Queensland

Criminal Code Act 1899

Reprinted as in force on 6 December 2011

Reprint No. 8D

This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy

Information about this reprint

This Act is reprinted as at 6 December 2011. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Spelling

The spelling of certain words or phrases may be inconsistent in this reprint or with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, 'lodgement' has replaced 'lodgment'). Variations of spelling will be updated in the next authorised reprint.

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

Replacement reprint date If the date of an authorised reprint is the same as the date shown on another authorised reprint it means that one is the replacement of the other.

Queensland

Criminal Code Act 1899

Contents

		Page
1	Short title	27
2	Establishment of Code—schedule 1	27
3	Saving	27
4	Construction of statutes, statutory rules, and other instruments	29
5	Provisions of Code exclusive with certain exceptions	29
6	Civil remedies	30
7	Offender may be prosecuted under Code or other statute	30
8	Contempt of court	30
Schedule 1	**The Criminal Code**	32
Part 1	**Introductory**	
Interpretation—application—general principles		
Chapter 1	**Interpretation**	
1	Definitions	32
2	Definition of offence	45
3	Division of offences	45
4	Attempts to commit offences	45
5	Arrest without warrant	46
6	Carnal knowledge	47
Chapter 2	**Parties to offences**	
7	Principal offenders	47
8	Offences committed in prosecution of common purpose	48
9	Mode of execution immaterial	48
10	Accessories after the fact	48
10A	Interpretation of ch 2	49
Chapter 3	**Application of criminal law**	
11	Effect of changes in law	49

12	Application of Code as to offences wholly or partially committed in Queensland	50
13	Offences enabled, aided, procured or counselled by persons out of Queensland	50
14	Offences procured in Queensland to be committed out of Queensland	51
15	Defence Force	52
16	Person not to be twice punished for same offence	52
17	Former conviction or acquittal	52
Chapter 4	**Royal prerogative of mercy**	
18	Royal prerogative of mercy	53
Chapter 5	**Criminal responsibility**	
22	Ignorance of the law—bona fide claim of right	53
23	Intention—motive	54
24	Mistake of fact	54
25	Extraordinary emergencies	55
26	Presumption of sanity	55
27	Insanity	55
28	Intoxication	55
29	Immature age	56
30	Judicial officers	56
31	Justification and excuse—compulsion	56
34	Offences by partners and members of companies with respect to partnership or corporate property	57
36	Application of rules	58
Part 2	**Offences against public order**	
Chapter 7	**Sedition**	
44	Definition of seditious intention	58
45	Innocent intentions	59
46	Definition of seditious enterprises etc.	59
51	Unlawful drilling	60
52	Sedition	60
Chapter 8	**Offences against the executive and legislative power**	
54	Interference with Governor or Ministers	61
54A	Demands with menaces upon agencies of government	61
55	Interference with the Legislature	64
56A	Disturbance in House when Parliament not sitting	64

56B	Going armed to Parliament House	65
59	Member of Parliament receiving bribes	66
60	Bribery of member of Parliament	66
Chapter 9	**Breaches of the peace**	
61	Riot	67
69	Going armed so as to cause fear	68
70	Forcible entry	68
71	Forcible detainer	69
72	Affray	69
74	Prize fight	69
75	Threatening violence	69
Chapter 10	**Offences against political liberty**	
78	Interfering with political liberty	70
Chapter 11	**Piracy**	
79	Definition of act of piracy	70
80	Crime of piracy	71
Part 3	**Offences against the administration of law and justice, against office and against public authority**	
Chapter 12	**Unlawfully obtaining or disclosing information**	
85	Disclosure of official secrets	72
86	Obtaining of or disclosure of secret information about the identity of informant	72
Chapter 13	**Corruption and abuse of office**	
87	Official corruption	74
88	Extortion by public officers	74
89	Public officers interested in contracts	75
90	Officers charged with administration of property of a special character or with special duties	75
91	False claims by officials	76
92	Abuse of office	76
92A	Misconduct in relation to public office	77
93	Corruption of surveyor and valuator	78
94	False certificates by public officers	78
95	Administering extrajudicial oaths	78
96	False assumption of authority	79
97	Personating public officers	80

Chapter 14 Corrupt and improper practices at elections

Chapter division 1 Definitions for ch 14

98 Definitions 80

Chapter division 2 Legislative Assembly elections and referendums

98A Reference to election or referendum 81

98B False or misleading information 81

98C Bribery 82

98D Forging or uttering electoral or referendum paper 82

98E Influencing voting 83

98F Providing money for illegal payments 83

98G Voting if not entitled 84

Chapter division 3 Other elections

98H Application of ch div 3 84

99 Voting if not entitled 84

100 Hindering or interfering with voting conduct 85

101 Bribery 86

102 Publishing false information about a candidate 87

103 Providing money for illegal payments 87

104 Election notices to contain particular matters 87

107 Corrupt and illegal practices—time 88

108 Interfering at elections 88

109 Electors attempting to violate secrecy of ballot 88

110 Stuffing ballot boxes 89

111 Presiding officer helping an elector with a disability 89

112 False or misleading information 89

113 Interfering with secrecy at elections 90

114 Breaking the seal of a parcel at elections 91

Chapter 15 Selling and trafficking in offices

118 Bargaining for offices in public service 91

Chapter 16 Offences relating to the administration of justice

119 Definitions for ch 16 92

119A Meaning of family 92

119B Retaliation against or intimidation of judicial officer, juror, witness etc. 94

