
Act No. 142 of 2001 as amended

This compilation was prepared on 28 March 2007

[This Act was amended by Act Nos. 105 and 127 of 2002; No. 111 of 2006 (as am. by Act No. 8 of 2007)]

Amendments from Act No. 105 of 2002

[Schedule 3 (item 42) repealed subsections 2(12) and (13);
Schedule 3 (item 43) repealed Schedule 1 heading relating to the Workplace Relations (Registered Organisations) Act 2001;
Schedule 3 (item 44) repealed Schedule 1 (items 205 to 243)
Schedule 3 (item 45) repealed Schedule 1 heading relating to the Workplace Relations (Registered Organisations) (Consequential Provisions) Act 2001;
Schedule 3 (item 46) repealed Schedule 1 (item 244)
Schedule 3 (items 42 to 46) commenced on 14 November 2002]

Amendments from Act No. 127 of 2002

[Schedule 3 (item 15) amended Schedule 1 (item 17);
Schedule 3 (item 16) amended Schedule 1 (item 28);
Schedule 3 (item 17) amended Schedule 1 (item 41)
Schedule 3 (items 15 to 17) commenced immediately before 2 October 2001]
Amendment from Act No. 111 of 2006 (as am. by Act No. 8 of 2007)

Schedule 2 (item 1) repealed subsection 2(3)
Schedule 2 (item 2) repealed Act heading after item 88 of Schedule 1
Schedule 2 (item 3) repeals Schedule 1 (items 89–97)
Schedule 2 (items 1–3) commenced on 20 November 2006]

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

[Assented to 1 October 2001]

The Parliament of Australia enacts:

1 **Short title**

   This Act may be cited as the *Employment, Workplace Relations and Small Business Legislation Amendment (Application of Criminal Code) Act 2001*.

2 **Commencement**

   (1) Subject to this section, this Act commences on the day after the day on which it receives the Royal Assent.

   (2) The commencement of the items of Schedule 1 to this Act that amend the *Occupational Health and Safety (Commonwealth Employment) Act 1991* is as follows:

      (a) if section 1 of the *Occupational Health and Safety (Commonwealth Employment) Amendment Act 2001* does not commence on or before the commencement of section 1 of this Act, the items commence in accordance with subsection (1) of this section;

      (b) if section 1 of the *Occupational Health and Safety (Commonwealth Employment) Amendment Act 2001* commences on or before the commencement of section 1 of this Act, the items never commence.

   (4) The commencement of the items of Schedule 1 to this Act that amend the *Safety, Rehabilitation and Compensation and Other Legislation Amendment Act 2001* is as follows:

      (a) if Part 10 of Schedule 2 to that Act does not commence on or before the commencement of section 1 of this Act, the items commence, or are taken to have commenced, on the day on which the *Safety, Rehabilitation and Compensation and Other Legislation Amendment Act 2001* receives the Royal Assent;
Section 2

(b) if Part 10 of Schedule 2 to that Act commences on or before the commencement of section 1 of this Act, the items never commence.

(5) The commencement of items 143 to 147 of Schedule 1 to this Act is as follows:

(a) if item 92 of Schedule 2 to the Workplace Relations (Registered Organisations) (Consequential Provisions) Act 2001 does not commence on or before the commencement of section 1 of this Act, the items commence in accordance with subsection (1) of this section;

(b) if item 92 of Schedule 2 to the Workplace Relations (Registered Organisations) (Consequential Provisions) Act 2001 commences on or before the commencement of section 1 of this Act, the items never commence.

(6) The commencement of item 155 of Schedule 1 to this Act is as follows:

(a) if neither:

(i) item 27 of Schedule 12 to the Workplace Relations Legislation Amendment (More Jobs, Better Pay) Act 2001; nor

(ii) item 28 of Schedule 1 to the Workplace Relations Amendment (Secret Ballots for Protected Action) Act 2001;

commences on or before the commencement of section 1 of this Act, the item commences in accordance with subsection (1) of this section;

(b) if:

(i) item 27 of Schedule 12 to the Workplace Relations Legislation Amendment (More Jobs, Better Pay) Act 2001; or

(ii) item 28 of Schedule 1 to the Workplace Relations Amendment (Secret Ballots for Protected Action) Act 2001;

commences on or before the commencement of section 1 of this Act, the item never commences.

