part 10 (Confiscated assets trust fund)—see
21 section 127A.

22 *non-participating State*, for division 10.3 (National cooperative
23 scheme on unexplained wealth)—see section 135A.

24 *participating State*, for division 10.3 (National cooperative scheme
25 on unexplained wealth)—see section 135A.

26 *proceeds of confiscated assets*, for part 10 (Confiscated assets trust
27 fund)—see section 127A.

1 **20 Dictionary, definition of *reserved funds***

2 *substitute*

3 *reserved funds*, for division 10.2 (Establishment and payments into
4 and out of the trust fund)—see section 128.

5 **21 Dictionary, new definition of *shareable***

6 *insert*

7 *shareable*, in relation to proceeds of confiscated assets or
8 corresponding proceeds under the national cooperative scheme, for
9 part 10 (Confiscated assets trust fund)—see section 127A.

1 **Part 4** **Confiscation of Criminal Assets**
2 **Regulation 2003**

3 **22** **Other narcotic substances**
4 **Schedule 1, new section 1.1**

5 *before the table, insert*

6 **1.1** **Meaning of *cannabis food product*—sch 1**

7 In this schedule:

8 *cannabis food product*—see the [Drugs of Dependence Act 1989](#),
9 section 6.

10 **23** **Schedule 1, item 8**

11 *substitute*

8 Cannabis, other than a cannabis food product

1 **Part 5** **Crimes Act 1900**

2 **24 Acts endangering life etc**
3 **Section 27 (1), new definitions**

4 *insert*

5 *choke*, a person, includes apply pressure, to any extent, to the
6 person's neck.

7 *strangle*, a person, includes apply pressure, to any extent, to the
8 person's neck.

9 *suffocate*, a person, includes the following:

10 (a) obstruct, to any extent, any part of the person's—

11 (i) respiratory system; or

12 (ii) accessory systems of respiration;

13 (b) interfere, to any extent, with the operation of the person's—

14 (i) respiratory system; or

15 (ii) accessory systems of respiration;

16 (c) impede, to any extent, the person's respiration.

17 **25 Acts endangering health etc**
18 **Section 28 (1), new definitions**

19 *insert*

20 *choke*, a person—see section 27 (1).

21 *strangle*, a person—see section 27 (1).

22 *suffocate*, a person—see section 27 (1).

1 **Part 6** **Criminal Code 2002**

2 **26** **Definitions—ch 6**
3 **Section 600, definition of *cannabis***

4 *substitute*

5 *cannabis*—

6 (a) means a substance consisting of or containing—

7 (i) the fresh or dried parts of a cannabis plant; or

8 (ii) tetrahydrocannabinol; but

9 (b) does not include—

10 (i) goods that consist completely or mainly of cannabis fibre;
11 or

12 (ii) cannabis food products.

13 **27** **New section 600 (2)**

14 *insert*

15 (2) In this section:

16 *cannabis food product*—see the *Drugs of Dependence Act 1989*,
17 section 6.

1 **Part 7 Criminal Code Regulation 2005**

2 **28 Prohibited substances**
3 **Schedule 1, part 1.2, item 36**

4 *substitute*

36	Cannabis oil, except cannabis food products	25.00	2.50	12.50
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5 **29 Dictionary, new definition of *cannabis food product***

6 *insert*

7 *cannabis food product*—see the [Drugs of Dependence Act 1989](#),
8 section 6.

1 **Part 8** **Drugs of Dependence Act 1989**

2 **30** **New part 2 heading**

3 *after section 4, insert*

4 **Part 2** **Interpretation**

5 **31** **New section 6**

6 *insert*

7 **6** **Meaning of *cannabis food product***

8 (1) In this Act:

9 *cannabis food product* means any of the following products:

10 (a) low THC cannabis seeds if—

11 (i) the seeds contain not more than—

12 (A) 5 mg/kg of total THC; and

13 (B) 75 mg/kg of cannabidiol; and

14 (ii) the only cannabinoids in or on the seeds are naturally
15 present; and

16 (iii) for seeds that are a food for retail sale or an ingredient in a
17 food for retail sale—the seeds are non-viable and hulled;

