

*Department of the
Parliamentary Library*



INFORMATION AND RESEARCH SERVICES

Bills Digest

No. 127 2000–01

Finance and Administration Legislation
Amendment (Application of Criminal Code) Bill
(No. 1) 2001

ISSN 1328-8091

© Copyright Commonwealth of Australia 2001

Except to the extent of the uses permitted under the *Copyright Act 1968*, no part of this publication may be reproduced or transmitted in any form or by any means including information storage and retrieval systems, without the prior written consent of the Department of the Parliamentary Library, other than by Senators and Members of the Australian Parliament in the course of their official duties.

This paper has been prepared for general distribution to Senators and Members of the Australian Parliament. While great care is taken to ensure that the paper is accurate and balanced, the paper is written using information publicly available at the time of production. The views expressed are those of the author and should not be attributed to the Information and Research Services (IRS). Advice on legislation or legal policy issues contained in this paper is provided for use in parliamentary debate and for related parliamentary purposes. This paper is not professional legal opinion. Readers are reminded that the paper is not an official parliamentary or Australian government document. IRS staff are available to discuss the paper's contents with Senators and Members and their staff but not with members of the public.

Inquiries

Members, Senators and Parliamentary staff can obtain further information from the Information and Research Services on (02) 6277 2646.

Information and Research Services publications are available on the ParlInfo database.
On the Internet the Department of the Parliamentary Library can be found at:
<http://www.aph.gov.au/library/>

Published by the Department of the Parliamentary Library, 2001

I N F O R M A T I O N A N D R E S E A R C H S E R V I C E S

Bills Digest
No. 127 2000–01

Finance and Administration Legislation Amendment
(Application of Criminal Code) Bill (No. 1) 2001

Mary Anne Neilsen
Law and Bills Digest Group
17 May 2001

Contents

Purpose	1
Background	1
Application of Chapter 2	2
Defences	2
Proof of criminal responsibility	3
Removing and replacing inappropriate fault elements	3
Non-Code fault elements	3
Ancillary offences	4
Main Provisions	4
Application of amendments	4
Schedule 1—Amendment of Superannuation Acts	4
<i>Parliamentary Contributory Superannuation Act 1948</i>	4
<i>Superannuation Act 1922</i>	5
<i>Superannuation Act 1976</i>	6
<i>Superannuation Act 1990</i>	7
Schedule 2 - Amendment of other Acts	7
<i>Public Accounts and Audit Committee Act 1951</i>	7
<i>Public Works Committee Act 1969</i>	8
Concluding Comments	9
Penalties	9
Endnotes	10

Finance and Administration Legislation Amendment (Application of Criminal Code) Bill (No. 1) 2001

Date Introduced: 4 April 2001

House: House of Representatives

Portfolio: Finance and Administration

Commencement: Commencement: The later of the following times:

- 28 days after Royal Assent
- 28 days after Royal Assent of the *Law and Justice Legislation Amendment (Application of Criminal Code) Act 2000*

Purpose¹

The Bill amends legislation in the Finance and Administration portfolio in an attempt to harmonise certain criminal offence provisions in those statutes with the general principles of criminal responsibility set out in Chapter 2 of the Commonwealth *Criminal Code*.

Background

For an account of the background to the *Criminal Code* and a brief description of Chapter 2 of the Code, see the Bills Digest for the Environment and Heritage Legislation Amendment (Application of Criminal Code) Bill 2000 (*Bills Digest No.92, 2000-2001*).

Chapter 2 of the *Criminal Code* contains principles of criminal responsibility. Since 1995 there has been a staggered program of applying those principles to Commonwealth criminal laws. Chapter 2 applies to all offences against the Code. From 1 January 1997 it applied to all new Commonwealth offences. From 15 December 2001² it will apply to pre-existing Commonwealth offences. In order to meet this deadline, the Commonwealth has been reviewing pre-existing offence provisions with a view to harmonising them with Chapter 2, modifying the application of Chapter 2 where necessary or clarifying how Chapter 2 will apply.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

