



**Prime Minister and Cabinet Legislation
Amendment (Application of Criminal
Code) Act 2001**

No. 49, 2001

**An Act relating to the application of the *Criminal
Code* to certain offences, and for other purposes**

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Prime Minister and Cabinet Legislation Amendment (Application of Criminal Code) Act 2001

No. 49, 2001

An Act relating to the application of the *Criminal Code* to certain offences, and for other purposes

[Assented to 21 June 2001]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Prime Minister and Cabinet
Legislation Amendment (Application of Criminal Code) Act 2001*.

2 Commencement

This Act commences at the later of the following times:

- (a) immediately after the commencement of item 15 of Schedule 1 to the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000*;
- (b) the start of the 28th day after the day on which the *Law and Justice Legislation Amendment (Application of Criminal Code) Act 2001* receives the Royal Assent;
- (c) the start of the 28th day after the day on which this Act receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

4 Application of amendments

- (1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.
- (2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.

Schedule 1—Application of the Criminal Code

Inspector-General of Intelligence and Security Act 1986

1 At the end of Part I

Add:

5A Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

2 Paragraph 18(6)(d)

Repeal the paragraph, substitute:

(d) an offence against:

(i) section 6 of the *Crimes Act 1914*; or

(ii) section 11.1, 11.4 or 11.5 of the *Criminal Code*;
being an offence that relates to an offence against this section.

3 Subsection 18(7)

Omit “, without reasonable excuse”.

4 Paragraphs 18(7)(a) and (b)

Omit “refuses or”.

5 After subsection 18(7)

Insert:

(7A) Subsection (7) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(7B) Subsection (7) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (7B) (see subsection 13.3(3) of the *Criminal Code*).

Ombudsman Act 1976

6 At the end of Part I

Add:

3D Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

7 Subsection 36(1)

Omit “, without reasonable excuse”.

8 Before subsection 36(3)

Insert:

(2A) Subsection (1) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A) (see subsection 13.3(3) of the *Criminal Code*).

Parliamentary Commission of Inquiry (Repeal) Act 1986

9 After section 4

Insert:

4A Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Resource Assessment Commission Act 1989

10 At the end of Part 1

Add:

4A Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* (except Part 2.5) applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

11 Subsection 53(1)

Omit “, without reasonable excuse”.

12 Paragraphs 53(1)(a) and (b)

Omit “refuses or”.

13 After subsection 53(1)

Insert:

(1A) Subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(1B) Subsection (1) does not apply if the person has a reasonable excuse.

14 Subsection 53(2)

Omit “without reasonable excuse, refuses or”.

15 After subsection 53(2)

Insert:

(2A) Subsection (2) is an offence of strict liability.

(2B) Subsection (2) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsections (1B) and (2B) (see subsection 13.3(3) of the *Criminal Code*).

16 Subsection 53(3)

Omit “subsection (1)”, substitute “subsection (1B)”.

17 Subsection 53(3)

Omit “refuse or”.

Royal Commissions Act 1902

18 After section 1B

Insert:

1C Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

19 Subsection 3(1)

Omit “, without reasonable excuse”.

20 After subsection 3(1)

Insert:

(1A) Subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(1B) Subsection (1) does not apply if the person has a reasonable excuse.

21 Subsection 3(2)

Omit “, without reasonable excuse, refuse or”.

22 After subsection 3(2)

Insert:

(2A) Subsection (2) is an offence of strict liability.

(2B) Subsection (2) does not apply if the person has a reasonable excuse.

23 Subsection 3(3)

Omit “refusal or”.

24 Subsection 3(3)

Omit “it is proved that”.

25 At the end of subsection 3(3)

Add:

Note: A defendant bears an evidential burden in relation to the matters in subsections (1B), (2B) and (3) (see subsection 13.3(3) of the *Criminal Code*).

26 At the end of section 6

Add:

(3) Subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

27 Subsection 6A(1)

Omit “subsection 3(2)”, substitute “subsection 3(2B)”.

28 Subsection 6H(1)

Omit “knowingly give false or misleading evidence”, substitute “intentionally give evidence that the person knows to be false or misleading”.

29 Paragraph 6I(c)

Omit “or attempts”.

30 Section 6J

Omit “knowingly makes or exhibits any false statement, representation, token, or writing,”, substitute “intentionally makes or exhibits any statement, representation, token, or writing, knowing it to be false,”.