18 (b) oil extracted from low THC cannabis seeds if—

19 (i) the oil contains not more than—

20 (A) 10 mg/kg of total THC; and

21 (B) 75 mg/kg of cannabidiol; and

- 1 (ii) the only cannabinoids in the oil are those that were
2 naturally present in or on the seeds from which the oil was
3 extracted;
- 4 (c) a beverage derived from low THC cannabis seeds if—
- 5 (i) the beverage contains not more than—
- 6 (A) 0.2 mg/kg of total THC; and
7 (B) 75 mg/kg of cannabidiol; and
- 8 (ii) the only cannabinoids in the beverage are those that were
9 naturally present in or on the seeds from which the
10 beverage was derived;
- 11 (d) any other product extracted or derived from low THC cannabis
12 seeds if—
- 13 (i) the product contains not more than—
- 14 (A) 5 mg/kg of total THC; and
15 (B) 75 mg/kg of cannabidiol; and
- 16 (ii) the only cannabinoids in the product are those that were
17 naturally present in or on the seeds from which the product
18 was extracted or derived.
- 19 (2) In this section:
- 20 ***hulled seeds*** means seeds from which the outer coat or hull has been
21 removed.
- 22 ***low THC cannabis sativa*** means cannabis sativa in which the leaves
23 and flowering heads do not contain more than 1%
24 delta 9-tetrahydrocannabinol.
- 25 ***low THC cannabis seeds*** means seeds of low THC cannabis sativa.
- 26 ***non-viable seeds*** means seeds that are not able to germinate.
- 27 ***seeds*** includes a part of a seed.

1 *total THC* means the total amount of delta 9-tetrahydrocannabinol
2 and delta 9-tetrahydrocannabinolic acid.

3 **32 Dictionary, definition of *cannabis*, paragraph (b)**

4 *substitute*

5 (b) does not include—

6 (i) cannabis resin; or

7 (ii) cannabis fibre; or

8 (iii) cannabis food products.

9 **33 Dictionary, new definition of *cannabis food product***

10 *insert*

11 *cannabis food product*—see section 6.

1 **Part 9 Family Violence Act 2016**

2 **34 Giving evidence by affidavit for interim order**
3 **Section 62A (2) (b)**

4 *substitute*

5 (b) sworn or affirmed before a police officer of, or above, the rank
6 of sergeant.

7 *Note* An affidavit may also be sworn or affirmed before a person mentioned in
8 the *Oaths and Affirmations Act 1984*, s 11.

9 **35 New section 70G**

10 *in division 4.4A, insert*

11 **70G Affidavit of service of documents by police**

12 If a police officer serves a document on a person under this Act, an
13 affidavit of service by the police officer may be sworn or affirmed
14 before another police officer of, or above, the rank of sergeant.

15 *Note* An affidavit may also be sworn or affirmed before a person mentioned in
16 the *Oaths and Affirmations Act 1984*, s 11.

1 **Part 10** **Firearms Act 1996**

2 **36 Offence—unauthorised possession or use of prohibited**
3 **firearms**
4 **Section 42 (b)**

5 *substitute*

6 (b) is not authorised by a licence or permit to possess or use each of
7 the prohibited firearms.

8 **37 Section 42, note**

9 *omit*

10 **38 New section 42 (2)**

11 *insert*

12 (2) It is a defence to a prosecution for an offence against subsection (1)
13 if the defendant proves that the defendant is authorised to possess or
14 use each of the prohibited firearms under 1 or more of the following
15 sections:

16 (a) section 136 (Temporary recognition of interstate licences—
17 general);

18 (b) section 137 (Temporary recognition of interstate category C
19 licences);

20 (c) section 138 (Interstate residents moving to ACT—category A,
21 B, and paintball marker licences);

22 (d) section 139 (Interstate residents moving to ACT—category C
23 and H licences);

24 (e) section 140 (Temporary recognition of interstate licences for
25 international visitors—shooting or paintball competitions);

1 (f) section 140A (Temporary recognition of interstate category D
2 licences—vertebrate pest animal control).