The Parliament has passed the following laws which apply Chapter 2 to legislation in a range of portfolios—*Communication and the Arts Legislation Amendment (Application of Criminal Code) Act 2001*, *Environment and Heritage Legislation Amendment (Application of Criminal Code) Act 2001*, *Foreign Affairs and Trade Legislation Amendment (Application of Criminal Code) Act 2001*, *Law and Justice Legislation Amendment (Application of Criminal Code) Act 2001*, *Treasury Legislation Amendment (Application of Criminal Code) Act 2001*, and *Veterans' Affairs Legislation Amendment (Application of Criminal Code) Act 2001*. Currently before the Parliament are the Prime Minister and Cabinet Legislation Amendment (Application of Criminal Code) Bill 2001, Migration Legislation Amendment (Application of Criminal Code) Bill 2001, Treasury Legislation Amendment (Application of Criminal Code) Bill 2001 and the present Bill.

The main areas covered by the Finance and Administration Amendment (Application of Criminal Code) Bill (No. 1) 2001 are described below.

Application of Chapter 2

The current amendments apply Chapter 2 to offence provisions in six Acts administered by the Department of Finance and Administration. The Acts are:

Parliamentary Contributory Superannuation Act 1948

Superannuation Act 1922

Superannuation Act 1976

Superannuation Act 1990

Public Accounts and Audit Committee Act 1951

Public Works Committee Act 1969

Defences

The Bill recreates and relocates some defences.

Defences to criminal offences are usually external to the physical and fault elements of offences and to offences themselves.³ Possibly for this reason, and to clearly identify defences as defences and not as elements of offences which have to be proved or disproved by the prosecution, the amendments relocate defences from provisions which set out the physical elements of an offence into their own separate subsections. The Bill deals specifically with the defence of reasonable excuse.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Proof of criminal responsibility

In relation to proof of criminal responsibility Chapter 2 provides that the prosecution bears a legal burden of proving every element of an offence.⁴ A legal burden is defined as the burden of proving the existence of the matter. The standard of proof on the prosecution is 'beyond reasonable doubt'.⁵ Chapter 2 also provides that a defendant bears an evidential burden of proof unless a law expressly indicates that the defendant bears a legal burden.⁶ An evidential burden in relation to a matter is the burden of adducing evidence suggesting there is a reasonable possibility that the matter exists or does not exist.⁷ The Bill includes amendments to clarify whether a defendant bears an evidential or legal burden in proving certain defences.

Removing and replacing inappropriate fault elements

Criminal offences are composed of fault elements⁸ and physical elements. In general, 'fault elements describe or define ... the state of mind of the accused in relation to the offence which must be proven for guilt to attach'.⁹

Chapter 2 defines the fault elements of 'intention', 'knowledge', 'recklessness' and 'negligence'.¹⁰ It also provides default fault elements. Default fault elements will apply where a statute does not specify a fault element for a particular physical element of an offence. The default fault elements provided by the *Criminal Code* are 'intention' in the case of conduct and 'recklessness' in the case of circumstances or results.¹¹

The Bill amends a number of offence provisions so that their constituent fault and physical elements correspond with the scheme supplied by the *Criminal Code*. For example, amendments ensure that the fault element of 'knowingly' does not apply to the physical element of conduct in an offence.

Non-Code fault elements

Many offence provisions in Commonwealth statutes do not specify fault elements. In other cases, a variety of expressions may be used including 'a purpose intended to be', 'wilfully', and 'for the purpose of'. The meaning of many of these expressions is uncertain.

The *Criminal Code* uses four fault elements. These are intention, knowledge, recklessness and negligence.¹² The Code does not prevent other fault elements being used in a particular statutory offence provision.¹³ However, the Bill removes non-Code fault elements such as 'wilfulness' with the effect that the default element of 'intention' will apply. The amendments are designed to retain the present meaning of particular offences while removing the need for a future court to feel obligated to distinguish between Code fault elements and non-Code fault elements when in fact there may be no difference in meaning between the two.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Ancillary offences

Some Commonwealth statutes contain provisions creating ancillary offences such as attempts to commit offences, incitement and conspiracy. These provisions will no longer be necessary once the *Criminal Code* is applied as it contains ancillary offence provisions. In particular section 11.2 of the *Criminal Code* creates the ancillary offence of aiding, abetting, counselling or procuring the commission of an offence and will apply to all offences. The Bill removes the ancillary offence of procuring the commission of an offence from statutes administered by the Department of Finance and Administration.