(7) The commencement of items 157 and 158 and items 160 to 167 of Schedule 1 to this Act is as follows:
Section 2

(a) if item 99 of Schedule 2 to the Workplace Relations (Registered Organisations) (Consequential Provisions) Act 2001 does not commence on or before the commencement of section 1 of this Act, the items commence in accordance with subsection (1) of this section;
(b) if item 99 of Schedule 2 to the Workplace Relations (Registered Organisations) (Consequential Provisions) Act 2001 commences on or before the commencement of section 1 of this Act, the items never commence.

(8) Item 159 of Schedule 1 to this Act commences on the later of the following times:
(a) the commencement of section 1 of this Act;
(b) immediately after the commencement of:
   (i) if item 28 of Schedule 12 to the Workplace Relations Legislation Amendment (More Jobs, Better Pay) Act 2001 commences—that item; or
   (ii) if item 29 of Schedule 1 to the Workplace Relations Amendment (Secret Ballots for Protected Action) Act 2001 commences—that item.

(9) The commencement of items 176 to 200 and item 202 of Schedule 1 to this Act is as follows:
(a) if item 101 of Schedule 2 to the Workplace Relations (Registered Organisations) (Consequential Provisions) Act 2001 does not commence on or before the commencement of section 1 of this Act, the items commence in accordance with subsection (1) of this section;
(b) if item 101 of Schedule 2 to the Workplace Relations (Registered Organisations) (Consequential Provisions) Act 2001 commences on or before the commencement of section 1 of this Act, the items never commence.

(10) The commencement of item 203 of Schedule 1 to this Act is as follows:
(a) if item 155 of Schedule 2 to the Workplace Relations Legislation Amendment (More Jobs, Better Pay) Act 2001 does not commence on or before the commencement of section 1 of this Act, item 203 of Schedule 1 to this Act commences immediately before the commencement of that item;
Section 3

(b) if item 155 of Schedule 2 to the Workplace Relations Legislation Amendment (More Jobs, Better Pay) Act 2001 commences on or before the commencement of section 1 of this Act, item 203 of Schedule 1 to this Act never commences.

(11) The commencement of item 204 of Schedule 1 to this Act is as follows:
   (a) if item 6 of Schedule 15 to the Workplace Relations Legislation Amendment (More Jobs, Better Pay) Act 2001 does not commence on or before the commencement of section 1 of this Act, item 204 of Schedule 1 to this Act commences immediately before the commencement of that item;
   (b) if item 6 of Schedule 15 to the Workplace Relations Legislation Amendment (More Jobs, Better Pay) Act 2001 commences on or before the commencement of section 1 of this Act, item 204 of Schedule 1 to this Act never commences.

3 Schedule(s)

Subject to section 2, 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—Amendments of Acts

**Building Industry Act 1985**

1 After section 3

Insert:

3A Application of 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.

**Coal Mining Industry (Long Service Leave) Payroll Levy Collection Act 1992**

2 After section 3

Insert:

3A Application of 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.

3 After subsection 5(1)

Insert:

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

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

4 After subsection 10(3)

Insert:

(3A) Subsections (1), (2) and (3) are offences of strict liability.
5 **Subsection 13(8)**

Omit “, without reasonable excuse,.”.

6 **After subsection 13(8)**

Insert:

(8A) Subsection (8) is an offence of strict liability.

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

(8B) Subsection (8) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (8B) (see subsection 13.3(3) of the Criminal Code).

7 **Subsection 13(9)**

Omit “knowingly give information or evidence that is false or misleading”, substitute “give information or evidence knowing that the information or evidence is false or misleading”.

8 **Subsection 14(3)**

Omit “, except for the purposes of this Act or in the performance of the person’s duties as an officer,”.

9 **After subsection 14(3)**

Insert:

(3A) Subsection (3) does not apply if the person is acting:

(a) for the purposes of this Act; or

(b) in the performance of the person’s duties as an officer.