3 *Note 1* The defendant has a legal burden in relation to the matters mentioned in
4 s (2) (see [Criminal Code](#), s 59).

5 *Note 2* Certain people are exempt from this offence in certain circumstances
6 (see s 23 and sch 2).

7 **39 Offence—unauthorised possession or use of firearms**
8 **other than prohibited firearms**
9 **Section 43 (1) (b)**

10 *substitute*

11 (b) is not authorised by a licence or permit to possess or use each of
12 the firearms.

13 **40 Section 43 (1), note**

14 *omit*

15 **41 New section 43 (1A)**

16 *insert*

17 (1A) It is a defence to a prosecution for an offence against subsection (1)
18 if the defendant proves that the defendant is authorised to possess or
19 use each of the firearms under 1 or more of the following sections:

20 (a) section 136 (Temporary recognition of interstate licences—
21 general);

22 (b) section 137 (Temporary recognition of interstate category C
23 licences);

24 (c) section 138 (Interstate residents moving to ACT—category A,
25 B, and paintball marker licences);

26 (d) section 139 (Interstate residents moving to ACT—category C
27 and H licences);

1 (e) section 140 (Temporary recognition of interstate licences for
2 international visitors—shooting or paintball competitions);

3 (f) section 140A (Temporary recognition of interstate category D
4 licences—vertebrate pest animal control).

5 *Note 1* The defendant has a legal burden in relation to the matters mentioned in
6 s (1A) (see [Criminal Code](#), s 59).

7 *Note 2* Certain people are exempt from this offence in certain circumstances
8 (see s 23 and sch 2).

9 **42 Offence—disposal of firearms by unauthorised holders**
10 **generally**
11 **Section 237 (1) (b)**

12 *substitute*

13 (b) the person is not authorised by a licence or permit to possess the
14 firearm; and

15 **43 Section 237 (2), new note**

16 *insert*

17 *Note* The defendant has an evidential burden in relation to the matters
18 mentioned in s (2) (see [Criminal Code](#), s 58).

19 **44 New section 237 (3)**

20 *insert*

21 (3) It is a defence to a prosecution for an offence against subsection (1)
22 if the defendant proves that the defendant is authorised to possess the
23 firearm under 1 or more of the following sections:

24 (a) section 136 (Temporary recognition of interstate licences—
25 general);

26 (b) section 137 (Temporary recognition of interstate category C
27 licences);

- 1 (c) section 138 (Interstate residents moving to ACT—category A,
2 B, and paintball marker licences);
- 3 (d) section 139 (Interstate residents moving to ACT—category C
4 and H licences);
- 5 (e) section 140 (Temporary recognition of interstate licences for
6 international visitors—shooting or paintball competitions);
- 7 (f) section 140A (Temporary recognition of interstate category D
8 licences—vertebrate pest animal control).
- 9 *Note 1* The defendant has a legal burden in relation to the matters mentioned in
10 s (3) (see [Criminal Code](#), s 59).
- 11 *Note 2* Certain people are exempt from this offence in certain circumstances
12 (see s 23 and sch 2).

13 **45 Offence—disposal of inherited firearms**
14 **Section 238 (b)**

15 *substitute*

- 16 (b) the person is not authorised by a licence or permit to possess the
17 firearm; and

18 **46 New section 238 (2)**

19 *insert*

- 20 (2) It is a defence to a prosecution for an offence against subsection (1)
21 if the defendant proves that the defendant is authorised to possess the
22 firearm under 1 or more of the following sections:
- 23 (a) section 136 (Temporary recognition of interstate licences—
24 general);
- 25 (b) section 137 (Temporary recognition of interstate category C
26 licences);
- 27 (c) section 138 (Interstate residents moving to ACT—category A,
28 B, and paintball marker licences);

- 1 (d) section 139 (Interstate residents moving to ACT—category C
2 and H licences);
- 3 (e) section 140 (Temporary recognition of interstate licences for
4 international visitors—shooting or paintball competitions);
- 5 (f) section 140A (Temporary recognition of interstate category D
6 licences—vertebrate pest animal control).
- 7 *Note 1* The defendant has a legal burden in relation to the matters mentioned in
8 s (2) (see [Criminal Code](#), s 59).
- 9 *Note 2* Certain people are exempt from this offence in certain circumstances
10 (see s 23 and sch 2).