Main Provisions

Application of amendments

Clause 4 provides that the amendments proposed in the Bill will continue to apply to the *Superannuation Act 1922*, the *Superannuation Act 1976* and the *Superannuation Act 1990* in the event that those Acts are repealed and then saved, before the commencement of this Act. The Superannuation Legislation (Commonwealth Employment) Repeal and Amendment Bill 1998 and the Superannuation Legislation (Commonwealth Employment—Savings and Transitional Provisions) Bill 1998, which are two Bills currently before the Senate, propose to repeal and save these superannuation Acts.

Clause 5 provides that the amendments in the Bill apply to acts and omissions that occur after the amendments commence.

Schedule 1—Amendment of Superannuation Acts

Parliamentary Contributory Superannuation Act 1948

The Parliamentary Contributory Superannuation Act (PCS Act) provides a contributory superannuation scheme under which benefits are paid to former members of Parliament, their spouses, children and personal representatives. The Scheme is administered by the Department of Finance under the direction of the Parliamentary Retiring Allowances Trust.

Item 1 amends the PCS Act by inserting **new section 4F** which applies Chapter 2 of the *Criminal Code* to all offences against the Act.

Under section 21B of the PCS Act, where a former member, entitled to a retiring allowance, takes an office of profit under the Crown, the retiring allowance is reduced. Subsection 21B(5) requires that such a former member must notify the Department of Finance and Administration within 14 days of taking up the office of profit. The penalty for contravening this requirement is currently \$500. **Item 2** converts the monetary amount

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

into penalty units and increases the maximum penalty to 15 penalty units (currently \$1650).

It is an offence under existing subsection 21B(7) for a person, without reasonable excuse, to refuse to furnish information about holding an office of profit. **Item 4** removes the defence 'without reasonable excuse' from subsection 21B(7) and **item 7** reinserts it as a stand alone defence in **new subsection 21B(8)**. The purpose of this amendment is to ensure that the defence is not interpreted as part of the offence provision. **Item 5** increases the penalty for this offence from a maximum of \$500 to a new maximum of 30 penalty units (currently \$3300) or 6 months imprisonment or both.

Existing subsection 21B(8) provides that a person must not provide false or misleading information regarding an office of profit. **Item 7** repeals this provision on the basis that it will be supplanted by provisions contained in the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000*.¹⁴ These provisions will commence on 24 May 2001.

Superannuation Act 1922

Since the establishment of the Commonwealth Public Service, there have been three superannuation schemes for federal public servants. These were introduced by the *Superannuation Act 1922* (the 1922 scheme), the *Superannuation Act 1976* (the Commonwealth Superannuation Scheme) and the *Superannuation Act 1990* (the Public Sector Superannuation Scheme). The 1922 scheme has become less important over time and applies to people who were in receipt of a pension, or had a deferred benefit, on 1 July 1976, the children of such people and certain widows and ex-wives. Entrance to the scheme ceased on 1 July 1976, when the Commonwealth Superannuation Scheme came into effect.

Item 8 amends the *Superannuation Act 1922* (1922 Act) by inserting **new section 6** which applies Chapter 2 of the *Criminal Code* to all offences against the Act.

Section 143A deals with judgement debtors and superannuation entitlements. Subsection 143(8) in particular requires that a judgement creditor, who has served a copy of a judgement under subsection 143A(1) must notify the Commissioner for Superannuation immediately the judgement debt has been satisfied. Contravention of this requirement currently incurs a maximum penalty of \$100 or imprisonment for three months. **Item 11** amends this subsection in two ways. Firstly it specifies that the creditor must notify the Commissioner within 21 days of the judgement debt being satisfied and secondly it amends the penalty by increasing the fine to 5 penalty units (currently \$550) and removing the imprisonment penalty.

Paragraph 150(1)(d) of the 1922 Act provides that the Governor-General may make regulations under the Act prescribing penalties not exceeding \$100 for an offence against the regulations. **Item 12** increases the penalty amount that the Governor-General may prescribe to 20 penalty units (currently \$2200).