Note: A defendant bears an evidential burden in relation to the matter in paragraph (3A)(a) or (b) (see subsection 13.3(3) of the Criminal Code).

**Equal Opportunity for Women in the Workplace Act 1999**

10 **At the end of Part 1**

Add:

6 *Employment, Workplace Relations and Small Business Legislation Amendment (Application of Criminal Code) Act 2001*
5A Application of 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.

11 Subsection 32(1)

Omit “, except in the performance of a duty under or in connection with this Act or in the performance or exercise of such a function or power”.

12 Paragraph 32(1)(c)

Omit “;”, substitute “.”.

13 Subsection 32(1)

Omit all the words after paragraph (c) (but not the penalty).

14 After subsection 32(1)

Insert:

(1A) Subsection (1) does not apply to a person’s conduct:

(a) if the person is:
   (i) performing a duty under, or in connection with, this Act; or
   (ii) performing a function, or exercising a power, under an arrangement in force under section 33; or

(b) to the extent that the conduct relates to a report, or to information, that is the subject of a consent under subsection 16(2).

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

Industrial Chemicals (Notification and Assessment) Act 1989

15 After section 10

Insert:
10AA Application of 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.

16 Subsection 21(1)

Omit “knowingly or recklessly”.

17 Subsection 21(1)

Omit all the words after “a new industrial chemical” (but not the penalty).

18 After subsection 21(1)

Insert:

(1A) Subsection (1) does not apply if the person holds an assessment certificate in force in relation to the chemical.

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

19 At the end of subsection 21(2)

Add:

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

20 At the end of subsection 21(3)

Add:

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

21 At the end of subsection 21(4)

Add:

Note: A defendant bears an evidential burden in relation to the matters in subsection (4) (see subsection 13.3(3) of the Criminal Code).

22 Subsection 21L(4)

Repeal the subsection, substitute:

Amendments of Acts  Schedule 1

Offence of contravening conditions

(4) A person commits an offence if:
   (a) the person is or was the holder, or any of the holders, of a commercial evaluation permit; and
   (b) the person does an act or omits to do an act; and
   (c) the act or omission contravenes a condition of the permit.

Penalty: 300 penalty units.

Defence of reasonable excuse

(4A) Subsection (4) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4A) (see subsection 13.3(3) of the Criminal Code).

23 Subsection 21W(5)

Repeal the subsection, substitute:

(5) A person commits an offence if:
   (a) the person is or was the holder, or any of the holders, of a low volume permit; and
   (b) the person does an act or omits to do an act; and
   (c) the act or omission contravenes a condition to which the permit is subject.

Penalty: 300 penalty units.

(5A) Subsection (5) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5A) (see subsection 13.3(3) of the Criminal Code).

24 Subsection 30C(4)

Omit “knowingly or recklessly”.

25 Subsection 48(7)

Omit “unless he or she has a reasonable excuse”.

26 At the end of section 48
Add:

(8) 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 (8) (see subsection 13.3(3) of the Criminal Code).

27 Section 56
Omit “knowingly or recklessly”.

28 Section 56
Omit all the words after “a priority existing chemical” (but not the penalty).

29 At the end of section 56
Add:

(2) Subsection (1) does not apply if the person has applied under section 55 for the assessment of the chemical.

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

30 Subsection 58(8)
Omit “, without reasonable excuse,.”.

31 At the end of section 58
Add:

(9) Subsection (8) does not apply if the notifier has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (9) (see subsection 13.3(3) of the Criminal Code).

(10) For the purposes of an offence against subsection (8), strict liability applies to the physical element, that the notifier fails as mentioned in that subsection.

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

32 Subsection 61(4)
Omit “, without reasonable excuse,”.

33 After subsection 61(4)
Insert:

(4A) Subsection (4) does not apply if the importer or manufacturer has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4A) (see subsection 13.3(3) of the Criminal Code).

34 Subsection 61(5)
Omit “, without reasonable excuse.”.

35 At the end of section 61
Add:

(6) Subsection (5) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (6) (see subsection 13.3(3) of the Criminal Code).