120 Judicial corruption 95

121 Official corruption not judicial but relating to offences 96

122 Corruption of jurors 96

123	Perjury	97
123A	Perjury—contradictory statements	98
124	Punishment of perjury	98
125	Evidence on charge of perjury	98
126	Fabricating evidence	98
127	Corruption of witnesses	99
128	Deceiving witnesses	99
129	Damaging evidence with intent	100
130	Preventing witnesses from attending	100
131	Conspiracy to bring false accusation	100
132	Conspiring to defeat justice	101
133	Compounding an indictable offence	101
136	Justices exercising jurisdiction in a matter of personal interest	102
137	Delay to take person arrested before magistrate	102
139	Inserting advertisement without authority of court	102
140	Attempting to pervert justice	103
Chapter 17	**Escapes—obstructing officers of courts**	
141	Aiding persons to escape from lawful custody	103
142	Escape by persons in lawful custody	103
143	Permitting escape	104
144	Harbouring escaped prisoners etc.	104
145A	Sections 141 to 144 do not apply to certain types of custody	104
145B	Evidence of lawful custody	104
147	Removing etc. property under lawful seizure	105
148	Obstructing officers of courts of justice	105
Chapter 20	**Miscellaneous offences against public authority**	
193	False verified statements	105
194	False declarations	106
195	Evidence	106
195A	Contradictory statements—false statements or declarations	106
199	Resisting public officers	106
200	Refusal by public officer to perform duty	107
204	Disobedience to statute law	107
205	Disobedience to lawful order issued by statutory authority	107

Part 4 **Acts injurious to the public in general**

Chapter 21 **Offences relating to religious worship**

206 Offering violence to officiating ministers of religion 108

207 Disturbing religious worship 108

Chapter 22 **Offences against morality**

207A Definitions for this chapter 109

208 Unlawful sodomy 111

210 Indecent treatment of children under 16. 112

211 Bestiality 113

213 Owner etc. permitting abuse of children on premises 113

215 Carnal knowledge with or of children under 16 114

216 Abuse of persons with an impairment of the mind 114

217 Procuring young person etc. for carnal knowledge 116

218 Procuring sexual acts by coercion etc. 116

218A Using internet etc. to procure children under 16 117

219 Taking child for immoral purposes 119

221 Conspiracy to defile 120

222 Incest 120

224 Attempts to procure abortion 121

225 The like by women with child 121

226 Supplying drugs or instruments to procure abortion 122

227 Indecent acts 122

227A Observations or recordings in breach of privacy 122

227B Distributing prohibited visual recordings. 124

227C Persons who are not criminally responsible for offences against ss 227A and 227B 124

228 Obscene publications and exhibitions 126

228A Involving child in making child exploitation material 127

228B Making child exploitation material 128

228C Distributing child exploitation material 128

228D Possessing child exploitation material 128

228E Defences for ss 228A–228D. 129

228F Excluding non-essential persons from court when child exploitation material displayed 131

228G Forfeiture of child exploitation material etc. 132

228H Possession etc. of child exploitation material by law enforcement officer 133

229	Knowledge of age immaterial	133
229B	Maintaining a sexual relationship with a child	134
Chapter 22A	**Prostitution**	
229C	Definitions for ch 22A	136
229D	Meaning of sexual intercourse for ch 22A	137
229E	Meaning of prostitution	138
229F	Meaning of carry on a business	139
229FA	Obtaining prostitution from person who is not an adult	139
229G	Procuring engagement in prostitution	139
229H	Knowingly participating in provision of prostitution	140
229HA	When section 229H does not apply to a person	142
229HB	Carrying on business of providing unlawful prostitution	144
229HC	Persons engaging in or obtaining prostitution through unlawful prostitution business	144
229I	Persons found in places reasonably suspected of being used for prostitution etc.	145
229J	Certificate of discharge for particular offences	146
229K	Having an interest in premises used for prostitution etc.	148
229L	Permitting young person etc. to be at place used for prostitution	150
229M	Evidence that business of prostitution is being carried on	150
229N	Evidence that place is being used for prostitution	150
229O	Non-compellability of health service providers	150
Chapter 23	**Nuisances—misconduct relating to corpses**	
230A	Definitions for ch 23	151
230	Common nuisances	152
232	Operating a place for unlawful games	153
233	Possession of thing used to play an unlawful game	153
234	Conducting or playing unlawful games	154
236	Misconduct with regard to corpses	154
Chapter 24	**Offences against public health**	
238	Contamination of goods	155
239	Hoax contamination of goods	155
240	Dealing in contaminated goods	156
241	Definitions for ch 24	157

Part 5 **Offences against the person and relating to marriage and parental rights and duties**

Chapter 26 **Assaults and violence to the person generally—justification and excuse**

245 Definition of assault 157
246 Assaults unlawful 158
247 Execution of sentence 158
248 Execution of process 158
249 Execution of warrants 158
250 Erroneous sentence or process or warrant 159
251 Sentence or process or warrant without jurisdiction 159
252 Arrest of wrong person 159
253 Irregular process or warrant 160
254 Force used in executing process or in arrest 160
255 Duty of persons arresting 160
257 Other cases of preventing escape from arrest 161
258 Preventing escape or rescue after arrest 161
260 Preventing a breach of the peace 161
261 Suppression of riot 162
262 Suppression of riot by magistrates 162
263 Suppression of riot by person acting under lawful orders 162
264 Suppression of riot by person acting without order in case of emergency 162
265 Riot—persons subject to military law 163
266 Prevention of crimes and offences for which an offender may be arrested without warrant—prevention of violence by particular persons 163
267 Defence of dwelling 163
268 Provocation 164
269 Defence of provocation 164
270 Prevention of repetition of insult 165
271 Self-defence against unprovoked assault 165
272 Self-defence against provoked assault 166
273 Aiding in self-defence 166
274 Defence of moveable property against trespassers 166
275 Defence of moveable property with claim of right 167
276 Defence of moveable property without claim of right 167