31 Subsection 6K(1)

Repeal the subsection, substitute:

- (1) A person commits an offence if:
 - (a) the person acts or omits to act; and
 - (b) the act or omission results in a document or other thing being:
 - (i) concealed, mutilated or destroyed; or
 - (ii) rendered incapable of identification; or
 - (iii) in the case of a document, rendered illegible or indecipherable; and

- (c) the person knows or has reasonable grounds to believe that the document or thing is or may be required in evidence before a Commission.

32 Section 6L

Omit “wilfully prevents or wilfully endeavours to prevent”, substitute “intentionally prevents”.

33 Section 6M

Omit “, inflicts, or procures,”, substitute “or inflicts,”.

34 Subsection 6N(2)

Repeal the subsection, substitute:

- (2) Subsection (1) does not apply if the employee was dismissed or prejudiced in his or her employment for some reason other than the reasons mentioned in subsection (1).

Note: A defendant bears an evidential burden in relation to the matters in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

35 Subsection 6O(1)

Omit “wilfully”, substitute “intentionally”.

36 Subsection 6O(1)

Omit “wilful”, substitute “intentional”.

Schedule 2—Other amendments

Ombudsman Act 1976

1 Section 3AB

Re-number as section 3A.

2 Section 3AA

Re-number as section 3B.

3 Section 3A

Re-number as section 3C.

Royal Commissions Act 1902

4 Subsection 3(2)

Omit “he” (first occurring), substitute “the person”.

5 Subsection 3(2)

Omit “him”, substitute “him or her”.

6 Subsection 3(2)

Omit “he” (second occurring), substitute “the person”.

7 Subsection 4(3)

Omit “he” (first occurring), substitute “he or she”.

8 Subsection 4(3)

Omit “he” (second occurring), substitute “the member or person”.

9 Subsection 4(5)

Omit “he” (wherever occurring), substitute “he or she”.

10 Subsection 4(5)

Omit “him”, substitute “the person”.

11 Subsection 5(2)

Omit “he”, substitute “the Judge”.

12 Subsection 6(1)

Omit “him”, substitute “him or her”.

13 Subsection 6(1)

Omit “he”, substitute “, the person”.

14 Subsection 6A(1)

Omit “he”, substitute “the person”.

15 Subsection 6A(1)

Omit “him”, substitute “him or her”.

16 Subsection 6A(2)

Omit “he”, substitute “the person”.

17 Subsection 6A(2)

Omit “him”, substitute “him or her”.

18 Subsection 6B(1)

Omit “his”, substitute “the person’s”.

19 Subsection 6B(2)

Omit “his” (first occurring), substitute “the witness”.

20 Subsection 6B(2)

Omit “his detention”, substitute “the witness’ detention”.

21 Subsection 6B(2)

Omit “he”, substitute “he or she”.

22 Subsection 6B(4)

Omit “him” (first occurring), substitute “him or her”.

23 Subsection 6B(4)

Omit “him” (second occurring), substitute “the witness”.

24 Subsection 6B(4)

Omit “his”, substitute “his or her”.

25 Section 6C

Omit “his”, substitute “the person’s”.

26 Subsection 6D(2)

Omit “his evidence”, substitute “the witness’ evidence”.

Note: The heading to section 6DD is altered by omitting “**him**” and substituting “**the witness**”.

27 Subsection 6G(1)

Omit “his”, substitute “his or her”.

28 Subsection 6G(2)

Omit “he”, substitute “he or she”.

29 Section 6M

Omit “his”, substitute “the person”.

30 Section 6M

Omit “him”, substitute “him or her”.

31 Subsection 6N(1)

Omit “his” (wherever occurring), substitute “his or her”.

32 Subsection 6O(2)

Omit “he”, substitute “he or she”.

33 Subsection 7(1)

Omit “his”, substitute “his or her”.

34 Section 7AA

Omit “his or their”, substitute “the Commissioner’s or members”.

Note: The heading to section 7C is altered by omitting “**him**” and substituting “**the witness**”.

35 Subsection 8(1)

Omit “his” (first occurring), substitute “his or her”.

36 Subsection 8(1)

Omit “his” (second occurring), substitute “his or her”.

37 Paragraph 16(1)(a)

Omit “him or them” (wherever occurring), substitute “the person or persons”.

38 Subsection 16(3)

Omit “his”, substitute “his or her”.

*[Minister’s second reading speech made in—
Senate on 8 March 2001
House of Representatives on 7 June 2001]*

(21/01)