(7) For the purposes of an offence against subsection (4) or (5), strict liability applies to the physical element, that the importer or manufacturer, or the person, fails as mentioned in that subsection.

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

36 Subsection 67(2)
Omit “knowingly or recklessly”.

37 Subsection 69(4)
Omit “, without reasonable excuse.”.

38 At the end of section 69
Add:

(5) Subsection (4) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5) (see subsection 13.3(3) of the Criminal Code).

(6) For the purposes of an offence against subsection (4), strict liability applies to the physical element, that the person fails as mentioned in that subsection.
39 **Section 80B**
Omit “knowingly or recklessly”.

40 **Paragraph 80B(b)**
Omit “;”, substitute “.”.

41 **Section 80B**
Omit all the words after paragraph (b) (but not the penalty or the note).

42 **At the end of section 80B**
Add:

(2) Subsection (1) does not apply if the person is registered in relation to the registration year.

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

43 **Subsection 80Q(2)**
Omit “, without reasonable excuse,”.

44 **At the end of section 80Q**
Add:

(3) 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 subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

(4) For the purposes of an offence against subsection (2), strict liability applies to the physical element, that the person fails as mentioned in that subsection.

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

45 **At the end of section 80QD**
Add:

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

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

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*12 Employment, Workplace Relations and Small Business Legislation Amendment (Application of Criminal Code) Act 2001*
46 Subsection 80W(3)
Omit “, without reasonable excuse,”.

47 At the end of section 80W
Add:

(4) Subsection (3) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4) (see subsection 13.3(3) of the Criminal Code).

(5) For the purposes of an offence against subsection (3), strict liability applies to the physical element, that the person fails as mentioned in that subsection.

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

48 Paragraphs 83(1)(b) and (c)
Repeal the paragraphs, substitute:

(b) section 6 of the Crimes Act 1914 in relation to an offence against this Act or the regulations; or

(c) section 11.1, 11.4 or 11.5 of the Criminal Code in relation to an offence against this Act or the regulations;

49 At the end of section 85
Add:

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

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

50 Subsection 87(8) (paragraphs (b) and (c) of the definition of offence against this Act)
Repeal the paragraphs, substitute:

(b) an offence against section 6 of the Crimes Act 1914 in relation to an offence against this Act; and

(c) an offence against section 11.1, 11.4 or 11.5 of the Criminal Code in relation to an offence against this Act.

51 Subsection 88(3)
Omit “, without reasonable excuse,”.
52 After subsection 88(3)
Insert:

(3A) Subsection (3) does not apply if the person has a reasonable excuse.

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

53 Subsection 106(5)
Omit “, without reasonable excuse,”.

54 At the end of section 106
Add:

(6) Subsection (5) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (6) (see subsection 13.3(3) of the Criminal Code).

(7) For the purposes of an offence against subsection (5), strict liability applies to the physical element, that the introduction or exportation of the industrial chemical is in contravention of a regulation or condition as mentioned in that subsection.

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

55 Subsections 109(1) and (2)
Repeal the subsections.

Note: The heading to section 109 is altered by omitting “directors,”.

56 Subsection 109(6)
Omit “subsection (1) or”.

57 Subsection 109(7)
Repeal the subsection.


58 At the end of Part I
Add:

5A Application of 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.

59 Subparagraphs 43(7)(b)(i) and (ii)

Repeal the subparagraphs, substitute:

(i) section 6 of the Crimes Act 1914; or
(ii) section 11.1, 11.4 or 11.5 of the Criminal Code;

60 Section 46

Omit “, without reasonable excuse”.

61 Paragraph 46(b)

Omit “unless excused, or released from further attendance, by the Commissioner conducting the inquiry”.

62 At the end of section 46

Add:

(2) 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 (2) (see subsection 13.3(3) of the Criminal Code).

(3) Paragraph (1)(b) does not apply if the person is excused, or released from further attendance, by the Commissioner conducting the inquiry.

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

63 Subsection 47(1)

Omit “, without reasonable excuse”.

64 After subsection 47(1)

Insert:

(1A) 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 (1A) (see subsection 13.3(3) of the Criminal Code).

65 **Subsection 47(2)**
Omit “subsection (1)”, substitute “subsection (1A)”.