277	Defence of premises against trespassers—removal of disorderly persons	167
278	Defence of possession of real property or vessel with claim of right	168
279	Exercise of right of way or easement	168
280	Domestic discipline	169
281	Discipline of vehicle	169
282	Surgical operations and medical treatment	169
282A	Palliative care	170
283	Excessive force	171
284	Consent to death immaterial	171
Chapter 27	**Duties relating to the preservation of human life**	
285	Duty to provide necessaries	172
286	Duty of person who has care of child	172
288	Duty of persons doing dangerous acts	173
289	Duty of persons in charge of dangerous things	173
290	Duty to do certain acts	173
Chapter 28	**Homicide—suicide—concealment of birth**	
291	Killing of a human being unlawful	174
292	When a child becomes a human being	174
293	Definition of killing	174
294	Death by acts done at childbirth	174
295	Causing death by threats	174
296	Acceleration of death	175
297	When injury or death might be prevented by proper precaution	175
298	Injuries causing death in consequence of subsequent treatment	175
300	Unlawful homicide	175
302	Definition of murder	176
303	Definition of manslaughter	177
304	Killing on provocation	177
304A	Diminished responsibility	178
304B	Killing for preservation in an abusive domestic relationship	179
305	Punishment of murder	180
306	Attempt to murder	180
307	Accessory after the fact to murder	181
308	Threats to murder in document	181

309	Conspiring to murder	181
310	Punishment of manslaughter	181
311	Aiding suicide	181
313	Killing unborn child	182
314	Concealing the birth of children	182
Chapter 29	**Offences endangering life or health**	
315	Disabling in order to commit indictable offence	182
316	Stupefying in order to commit indictable offence	183
316A	Unlawful drink spiking	183
317	Acts intended to cause grievous bodily harm and other malicious acts	185
317A	Carrying or sending dangerous goods in a vehicle	186
318	Obstructing rescue or escape from unsafe premises	187
319	Endangering the safety of a person in a vehicle with intent	187
320	Grievous bodily harm	187
320A	Torture	187
321	Attempting to injure by explosive or noxious substances	188
321A	Bomb hoaxes	188
322	Administering poison with intent to harm	189
323	Wounding	189
323A	Female genital mutilation	189
323B	Removal of child from State for female genital mutilation	190
324	Failure to supply necessaries	191
326	Endangering life of children by exposure	191
327	Setting mantraps	191
328	Negligent acts causing harm	192
328A	Dangerous operation of a vehicle	192
328B	Additional power to convict for dangerous driving	195
329	Endangering safety of persons travelling by railway	195
330	Sending or taking unseaworthy ships to sea	195
333	Evading laws as to equipment of ships	196
334	Landing explosives	196
Chapter 30	**Assaults**	
335	Common assault	197
338A	Assaults of member of crew on aircraft	197
339	Assaults occasioning bodily harm	197

340	Serious assaults	197
346	Assaults in interference with freedom of trade or work	200
Chapter 32	**Rape and sexual assaults**	
347	Definitions for ch 32	200
348	Meaning of consent	200
349	Rape	201
350	Attempt to commit rape	201
351	Assault with intent to commit rape	201
352	Sexual assaults	201
Chapter 33	**Offences against liberty**	
354	Kidnapping	203
354A	Kidnapping for ransom	203
355	Deprivation of liberty	204
356	False certificates by officers charged with duties relating to liberty	204
357	Concealment of matters affecting liberty	204
358	Unlawful custody of particular persons	205
359	Threats	205
Chapter 33A	**Unlawful stalking**	
359A	Definitions for ch 33A	206
359B	What is unlawful stalking	207
359C	What is immaterial for unlawful stalking	208
359D	Particular conduct that is not unlawful stalking	209
359E	Punishment of unlawful stalking	209
359F	Court may restrain unlawful stalking	210
Chapter 34	**Offences relating to marriage and parental rights and duties**	
360	Bigamy	212
361	Unlawful celebration of marriage	212
362	Unqualified persons procuring registration as persons qualified to celebrate marriages	213
363	Child-stealing	213
363A	Abduction of child under 16	214
364	Cruelty to children under 16	215
364A	Leaving a child under 12 unattended	215
Chapter 35	**Criminal defamation**	
365	Criminal defamation	216