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Superannuation Act 1976

The Superannuation Act 1976 (1976 Act) set up the Commonwealth Superannuation Scheme (CSS). The CSS provides for the retirement, termination and death benefits for members who joined the Commonwealth Public Service on or after 1 July 1976 and for previous members of the 1922 scheme who continued to contribute to superannuation after that date.

Item 14 amends the 1976 Act by inserting **new section 3F** which applies Chapter 2 of the *Criminal Code* to all offences against the Act.

Existing section 44 of the 1976 Act requires that the CSS Board must keep proper accounts and records of the CSS Fund's transactions and affairs. Subsection 44(3) provides that each member of the Board who intentionally causes the contravention of this requirement is guilty of an offence. **Item 15** deletes the word 'intentionally'. As the Explanatory Memorandum explains, the *Criminal Code* specifies that the default element in respect of proscribed conduct is intention and therefore the word 'intentionally' is no longer necessary for this particular offence.

Item 16 changes the penalty for this offence from '6 months imprisonment' to '6 months imprisonment or 30 penalty units [currently \$3300] or both'. This amendment appears, strictly speaking, to be unnecessary as subsection 4B(2) of the *Crimes Act 1914* specifies that a penalty of imprisonment may be converted into a pecuniary penalty and imposed additionally to or instead of that pecuniary penalty. The conversion is calculated according to the formula that the fine in penalty units is an amount not exceeding 5 times the prison term expressed in months (in this case 6 months x 5 = 30 penalty units).

Section 119 deals with judgement debtors and superannuation entitlements under the 1976 Act. Subsection 119(7) in particular requires that a judgement creditor who has served a copy of a judgement under subsection 119(1), must notify the Commissioner for Superannuation immediately the judgement has been satisfied. Contravention of this requirement incurs a penalty of \$100 or imprisonment for ten days if the offender is a natural person or \$500 if the offender is a body corporate. **Item 18** amends this subsection in two ways. Firstly it specifies that the judgement creditor must notify the Commission within 21 days of the debt being cleared and it amends the penalty by increasing the fine to 5 penalty units (currently \$550) and removing the imprisonment penalty. The reference to a body corporate is removed as subsection 4B(3) of the *Crimes Act 1914* automatically calculates these penalties as a multiple of 5 of the penalty attached to a natural person. In this case the penalty for a corporation would be 25 penalty units (currently \$2750).

Items 21 and 22 make similar amendments to section 163A. **New subsection 163A(1)** specifies that a person has a time limit of 14 days in which to produce certain documents and **new subsection 163A(3)** increases the monetary penalty for the offence from \$1000 to \$3300. In this case the current 6 month imprisonment penalty is retained.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Paragraph 168(1)(b) provides that the Governor-General may make regulations under the Act prescribing penalties not exceeding \$100 for an offence against the regulations. **Item 23** increases the penalty amount that the Governor-General may prescribe to 20 penalty units (currently \$2200).

Superannuation Act 1990

The *Superannuation Act 1990* (1990 Act) establishes the Public Sector Superannuation Scheme (PSS). The PSS is the superannuation scheme for all people who commenced service after 30 June 1990. Until 1 July 1991 it was also open to CSS members who elected to join.

Item 25 amends the 1990 Act by inserting **new section 3B** which applies Chapter 2 of the *Criminal Code* to all offences against the Act.

Existing section 27A of the 1990 Act requires that the Board must keep proper accounts and records of the PSS Fund's transactions and affairs. Under subsection 27A(3) each member of the Board who intentionally causes the contravention of this requirement is guilty of an offence. **Item 26** deletes the word 'intentionally'. As the *Criminal Code* specifies that the default element in respect of proscribed conduct is intention, the word 'intentionally' is no longer strictly necessary.

Item 27 changes the penalty for this offence from '6 months imprisonment' to '6 months imprisonment or 30 penalty units or both'. Thirty penalty units is currently \$3300. This amendment appears strictly speaking, to be unnecessary as subsection 4B(2) of the *Crimes Act 1914* specifies that a penalty of imprisonment may be converted into a pecuniary penalty and imposed additionally to or instead of that pecuniary penalty. The fine in penalty units is an amount not exceeding 5 times the prison term expressed in months. In this case it would be 6 months x 5 = 30 penalty units.