66 **Paragraphs 52(1)(b) and (c)**
Omit “or procure”.

67 **Subsection 62(2)**
Omit “, without reasonable excuse,”.

68 **Subsection 62(2)**
Omit “to the extent that the person is capable of complying with it”.

69 **After subsection 62(2)**
Insert:

(3) 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 subsection (3) (see subsection 13.3(3) of the Criminal Code).

(4) Subsection (2) does not apply to the extent that the person is not capable of complying with the notice.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4) (see subsection 13.3(3) of the Criminal Code).

70 **Subsection 62(5)**
Omit “subsection (2)”, substitute “subsection (3)”.

**Occupational Health and Safety (Commonwealth Employment) Act 1991**

71 **Subsection 5(6)**
Omit all the words from and including “to an offence against”, substitute:

Amendments of Acts  Schedule 1

72 At the end of Part 1
Add:

15A Application of Criminal Code

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

Note 1: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 2: For the purposes of this Act, corporate criminal responsibility is dealt with by section 78, rather than by Part 2.5 of the Criminal Code.

73 Subsection 43(2)
Omit “, without reasonable excuse,”.

74 At the end of section 43
Add:

(3) 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 subsection (3) (see subsection 13.3(3) of the Criminal Code).

75 Section 50
Omit “, without reasonable excuse”.

76 At the end of section 50
Add:

(2) 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 (2) (see subsection 13.3(3) of the Criminal Code).
77 **Subsection 54(2)**

Omit “, without reasonable excuse,”.

78 **At the end of section 54**

Add:

(3) 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 subsection (3) (see subsection 13.3(3) of the Criminal Code).

79 **Section 57**

Omit “, without reasonable excuse”.

80 **Paragraph 57(b)**

Omit all the words after “day to day”.

81 **At the end of section 57**

Add:

(2) 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 (2) (see subsection 13.3(3) of the Criminal Code).

(3) Paragraph (1)(b) does not apply if the person has been excused, or is released from further attendance, by a member of the Commission.

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

82 **Section 59**

Omit “, without reasonable excuse”.

83 **At the end of section 59**

Add:

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

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

84 Paragraph 64(b)
Repeal the paragraph, substitute:
   (b) do an act that results in an employee being injured in his or her employment; or
   (ba) threaten to injure an employee in his or her employment; or

85 Section 72
Omit “, without reasonable cause, wilfully or recklessly”.

86 Section 72
Omit “which the person knew or ought reasonably to have known was protective equipment or a safety device”.

87 At the end of section 72
Add:
   (2) 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 (2) (see subsection 13.3(3) of the Criminal Code).

88 Paragraph 76(1)(b)
Repeal the paragraph, substitute:
   (b) do an act that results in an employee being injured in his or her employment; or

Occupational Health and Safety (Maritime Industry) Act 1993

98 At the end of Division 3 of Part 1
Add:

8A Application of 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.

99 At the end of section 13
Add:

(4) For the purposes of an offence against this section, strict liability applies to the physical element, that the obligations set out in subsections 11(1) to (6) apply as set out in subsection (1) of this section.

100 At the end of section 85
Add:

(4) Subsection (3) is an offence of strict liability.
Note: For strict liability, see section 6.1 of the Criminal Code.

101 Subsection 90(2)
Omit “, without reasonable excuse,”.

102 At the end of section 90
Add:

(3) 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 subsection (3) (see subsection 13.3(3) of the Criminal Code).

103 Section 105
Omit “, without reasonable excuse”.

104 At the end of section 105
Add:

(2) 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 (2) (see subsection 13.3(3) of the Criminal Code).

105 Section 111
Omit “, without reasonable excuse, intentionally or recklessly”.

106 Section 111
Omit “which the person knew or ought reasonably to have known was protective equipment or a safety device”.

107 At the end of section 111
Add:

(2) 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 (2) (see subsection 13.3(3) of the Criminal Code).

108 Paragraph 115(1)(b)
Repeal the paragraph, substitute:

(b) do an act that results in an employee being damaged in his or her employment; or

109 Subsections 117(1) and (2)
Repeal the subsections.

Note: The heading to section 117 is altered by omitting “directors,”.