Part 6 **Offences relating to property and contracts**

Division 1 **Stealing and like offences**

Chapter 36 **Stealing**

390 Things capable of being stolen 218

391 Definition of stealing 218

392 Special cases 220

393 Funds etc. held under direction 221

394 Funds etc. received by agents for sale 221

395 Money received for another 222

396 Stealing by persons having an interest in the thing stolen 222

398 Punishment of stealing 222

Chapter 37 **Offences analogous to stealing**

399 Fraudulent concealment of particular documents 227

403 Severing with intent to steal 227

406 Bringing stolen goods into Queensland 227

408A Unlawful use or possession of motor vehicles, aircraft or vessels 228

408C Fraud 229

408D Obtaining or dealing with identification information 231

408E Computer hacking and misuse 233

Chapter 38 **Stealing with violence—extortion by threats**

409 Definition of robbery 235

411 Punishment of robbery 235

412 Attempted robbery 236

413 Assault with intent to steal 236

414 Demanding property with menaces with intent to steal 236

415 Extortion 236

417A Taking control of aircraft 238

Chapter 39 **Burglary—housebreaking—and like offences**

418 Definitions 239

419 Burglary 239

421 Entering or being in premises and committing indictable offences 240

425 Possession of things used in connection with unlawful entry 241

427 Unlawful entry of vehicle for committing indictable offence 241

Chapter 40 **Other fraudulent practices**

427A Obtaining property by passing valueless cheques 242

430 Fraudulent falsification of records 243

431 False accounting by public officer 243

Chapter 41 Receiving property stolen or fraudulently obtained and like offences

432 What is tainted property for ch 41 243

433 Receiving tainted property 244

435 Taking reward for recovery of property obtained by way of indictable offences 244

Chapter 42A Secret commissions

442A Definitions 245

442B Receipt or solicitation of secret commission by an agent 248

442BA Gift or offer of secret commission to an agent 248

442C Secret gifts received by parent, spouse, child, partner etc. of agent 249

442D False or misleading receipt or account 249

442E Secret commission for advice given 250

442EA Offer or solicitation of secret commission in return for advice given or to be given 251

442F Secret commission to trustee in return for substituted appointment 251

442G Liability of director etc. acting without authority 251

442I Penalty on conviction 252

442J Court may order withdrawal of trifling or technical cases 252

442K Witness giving answers criminating himself or herself 252

442L Certificate to witness 253

442M Custom of itself no defence 253

Chapter 44 Offences analogous to stealing relating to animals

Chapter division 1 Offences relating to animals generally

444A Killing animals with intent to steal 254

444B Using registered brands with criminal intention 254

Chapter division 2 Offences relating to stock

445 Unlawfully using stock 255

446 Suspicion of stealing stock 256

447 Illegal branding 256

448 Defacing brands 257

448A Having in possession stock with defaced brand 257

Chapter division 3 Arrest

450A Arrest without warrant 258

450B Warrant in first instance 258

Chapter 44A Special provisions in respect of offences relating to stock

450D Definition for ch 44A 258

450E Animals not tendered in certain cases 258

450F Animal valuers and valuations 263

450G Identification of animals and return to owners prior to tender in certain cases 265

450H Licence disqualification where commission of offence facilitated by licence or use of vehicle 266