Schedule 2 - Amendment of other Acts

Public Accounts and Audit Committee Act 1951

The *Public Accounts and Audit Committee Act 1951* (PAAC Act) provides for a joint Parliamentary Committee of Public Accounts and Audit. The PAAC Act establishes a broad range of responsibilities for the Committee— from examining all reports of the Auditor-General; to reporting on any circumstances connected with the financial accounts and statements of Commonwealth agencies; and reporting on any matter referred by the Parliament.

Item 1 amends the PAAC Act by inserting **new section 4A** which applies Chapter 2 of the *Criminal Code* to all offences against the Act.

It is an offence under section 15 of the PAAC Act for a person to fail, without reasonable excuse, to obey a summons to appear as a witness before the Committee. **Items 2 and 3** restructure section 15 in order to separately spell out that it is a defence that the person has

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

a 'reasonable excuse'. The purpose of this amendment is to ensure that the defence is not interpreted as an element of the offence. The amendments also expressly provide that the defendant carries a legal burden in relation to the defence of reasonable excuse. This is in keeping with the wording in current section 15 ('proof whereof shall lie upon him'). Failure to specify that a defendant bears a legal burden of proof would have meant that an evidential burden would have applied by operation of the *Criminal Code* (section 13.4).

Existing section 16 of the PAAC Act prohibits a person from 'knowingly' dissuading or preventing a person from obeying a summons under section 13. **Item 4** removes the word 'knowingly'. Under Chapter 2 of the *Criminal Code* knowledge is not applied to the physical element of conduct (ie the conduct of dissuading or preventing the person from obeying the summons). Removal of the word 'knowingly' is thus designed to harmonise the physical and fault elements in the offences with Chapter 2 of the *Criminal Code*. Following the removal of the words 'knowingly' the *Criminal Code*'s default fault elements apply to each physical element of the offence. These default fault elements are intention in the case of conduct, and recklessness in the case of circumstance or result.

Existing section 18 deals with an offence of wilfully giving false evidence before the Committee. **Item 5** removes the word 'wilfully' from the provision. Under the *Criminal Code* the default fault element of 'intention' will apply to the physical element of conduct in the offence (ie the conduct of giving false evidence). 'Wilful' is not an expression that is used in Chapter 2 of the *Criminal Code*. The Explanatory Memorandum remarks that 'intentional' is an equivalent expression and suggests that while the Criminal Code does not prevent the use of non-Code fault elements (such as 'wilfully'), its retention might lead to a future court decision distinguishing 'wilfully' from 'intentionally' when interpreting the provision.¹⁵

Section 19 deals with the protection of witnesses and includes the offences of using, causing, inflicting or procuring violence to a witness before the Committee. **Item 6** removes the word 'procure' from section 19. Ancillary offence provisions such as procuring the commission of a primary offence will be applied to primary offence provisions as a result of the operation of the *Criminal Code*, thus making their presence in the PAAC Act redundant.

Public Works Committee Act 1969

The *Public Works Committee Act 1969* (PWC Act) establishes the Parliamentary Standing Committee on Public Works. The PWC Act empowers the Committee to inquire into and report to the Parliament on each public work referred to it. The Act further requires that all public works for the Commonwealth, which are estimated to cost more than \$6 million, must be referred to the Committee.

Item 7 amends the PWC Act by inserting **new section 5A** which applies Chapter 2 of the *Criminal Code* to all offences against the Act.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

It is an offence under section 28 of the PWC Act for a person to fail, without reasonable excuse, to obey a summons to appear as a witness before the Committee. **Items 8 and 9** restructure section 28 in order to separately spell out that it is a defence that the person has a 'reasonable excuse'. The purpose of this amendment is to ensure that the defence is not interpreted as an element of the offence. The amendments also expressly provide that the defendant carries a legal burden in relation to the defence of reasonable excuse. This is in keeping with the wording in current section 28 ('proof whereof shall lie upon him'). Failure to specify that a defendant bears a legal burden of proof would have meant that an evidential burden would have applied by operation of the *Criminal Code* (section 13.4). **Items 11 and 12** make similar amendments to section 30.