110 Subsection 117(6)
Omit “(1) or”.

Safety, Rehabilitation and Compensation Act 1988

111 At the end of Part 1
Add:

13A Application of 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.

112 At the end of section 46
Add:
(2) Subsection (1) is an offence of strict liability.

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

113 At the end of section 47
Add:

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

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

114 After subsection 48(2)
Insert:

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

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

115 At the end of section 120
Add:

(5) Subsection (4) is an offence of strict liability.

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

Safety, Rehabilitation and Compensation and Other Legislation Amendment Act 2001

116 Item 61 of Schedule 2 (heading)
Omit “Section 46”, substitute “Subsection 46(1)”.

117 Item 62 of Schedule 2 (new section 47)
Omit “If:”, substitute:

(1) If:

118 At the end of item 62 of Schedule 2 (at the end of new section 47)
Add:

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

Note: For strict liability, see section 6.1 of the Criminal Code.
Seafarers Rehabilitation and Compensation Act 1992

119 After section 21

Insert:

21A Application of 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.

120 At the end of section 56

Add:

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

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

121 At the end of section 57

Add:

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

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

122 After subsection 58(2)

Insert:

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

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

123 Subsection 68(1)

Omit “, without reasonable excuse,”.

124 After subsection 68(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.

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

125 After subsection 93(1)

Insert:

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

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

126 At the end of section 94

Add:

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

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

127 At the end of section 98

Add:

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

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

128 Subsection 106(3)

Omit “without reasonable excuse”.

129 At the end of section 106

Add:

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

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

(5) Subsection (3) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5) (see subsection 13.3(3) of the Criminal Code).

130 After subsection 130(1)

Insert:

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

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

131 **At the end of section 131**

Add:

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

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

132 **At the end of section 140**

Add:

(5) Subsections (3) and (4) are offences of strict liability.

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

**Seafarers Rehabilitation and Compensation Levy Collection Act 1992**

133 **After section 3**

Insert:

3A **Application of 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.

134 **Subsection 7(1)**

Omit “, without reasonable excuse, knowingly”.

135 **After subsection 7(1)**

Insert:

(1A) 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 (1A) (see subsection 13.3(3) of the *Criminal Code*).
(1B) For the purposes of an offence against subsection (1), strict liability applies to the physical element, that the person is required to give a return under section 6.

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

136 Subsection 7(2)
Repeal the subsection, substitute:

(2) A person must not give a return that does not contain all or any of the information required by section 6 to be included in the return.

Penalty: 20 penalty units.

(2A) 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 subsection (2A) (see subsection 13.3(3) of the Criminal Code).

(2B) For the purposes of an offence against subsection (2), strict liability applies to the physical element, that the person is required under section 6 to include information in a return.

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

137 Subsection 7(3)
After “subsection (2)”, insert “or section 137.1 or 137.2 of the Criminal Code in relation to giving the return”.

138 Subsection 14(5)
Omit “, without reasonable excuse,”.

139 At the end of section 14
Add:

(6) Subsection (5) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (6) (see subsection 13.3(3) of the Criminal Code).

(7) Subsection (5) is an offence of strict liability.

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

Workplace Relations Act 1996

140 At the end of Part 1
Add:

7B Application of Criminal Code

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

Note 1: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

Note 2: For the purposes of this Act, corporate criminal responsibility is dealt with by section 349, rather than by Part 2.5 of the Criminal Code.

141 Subsection 83BG(5)
Omit “without a reasonable excuse”.

142 After subsection 83BG(5)
Insert:

(5A) Subsection (5) is an offence of strict liability.

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

(5B) Subsection (5) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5B) (see subsection 13.3(3) of the Criminal Code).

143 At the end of subsection 214(1)
Add:

Penalty: $1,000 plus $250 for each complete week in the penalty period.

144 At the end of section 214
Add:

(3) In this section:
**penalty period** means the period starting on the day prescribed for the purposes of subsection (1) or the later day allowed by the Industrial Registrar, as the case requires, and ending on:

(a) if the prescribed information is lodged in the Industrial Registry before the day on which the organisation is convicted—the day on which the information is lodged; or
(b) in any other case—the day on which the organisation is convicted.