450I Forfeiture in cases of conviction for offences under specified sections 266

Division 2 Injuries to property

Chapter 45 Definitions

458 Unlawful acts 267

459 Acts done with intent to defraud 268

Chapter 46 Offences

461 Arson 268

462 Endangering particular property by fire 269

463 Setting fire to crops and growing plants 269

467 Endangering the safe use of vehicles and related transport infrastructure 269

468 Injuring animals 270

469 Wilful damage. 270

469A Sabotage and threatening sabotage 276

470 Attempts to destroy property by explosives 277

470A Unlawful deposition of explosive or noxious substances 278

471 Damaging mines 278

472 Interfering with marine signals 278

473 Interfering with navigation works 279

474 Communicating infectious diseases to animals 279

475 Travelling with infected animals 279

477 Obstructing railways 280

478 Sending letters threatening to burn or destroy 280

479 Arrest without warrant. 280

Division 3 Forgery and like offences—personation

Chapter 48 Forgery in general—definitions

484 Definitions. 280

Chapter 49 **Punishment of forgery and like offences**

488 Forgery and uttering 281

498 Falsifying warrants for money payable under public authority . . . 282

499 Falsification of registers 282

500 Sending false certificate of marriage to registrar 282

501 False statements for the purpose of registers of births, deaths, and marriages 283

501A Contradictory statements 283

502 Procuring or claiming unauthorised status 283

Chapter 51 **Preparation for forgery**

510 Instruments and materials for forgery. 284

Chapter 52 **Personation**

514 Personation in general 284

515 Falsely acknowledging deeds, recognisances etc.. 285

Division 4 **Offences connected with trade and breach of contract**

Chapter 54 **Other offences**

533 Mixing uncertified with certified articles 285

Part 7 **Preparation to commit offences—conspiracy—accessories after the fact**

Chapter 55 **Attempts and preparation to commit offences**

535 Attempts to commit indictable offences 286

536 Punishment of attempts to commit indictable offences 286

538 Reduction of punishment 287

539 Attempts to procure commission of criminal acts 287

540 Preparation to commit crimes with dangerous things. 288

Chapter 56 **Conspiracy**

541 Conspiracy to commit crime 288

542 Conspiracy to commit other offences 289

543 Other conspiracies 289

543A Industrial disputes 290

Chapter 57 **Accessories after the fact**

544 Accessories after the fact to offences. 290

545 Punishment of accessories after the fact to offences 290

Part 8 **Procedure**

Chapter 58 **Arrest**

545A Chapter does not apply to police officers 291

546	Arrest without warrant generally	291
547	Arrest without warrant in special cases	292
547A	Arrest of persons found committing offences on aircraft	292
548	Arrest of persons found committing offences	293
549	Arrest of offender committing indictable offences by night	293
550	Arrest during flight	293
551	Arrest of persons offering stolen property for sale etc.	293
552	Duty of persons arresting	294
Chapter 58A	**Indictable offences dealt with summarily**	
552A	Charges of indictable offences that must be heard and decided summarily on prosecution election	294
552B	Charges of indictable offences that must be heard and decided summarily unless defendant elects for jury trial	295
552BA	Charges of indictable offences that must be heard and decided summarily	297
552BB	Excluded offences	297
552C	Constitution of Magistrates Court	304
552D	When Magistrates Court must abstain from jurisdiction	305
552E	Charge may be heard and decided where defendant arrested or served	306
552F	Time for prosecution	306
552G	Value of property affecting jurisdiction to be decided by Magistrates Court	306
552H	Maximum penalty for indictable offences dealt with summarily	307
552I	Procedure under section 552B	307
552J	Appeals against decision to decide charge summarily	308
Chapter 59	**Jurisdiction—preliminary proceedings—bail**	
553	Jurisdiction	309
554	Preliminary proceedings on charges of indictable offences	309
557	Place of trial	309
558	Persons brought before wrong court	310
559	Change of place of trial	311
Chapter 60	**Indictments**	
559A	Definition for ch 60	312
560	Presenting indictments	312
560A	Place where indictment is presented	313
561	Ex officio indictments	313

562 Arrest of person charged in ex officio indictment 314
563 Nolle prosequi 314
564 Form of indictment 315
565 General rules applicable to indictments 315
566 Particular indictments 316
567 Joinder of charges 318
568 Cases in which several charges may be joined 319
569 Accessories 323
570 Statement of previous conviction 323
571 Formal defects 323
572 Amendment of indictments 324
573 Particulars 325
574 Summary convictions 325

Chapter 61 Effect of indictment

575 Offences involving circumstances of aggravation 325
576 Indictment containing count of murder or manslaughter 325
577 Charge of homicide of child 326
578 Charge of offence of a sexual nature 326
579 Charge of specific injury—charge of injury with specific intent . . 327
580 Charge of injury to property 327
581 Offences of dishonesty 327
582 Charge of procuring commission of offence or wrongful act 328
583 Conviction for attempt to commit offence 329
584 When evidence shows offence of similar nature 330
585 Effect of conviction 330
586 Corrupt practices 330
587 Illegal practices 331
588 Charge of stealing stock 331
588A Charges of stealing certain animals and of killing certain animals with intent to steal 331
589 Indictment for joint receiving 332

Chapter 62 Trial—adjournment—pleas—practice

Chapter division 1 Bringing accused person to trial

590 Bringing accused to trial 333

Chapter division 2 Directions and rulings before trial

590AA Pre-trial directions and rulings 334

590AAA Noncompliance with direction about disclosure 335

Chapter division 3 Disclosure by the prosecution

Chapter subdivision A Preliminary provisions

590AB Disclosure obligation 337

590AC Chapter division does not have particular consequences 337

Chapter subdivision B Interpretation

590AD Definitions for ch div 3 338

590AE Meaning of possession of the prosecution 340

590AF Meaning of sensitive evidence 340

590AFA Meaning of Evidence Act section 93A device statement 341

590AG Particular references to an accused person include references to a lawyer acting for the accused person 342