Existing section 29 of the PWC Act prohibits a person from 'knowingly' dissuading or preventing a person from obeying a summons under section 21. **Item 10** removes the word 'knowingly'. Under Chapter 2 of the *Criminal Code* knowledge is not applied to the physical element of conduct (ie the conduct of dissuading or preventing the person from obeying the summons). Removal of the word 'knowingly' is thus designed to harmonise the physical and fault elements in the offences with Chapter 2 of the *Criminal Code*. Following the removal of the words 'knowingly' the *Criminal Code*'s default fault elements apply to each physical element of the offence. These default fault elements are intention in the case of conduct, and recklessness in the case of circumstance or result.

Existing section 31 deals with an offence of wilfully giving false evidence before the Committee. **Item 13** removes the word 'wilfully' from the provision. Under the *Criminal Code* the default fault element of 'intention' will apply to the physical element of conduct in the offence (ie the conduct of giving false evidence). 'Wilful' is not an expression that is used in Chapter 2 of the *Criminal Code*. The Explanatory Memorandum remarks that 'intentional' is an equivalent expression.¹⁶ While the *Criminal Code* does not prevent the use of non-Code fault elements (such as 'wilfully'), its retention might lead to a future court decision distinguishing 'wilfully' from 'intentionally' when interpreting the provision.

Section 32 deals with the protection of witnesses and includes the offences of causing or procuring violence to a person on account of his having appeared as a witness before the Committee. **Item 14** removes the word 'procure' from section 32. Ancillary offence provisions such as procuring the commission of a primary offence will be applied to primary offence provisions as a result of the operation of the *Criminal Code*, thus making their presence in the PWC Act redundant.

Concluding Comments

Penalties

The Second Reading Speech and the Explanatory Memorandum indicate that the primary purpose of the Bill is to harmonise certain criminal offence provisions in legislation within

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

the Finance and Administration portfolio with the general principles of criminal responsibility set out in Chapter 2 of the Commonwealth *Criminal Code*.

It is of note that the Bill also makes numerous changes to the penalty clauses in the superannuation Acts within this portfolio. These include monetary penalty increases¹⁷, the removal of imprisonment penalties¹⁸, the insertion of an imprisonment penalty¹⁹, and the conversion of monetary amounts into penalty unit amounts. These amendments are not required by the *Criminal Code* harmonisation project but according to the Explanatory Memorandum are justified on the grounds that they are considered more appropriate and in line with the *Crimes Act 1914*.²⁰

It would seem that use is being made of the *Criminal Code* harmonisation project to update penalties, which in some cases have not been altered for twenty years. However, on this basis, it might be suggested that the penalty clauses in the other Acts amended by this Bill [ie the *Public Works Committee Act 1969* and the *Public Accounts and Audit Committee Act 1951*] could also be updated.

Endnotes

- 1 Much of the Background is extracted from the [Bills Digest](#) for the Law and Justice Legislation Amendment (Application of Criminal Code) Bill 2000 (*Bills Digest No 96, 2000–2001*).
- 2 The original timetable was that Chapter 2 would apply to pre-existing offences from 16 March 2000. However, this deadline could not be met and so the *Criminal Code Amendment (Application) Act 2000* was passed to extend the application date to 15 December 2001.
- 3 Matthew Goode, 'The Modern Criminal Code Project', *Australian Law Librarian*, 5(4), December 1997, pp. 267–76 at p. 267.
- 4 Subsection 13.1(1).
- 5 Subsection 13.2(1).
- 6 Subsections 13.3(1) & 13.3(4).
- 7 Subsection 13.3(6).
- 8 Except in the case of strict or absolute liability offences.
- 9 Goode, op.cit, p. 268.
- 10 Sections 5.2, 5.3, 5.4 and 5.5.
- 11 Section 5.6.
- 12 Subsection 5.1(1).
- 13 Subsection 5.1(2).
- 14 *Explanatory Memorandum*, pp. 4–5.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

- 15 page 11.
- 16 page 12.
- 17 For example the PCS Act section 27B(7). Item 5 of Schedule 1 increases the penalty from \$500 to a new maximum of 30 penalty units (currently \$3300), and adds a six month imprisonment penalty.
- 18 For example, the 1922 Act, subsection 143A(8).
- 19 PCS Act, section 27B(7).
- 20 *Explanatory Memorandum*, page 1.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.