145 At the end of subsection 275(1)
Add:

Penalty: $1,000.

146 After subsection 275(1)
Insert:

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

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

147 At the end of subsections 275(3), (4), (5), (6) and (7)
Add:

Penalty: $500.

148 Paragraph 299(1)(a)
Omit “wilfully”.

149 Subsection 303(1)
Omit “, without reasonable excuse”.

150 After subsection 303(1)
Insert:

(1A) For the purposes of an offence against subsection (1), strict liability applies to the physical element, that the person fails as mentioned in paragraph (1)(b), (c) or (d).

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

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(1B) 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 (1B) (see subsection 13.3(3) of the Criminal Code).

151 Section 305

Omit “, without reasonable excuse,”.

152 At the end of section 305

Add:

(2) 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 (2) (see subsection 13.3(3) of the Criminal Code).

153 Section 305A

Omit “, without reasonable excuse,”.

154 At the end of section 305A

Add:

(2) 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 (2) (see subsection 13.3(3) of the Criminal Code).

155 At the end of section 307

Add:

(2) For the purposes of an offence against subsection (1), strict liability applies to the physical element, that the application is made under subsection 136(1).

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

156 At the end of section 308

Add:

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

Note: For strict liability, see section 6.1 of the Criminal Code.
157  **Section 310**
Repeal the section.

158  **Section 313**
Repeal the section, substitute:

(1) A person must not:
   (a) refuse or fail to comply with a direction under subsection 215(1); or
   (b) hinder or obstruct:
      (i) an electoral official in the performance of functions in relation to an election for an office in, or in a branch of, an organisation; or
      (ii) any other person in complying with a direction under that subsection.

Penalty:
   (a) in the case of a natural person—$500 or imprisonment for 6 months, or both; and
   (b) in the case of a body corporate—$1,000.

(2) Paragraph (1)(a) does not apply so far as the person is not capable of complying with the direction.

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

(3) For the purposes of an offence against subsection (1), strict liability applies to the physical element, that the person fails as mentioned in paragraph (1)(a).

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

159  **Section 314A**
Omit “knowingly or recklessly”.

160  **Subsection 315(1)**
Omit “, without lawful authority or excuse”.

161  **Paragraph 315(1)(b)**
Repeal the paragraph, substitute:
(b) do an act that results in a nomination paper, ballot paper or envelope being destroyed, defaced, altered, taken or otherwise interfered with;

162 Paragraph 315(1)(j)
Repeal the paragraph, substitute:
(j) do an act that results in a ballot box or other ballot receptacle being destroyed, taken, opened or otherwise interfered with.

163 Subsection 315(2)
Omit “, without lawful authority or excuse”.

164 Subsection 315(2)
Omit “cause, inflict or procure”, substitute “cause or inflict”.

165 Subsection 315(3)
Omit “, without lawful authority or excuse”.

166 Subsection 315(4)
Omit “, without lawful authority or excuse,.”.

167 Subsection 315(4)
Omit “cause, inflict or procure”, substitute “cause or inflict”.

168 Subsection 317(1)
Omit “so far as he or she is capable”.

169 After subsection 317(1)
Insert:

(1A) Subsection (1) does not apply so far as the person is not capable of complying with the requirement.

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

170 Subsection 317(2)
Omit “, without lawful authority or excuse”.

171 Paragraph 317(2)(b)
Repeal the paragraph, substitute:

(b) do an act that results in a ballot paper or envelope being destroyed, defaced, altered, taken or otherwise interfered with;

172 **Paragraph 317(2)(j)**

Repeal the paragraph, substitute:

(j) do an act that results in a ballot box or other ballot receptacle being destroyed, taken, opened or otherwise interfered with.

173 **Subsection 317(3)**

Omit “, without lawful authority or excuse”.

174 **Paragraph 317(3)(c)**

Omit “cause, inflict or procure”, substitute “cause or inflict”.

175 **Subsection 317(4)**

Omit “, without lawful authority or excuse”.