Chapter subdivision C Disclosure

590AH Disclosure that must always be made 342

590AI When mandatory disclosure must be made 343

590AJ Disclosure that must be made on request 345

590AK When requested disclosure must be made 346

590AL Ongoing obligation to disclose 346

590AM How disclosure may be made 347

Chapter subdivision D Limitations on disclosure

590AN Limit on disclosure of things accused person already has 348

590AO Limit on disclosure of sensitive evidence 348

590AOA Evidence Act section 93A device statement. 351

590AP Limit on disclosure of witness contact details. 355

590AQ Limit on disclosure contrary to the public interest 357

Chapter subdivision E Viewing

590AR Viewing evidence that is not original evidence 359

590AS Viewing particular evidence 359

Chapter subdivision F Miscellaneous provisions

590AT Accused person may waive entitlement 360

590AU Court may waive requirement. 360

590AV Disclosure directions under particular provisions 360

590AW When issues about disclosure must be resolved 361

590AX Unauthorised copying of sensitive evidence 361

Chapter division 4 Disclosure by an accused person

590A Notice of alibi 362

590B Advance notice of expert evidence. 364

590C Advance notice of representation if person who made it is unavailable 364

Chapter division 4A Disclosure obligation directions

590D Purpose and scope of ch div 4A. 365

590E Definitions for ch div 4A 366

590F Subject matter for disclosure obligation direction 366

590G Application for disclosure obligation direction. 368

Chapter division 5 Bringing on trial and ordering adjournment

591 Accelerating trial of persons not under committal 368

592 Adjournment of trial 369

593 Directions as to trial upon adjournment 369

593A Warrant to bring witness before court. 370

Chapter division 6 Corporation as accused person

594A Presence in court and plea where accused person is a corporation 370

Chapter division 7 Applications by accused person about indictment

595 Delivery of copy of indictment. 372

596 Motion to quash indictment 372

597 Misnomer 372

Chapter division 8 Separate trials

597A Separate trials where 2 or more charges against the same person 373

597B Separate trials 373

Chapter division 9 Pleas

597C Accused person to be called on to plead to indictment 374

598 Pleas 375

599 Defence of justification for defamation to be specially pleaded . . 376

600 Persons committed for sentence 376

601 Standing mute 377

602 Plea of autrefois convict or autrefois acquit 377

603 Trial on plea to the jurisdiction 377

604 Trial by jury 377

605 Demurrer 378

613 Want of understanding of accused person 378

Chapter division 9A Trial by judge alone

614 Application for order 379

615 Making a no jury order 379

615A More than 1 charge or accused person 380

615B Law and procedure to be applied 381
615C Judge's verdict and judgment 381
615D Particular proceedings excluded from application 382
615E References to trial by jury 382
Chapter division 10 Appearances and fair conduct
616 Defence by counsel 382
617 Presence of accused 383
617A Juries 383
Chapter division 11 Trial of issues
618 Evidence in defence 384
619 Speeches by counsel 384
620 Summing up 385
624 Special verdict 385
625 General verdict on charge of defamation 385
Chapter division 12 Other provisions
630 Procedure on charge of an offence committed after previous conviction 386
631 Further pleas 387
631A Plea of guilty during trial 387
Chapter 63 Evidence—presumptions of fact
632 Corroboration 388
634 Evidence on trials for perjury and subornation 389
635 Evidence of previous conviction 389
636 Evidence of blood relationship 389
638 Evidence of authority 390
639 Averments about public officers and public service officers or employees 391
641 Evidence on certain charges of stealing money 391
642 Evidence on charges relating to seals and stamps 392
643 Intention to injure, deceive or defraud 393
644 Admissions 393
644A Witness giving incriminating answers 393
Chapter 64 Verdict—judgment
645 Accused person insane during trial 394
646 Discharge of persons acquitted 394
647 Acquittal on ground of insanity 394
648 Convicted person to be called on to show cause 395

649	Arrest of judgment	395
650	Sentence	395
651	Court may decide summary offences if a person is charged on indictment	396
652	Proceedings to transmit charge for summary offence	397
653	Remission of proceedings to court exercising summary jurisdiction	398
659	Effect of summary conviction for indictable offences	399
Chapter 65	**Costs**	
660	Costs of prosecution in certain cases	399
662	Taxation	400
663	Enforcement of judgment of Circuit Court	400
Chapter 67	**Appeal—pardon**	
668	Definitions	400
668A	Reference by Attorney-General of pre-trial direction or ruling	401
668B	Reservation of points of law	402
668C	Appeal from arrest of judgment	403
668D	Right of appeal	403
668E	Determination of appeal in ordinary cases	404
668F	Powers of Court in special cases	404
669	Power to grant new trial	406
669A	Appeal by Attorney-General	406
670	Revesting and restitution of property on conviction	408
671	Time for appealing	409
671A	Judge's notes and report to be furnished on appeal	410
671B	Supplemental powers	410
671D	Right of appellant to be present	411
671E	Appeals permitted in writing	411
671F	Costs of appeal	412
671G	Grant of bail to appellant and custody when attending Court	412
671H	Duties of registrar	413
671J	Documents, exhibits etc.	414
671K	Recording of trial proceedings	414
671L	Powers exercisable by a judge	416
672	Appeals from the decisions of the Court	416
672A	Pardoning power preserved	417

675 Conditional remission of sentence by Governor 417
676 Pardon in case of imprisonment for non-payment of money 418
677 Effect of pardon 418
Chapter 68 Exceptions to double jeopardy rules
678 Definitions. 418
678A Application of ch 68 419
678B Court may order retrial for murder—fresh and compelling evidence 420
678C Court may order retrial for 25 year offence—tainted acquittal . . . 420
678D Fresh and compelling evidence—meaning. 421
678E Tainted acquittal—meaning 422
678F Interests of justice—matters for consideration 423
678G Application for retrial—procedure. 423
678H Retrial. 425
678I Authorisation of police investigations 425
678J Bail 427
678K Restrictions on publication 427
Chapter 69 Seizure and detention of property connected with offences—restitution of property unlawfully acquired
679A Search of aircraft 428
680 Property found on offenders on arrest 429
682 Disposal of property seized 429
683 Explosives 430
685B Orders for delivery of certain property 431
Chapter 70 Informations by private persons for indictable offences—ex officio indictments
686 Information by leave of the court by private prosecutors 431
687 Security to be given by prosecutor for costs of defence. 432
688 Service of information. 432
689 Plea 432
690 Default of plea 432
691 Time and place of trial 433
692 Effect of judgment for prosecutor on demurrer. 433
693 Effect of judgment by default 434
694 Costs of defence. 434
695 Practice to be applied on ex officio indictment 434