11 **47 Offence—possessing ammunition generally**
12 **Section 249 (1) (b)**

13 *substitute*

- 14 (b) the person is not authorised by a licence or permit to possess or
15 acquire the ammunition.

16 **48 Section 249 (2), new note**

17 *insert*

18 *Note* The defendant has an evidential burden in relation to the matters
19 mentioned in s (2) (see [Criminal Code](#), s 58).

20 **49 Section 249 (3), new note**

21 *insert*

22 *Note 2* The defendant has an evidential burden in relation to the matters
23 mentioned in s (3) (see [Criminal Code](#), s 58).

50 New section 249 (5)

1

insert

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(5) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that the defendant is authorised to possess or acquire the ammunition under 1 or more of the following sections:

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(a) section 136 (Temporary recognition of interstate licences—general);

(b) section 137 (Temporary recognition of interstate category C licences);

(c) section 138 (Interstate residents moving to ACT—category A, B, and paintball marker licences);

(d) section 139 (Interstate residents moving to ACT—category C and H licences);

(e) section 140 (Temporary recognition of interstate licences for international visitors—shooting or paintball competitions);

(f) section 140A (Temporary recognition of interstate category D licences—vertebrate pest animal control).

Note 1 The defendant has a legal burden in relation to the matters mentioned in s (5) (see [Criminal Code](#), s 59).

Note 2 Certain people are exempt from this offence in certain circumstances (see s 23 and sch 2).

1 **Part 11** **Medicines, Poisons and**
2 **Therapeutic Goods Act 2008**

3 **51** **Meaning of *prohibited substance* and *schedule 10***
4 ***substance*—Act**
5 **Section 13, definition of *prohibited substance*, except**
6 **note**

7 *substitute*

8 *prohibited substance*—

9 (a) means a substance to which the medicines and poisons standard,
10 schedule 9 applies; but

11 (b) does not include cannabis food products.

12 **52** **New section 13 (2)**

13 *insert*

14 (2) In this section:

15 *cannabis food product*—see the *Drugs of Dependence Act 1989*,
16 section 6.

1 **Part 12 Personal Violence Act 2016**

2 **53 Giving evidence by affidavit for interim order**
3 **Section 57A (2) (b)**

4 *substitute*

5 (b) sworn or affirmed before a police officer of, or above, the rank
6 of sergeant.

7 *Note* An affidavit may also be sworn or affirmed before a person mentioned in
8 the *Oaths and Affirmations Act 1984*, s 11.

9 **54 New section 64G**

10 *in division 4.4A, insert*

11 **64G Affidavit of service of documents by police**

12 If a police officer serves a document on a person under this Act, an
13 affidavit of service by the police officer may be sworn or affirmed
14 before another police officer of, or above, the rank of sergeant.

15 *Note* An affidavit may also be sworn or affirmed before a person mentioned in
16 the *Oaths and Affirmations Act 1984*, s 11.

1 **Part 13** **Road Transport (Alcohol and**
2 **Drugs) Act 1977**

3 **55 Prescribed drug in oral fluid or blood—driver or driver**
4 **trainer**
5 **New section 20 (3A)**

6 *insert*

7 (3A) A defendant in a prosecution for an offence against this section cannot
8 rely on the [Criminal Code](#), section 36 (Mistake of fact—strict
9 liability) in relation to having delta-9-tetrahydrocannabinol in the
10 defendant's oral fluid or blood if the defendant's mistake relates to
11 the effect of consumption of a cannabis food product on the presence
12 of delta-9-tetrahydrocannabinol in the defendant's oral fluid or blood.

13 **56 Section 20 (5), new definition of *cannabis food product***

14 *insert*

15 *cannabis food product*—see the [Drugs of Dependence Act 1989](#),
16 section 6.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 16 May 2019.

2 Notification

Notified under the [Legislation Act](#) on 2019.

3 Republications of amended laws

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

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