

2013

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

CRIMINAL CODE AMENDMENT REGULATION 2013 (NO 1)

SL2013-10

EXPLANATORY STATEMENT

**Presented by
Simon Corbell MLA
Attorney-General**

Criminal Code Amendment Regulation 2013 (No 1)

Outline

The progressive reform and codification of the criminal law of the ACT commenced in September 2001 with the passage of the *Criminal Code 2001* (which has since been renamed the *Criminal Code 2002* – the Code). The reforms have been primarily based on the Model Criminal Code, developed by the national Model Criminal Code Officers Committee (which has since been renamed the National Criminal Law Reform Committee), established by the Standing Committee of Attorneys-General (which has since been renamed the Standing Council on Law and Justice).

The Code has progressively grown in volume. It currently consists of six chapters, which deal with a broad range of offences including:

- Preliminary matters and general principles of criminal responsibility (chapters 1 and 2);
- Theft, fraud, bribery and related matters (chapter 3);
- Property damage and computer offences (chapter 4);
- Serious drug offences (chapter 6); and
- Administration of justice offences (chapter 7).

For an offence to operate effectively under the Code, it must be structured in a way that conforms to the general principles of criminal responsibility set out in chapter 2. Section 10 of the Code currently provides that chapter 2 applies to all ACT offences created after 1 January 2003, and will be applied to all pre-January 2003 offences on the 'default application date'. The default application date is currently 1 July 2013. A number of Directorates have identified but not completed reviews of legislation which contains pre-2003 offences.

The National Criminal Law Reform Committee (NCLRC) – a working group of the Standing Council on Law and Justice (SCLJ) – is currently reviewing the effectiveness of chapter 2 of the Model Criminal Code, with a focus on practical difficulties since implementation. NCLRC has received a number of submissions from key justice stakeholders, and has undertaken to report back to SCLJ in 2013.

The NCLRC consists of representatives from New South Wales, Victoria, South Australia, Western Australia, the Northern Territory and the Commonwealth, and the ACT has observer status.

Given that the NCLRC is likely to recommend possible amendments to chapter 2 of the Model Criminal Code, and that there are still a number of offences on the ACT statute book that have not been codified, the Government believes that it is prudent to defer the application of chapter 2 to pre-January 2003 offences to allow time to consider whether amendments to the Code are required.

This regulation extends the application date in the Code to 1 July 2017. It is considered that four years is adequate for the majority of offences to be reformed as the normal processes of reviewing and modernising law occurs.

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Detail

Clause 1 – Name of regulation

This is a technical clause that explains that the regulation is the *Criminal Code Amendment Regulation 2013 (No 1)*.

Clause 2 – Commencement

This clause provides that the regulation commences on the day after its notification.

Clause 3 – Legislation amended

This clause explains that the regulation will amend the *Criminal Code Regulation 2005*.

Clause 4 – New Section 4A

Section 10 (1) of the *Criminal Code 2002* prescribes the default application date as:

1 July 2013 or, if another date is prescribed by regulation for this definition, that date.

This clause inserts new section 4A into the *Criminal Code Regulations 2005* to change the default application date to 1 July 2017.