Chapter 71	**Miscellaneous provisions**	
695A	Power to protect victim of violence by prohibiting publication of information about proceedings	435
697	Court may direct certain persons to be prosecuted for perjury	436
699	Staying prosecution for publication of parliamentary paper	436
700	Certificate of dismissal by justices	437
702	Saving of civil remedies	438
704	No court fees in criminal cases	438
705	Copies of depositions to be allowed to persons committed for trial	438
706	Inspection of depositions at trial	438
706A	Development of administrative arrangements	439
707	Forms of criminal proceedings	440
708	Regulation-making power	440
Part 9	**Transitional and validation provisions**	
Chapter 72	**Transitional provision for Act No. 18 of 1999**	
709	Transitional provision for Act No. 18 of 1999	441
Chapter 73	**Transitional provision for Justice Legislation (Miscellaneous Provisions) Act (No. 2) 1999**	
710	Transitional provision for Justice Legislation (Miscellaneous Provisions) Act (No. 2) 1999	441
Chapter 74	**Transitional provision for Criminal Law Amendment Act 2000**	
711	Transitional provision for Criminal Law Amendment Act 2000	442
Chapter 75	**Transitional provision for Criminal Law Amendment Act 2002**	
712	Transitional provision for Criminal Law Amendment Act 2002	443
Chapter 76	**Transitional provision for Sexual Offences (Protection of Children) Amendment Act 2003**	
713	Transitional provision for Sexual Offences (Protection of Children) Amendment Act 2003—unlawful sexual relationship	443
Chapter 77	**Validation provision for Criminal Proceeds Confiscation Act 2002**	
714	Validation provision for Criminal Proceeds Confiscation Act 2002—presentation of indictment	444
Chapter 78	**Transitional provision for Evidence (Protection of Children) Amendment Act 2003**	
715	Transitional provision for disclosure by the prosecution	444

Chapter 79 **Transitional provision for Defamation Act 2005**

716 Defence of truth of defamatory matter still to be specially pleaded 445

Chapter 80 **Transitional provision for Criminal Code Amendment Act 2006**

717 Effect of repeal of ss 56, 57 and 58 445

Chapter 81 **Transitional provision for Justice and Other Legislation Amendment Act 2007**

718 Appointment of animal valuers 446

Chapter 82 **Transitional provision for Criminal Code and Other Acts Amendment Act 2008**

719 References to particular offences. 446

Chapter 83 **Transitional provision for Criminal Code and Jury and Another Act Amendment Act 2008**

720 Trial by judge alone 447

Chapter 84 **Transitional provision for Justice and Other Legislation Amendment Act 2008, part 8**

721 Notices to witnesses. 448

Chapter 85 **Transitional provision for the Criminal Code (Medical Treatment) Amendment Act 2009**

722 Retrospective application of amendment 448

Chapter 86 **Transitional provisions for Criminal Code (Abusive Domestic Relationship Defence and Another Matter) Amendment Act 2010**

723 Retrospective application of amendment 449

Chapter 87 **Transitional provision for members of QR Group**

724 Employees of members of QR Group taken to be persons employed in public service during interim period 450

Chapter 88 **Transitional provisions for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010**

725 Definitions for ch 88 451

726 New disclosure provisions apply only to prosecutions commenced after commencement. 451

727 New summary disposition provisions apply only to prosecutions commenced after commencement. 451

Chapter 89 **Transitional provision for Criminal Code and Other Legislation Amendment Act 2011**

728 Application of amendment Act 453

Endnotes

1	Index to endnotes	454
2	Date to which amendments incorporated	454
3	Key	455
4	Table of reprints	455
5	Tables in earlier reprints for Criminal Code Act 1899	457
6	List of legislation for Criminal Code Act 1899	457
7	List of annotations for Criminal Code Act 1899	458
8	Tables in earlier reprints for Criminal Code	459
9	List of legislation for Criminal Code	459
10	List of annotations for Criminal Code	474
11	List of forms notified or published in the gazette	540
12	Transitional and savings provisions for Criminal Code	540

Criminal Code Act 1899

[as amended by all amendments that commenced on or before 6 December 2011]

Whereas it is desirable to declare, consolidate, and amend the Criminal Law;

Be it enacted and declared by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows—

An Act to establish a Code of Criminal Law

1 Short title

This Act may be cited as the *Criminal Code Act 1899*.

2 Establishment of Code—schedule 1

(1) On and from 1 January 1901, the provisions contained in the Code of Criminal Law set forth in schedule 1 (***the Code***) shall be the law of Queensland with respect to the several matters therein dealt with.

(2) The said Code may be cited as the Criminal Code.

3 Saving

However—

(a) the repeal of any statute or part of a statute set forth in the schedules shall not affect the construction of any

other statute, or of any other part of the same statute, whether as regards the past or the future;

(b) when any enactment not mentioned in the schedules has been repealed, confirmed, revived, or perpetuated, by any enactment hereby repealed, such repeal, confirmation, reviver, or perpetuation, shall not be affected by the repeal effected by this Act;

(c) this Act shall not affect the validity, invalidity, effect, or consequences, of anything already done or suffered, or any existing status or capacity, or any right, title, obligation, or liability, civil or criminal, already acquired, accrued, or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim, or demand, or any indemnity, or the proof of any past act or thing; and any action, prosecution, or other proceeding, begun before the coming into operation of the Code, may, subject to the provisions of the Code, be continued as if this Act had not been passed; and any action, prosecution, or other proceeding, in respect of anything done or omitted to be done before the coming into operation of the Code, may, subject to the provisions of the Code, be brought, taken, and prosecuted, in the same manner as if this Act had not been passed;

(d) this Act shall not, except as expressly therein declared, affect any principle or rule of law or equity, or established jurisdiction, or form or course of pleading, practice, or procedure, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived, by, in, or from, any enactment hereby repealed;

(e) this Act shall not revive or restore any jurisdiction, duty, liability, right, title, privilege, restriction, exemption, usage, practice, procedure, form of punishment, or other matter or thing, not now existing or in force.