176 **At the end of section 319**

Add:

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

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

177 **At the end of section 321**

Add:

(6) Subsections (1) to (5) are offences of strict liability.

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

178 **After subsection 322(1)**

Insert:

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

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

179 **At the end of section 323**

Add:

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

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

180 Section 324

Repeal the section.

181 At the end of section 325

Add:

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

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

182 Paragraph 326(1)(b)

Omit “, without reasonable excuse,”.

183 After subsection 326(1)

Insert:

(1A) For the purposes of an offence against subsection (1), strict liability applies to the physical element, that the person fails as mentioned in paragraph (1)(b).

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

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

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

184 After section 326

Insert:

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

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

185 After subsection 327(1)

Insert:

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

Note: For strict liability, see section 6.1 of the Criminal Code.
186  **After subsection 327(2)**

Insert:

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

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

187  **After subsection 327(3)**

Insert:

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

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

188  **After subsection 327(4)**

Insert:

(4A) Subsection (4) is an offence of strict liability.

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

189  **After subsection 327(5)**

Insert:

(5A) For the purposes of an offence against subsection (5), strict liability applies to the physical element, that the matter is dealt with in a report, accounts or statements of the kind referred to in subsection 279(1), or in a summary of the kind referred to in subsection 279(2).

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

190  **At the end of section 328**

Add:

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

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

191  **Paragraph 329(1)(a)**

Omit “, without reasonable excuse”.

192  **Paragraph 329(1)(c)**

Omit “;”, substitute “.”.
193 Subsection 329(1)
Omit all the words after paragraph (c) (but not the penalty).

194 After subsection 329(1)
Insert:

(1A) For the purposes of an offence against subsection (1), strict liability applies to the physical element, that the person fails as mentioned in paragraph (1)(a).
Note: For strict liability, see section 6.1 of the Criminal Code.

(1B) Paragraph (1)(a) does not apply if the person has a reasonable excuse.
Note: A defendant bears an evidential burden in relation to the matter in subsection (1B) (see subsection 13.3(3) of the Criminal Code).

(1C) Subsection (1) does not apply if the person merely refuses or fails to answer a question.
Note: A defendant bears an evidential burden in relation to the matter in subsection (1C) (see subsection 13.3(3) of the Criminal Code).

195 At the end of section 330
Add:

(2) Subsection (1) is an offence of strict liability.
Note: For strict liability, see section 6.1 of the Criminal Code.

196 At the end of section 331
Add:

(2) Subsection (1) is an offence of strict liability.
Note: For strict liability, see section 6.1 of the Criminal Code.

197 Section 332
Omit “unreasonably”.

198 At the end of section 332
Add:

(2) 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 (2) (see subsection 13.3(3) of the Criminal Code).

199 At the end of section 333
Add:

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

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

200 Section 337
Repeal the section, substitute:

337 False representation as to membership of organisation
A person commits an offence if:
(a) in an application made under this Act, the person makes a representation that he or she is a member of an organisation; and
(b) the person knows that the representation is false.

Penalty: $500 or imprisonment for 6 months, or both.

201 Section 339
Repeal the section, substitute:

339 Publication of trade secrets etc.
(1) A person commits an offence if:
(a) the person gives information as evidence or publishes information; and
(b) giving or publishing the information:
(i) contravenes section 355; or
(ii) contravenes a direction given under section 355.

Penalty:
(a) in the case of a natural person—$1,000 or imprisonment for 6 months, or both; and
(b) in the case of a body corporate—$1,000.

(2) Strict liability applies to subparagraph (1)(b)(i).

Note: For strict liability, see section 6.1 of the Criminal Code.
202 Subsection 340(1)
Repeal the subsection, substitute:

(1) A person commits an offence if:
   (a) the person makes a representation that he or she is authorised
to collect money on behalf of an organisation; and
   (b) the person knows that the representation is false.

Penalty: $500.


203 Item 155 of Schedule 2 (heading)
Omit “Paragraph 316(b)”, substitute “Paragraph 316(1)(b)”.

204 Item 6 of Schedule 15 (heading)
Omit “Paragraph 305(b)”, substitute “Paragraph 305(1)(b)”.