4 Construction of statutes, statutory rules, and other instruments

From and after the coming into operation of the Code, the following rules shall apply with respect to the construction of statutes, statutory rules, by-laws, and other instruments, that is to say—

(a) when in any statute, statutory rule, by-law, or other instrument, public or private, the term ***felony*** is used, or reference is made to an offence by the name of felony, it shall be taken that reference is intended to an offence which is a crime under the provisions of the Code;

(b) when in any statute, statutory rule, by-law, or other instrument, public or private, the term ***murder*** is used, it shall be taken that reference is intended to the crimes of wilful murder and murder and each of them;

(c) when in any statute, statutory rule, by-law, or other instrument, public or private, the term ***larceny*** is used, it shall be taken that reference is intended to the crime of stealing;

(d) when in any statute, statutory rule, by-law, or other instrument, public or private, reference is made to any offence by any specific name, it shall be intended that reference is intended to the offence which, under the provisions of the Code, is constituted by the act or omission that would heretofore have constituted the offence referred to;

(e) when in any statute, statutory rule, by-law, or other instrument, public or private, reference is made to any of the statutory provisions hereby repealed, it shall be taken that reference is intended to the corresponding provisions or substituted provisions of the Code.

5 Provisions of Code exclusive with certain exceptions

From and after the coming into operation of the Code, no person shall be liable to be tried or punished in Queensland as for an indictable offence except under the express provisions of the Code or some other statute law of Queensland, or under

the express provisions of some statute of the United Kingdom which is expressly applied to Queensland, or which is in force in all parts of Her Majesty's dominions not expressly excepted from its operation, or which authorises the trial and punishment in Queensland of offenders who have at places not in Queensland committed offences against the laws of the United Kingdom.

6 Civil remedies

(1) When by the Code any act is declared to be lawful, no action can be brought in respect thereof.

(2) A person who suffers loss or injury in, or in connection with, the commission of an indictable offence of which the person is found guilty has no right of action against another person for the loss or injury.

(3) Subsection (2) applies whether or not a conviction is recorded for the offence.

(4) Except as aforesaid, the provisions of this Act shall not affect any right of action which any person would have had against another if this Act had not been passed, nor shall the omission from the Code of any penal provision in respect of any act or omission which before the time of the coming into operation of the Code constituted an actionable wrong affect any right of action in respect thereof.

7 Offender may be prosecuted under Code or other statute

When an offender is punishable under the provisions of the Code, and also under the provisions of some other statute, the offender may be prosecuted and convicted under the provisions either of the Code or of such other statute, so that the offender is not twice punished for the same offence.

8 Contempt of court

Nothing in this Act or in the Code shall affect the authority of courts of record to punish a person summarily for the offence commonly known as 'contempt of court', but so that a person

can not be so punished and also punished under the provisions of the Code for the same act or omission.

Schedule 1 The Criminal Code

section 2

Part 1 Introductory

Interpretation—application—general principles

Chapter 1 Interpretation

1 Definitions

In this Code—

adult means a person of or above the age of 18 years.

adult entertainment has the meaning given by the *Liquor Act 1992*, section 103E.

adult entertainment permit means an adult entertainment permit granted under the *Liquor Act 1992* and in force.

affected child, for chapter 62, chapter division 3, see section 590AD.

aircraft includes any machine or apparatus designed to support itself in the atmosphere.

It is immaterial whether the machine or apparatus is incapable of use through mechanical defect or whether any part or parts thereof have been removed for any purpose or by any person.

A flight of an aircraft shall be deemed to commence—

(a) at the time of the closing of the external door of the aircraft last to be closed before the aircraft first moves for the purpose of taking off from any place; or

(b) if paragraph (a) is not applicable—at the time at which the aircraft first moves for the purpose of taking off from any place; and

shall be deemed to end—

(c) at the time of the opening of the external door of the aircraft first to be opened after the aircraft comes to rest after its next landing after the commencement of the flight; or

(d) if paragraph (c) is not applicable—at the time at which the aircraft comes to rest after its next landing after the commencement of the flight;

or, if the aircraft is destroyed, or the flight is abandoned, before either paragraph (c) or (d) becomes applicable, at the time at which the aircraft is destroyed or the flight is abandoned, as the case may be.

animal includes any living creature other than mankind.

approved manager means an approved manager under the *Prostitution Act 1999*.

arresting officer—

(a) for chapter 62, chapter division 3, see section 590AD; or

(b) for chapter 62, chapter division 4A, see section 590E.

benefit includes property, advantage, service, entertainment, the use of or access to property or facilities, and anything of benefit to a person whether or not it has any inherent or tangible value, purpose or attribute.

bodily harm means any bodily injury which interferes with health or comfort.

brothel licence has the meaning given by the *Prostitution Act 1999*, schedule 4.

canal includes aqueduct.

carnal knowledge see section 6.

child exploitation material, for chapter 22, see section 207A.

circumstance of aggravation means any circumstance by reason whereof an offender is liable to a greater punishment than that to which the offender would be liable if the offence were committed without the existence of that circumstance.

classification officer, for chapter 22, see section 207A.

classified, for chapter 22, see section 207A.

clerk and ***servant*** include any person employed for any purpose as or in the capacity of a clerk or servant, or as a collector of money, although temporarily only, or although employed also by other persons than the person alleged to be the person's employer, or although employed to pay as well as receive money, and any person employed as or in the capacity of a commission agent for the collection or disbursement of money, or in any similar capacity, although the person has no authority from the person's employer to receive money or other property on the employer's account.

committal for trial includes committal for sentence.

company means an incorporated company.

computer game, for chapter 22, see section 207A.

computer generated image means electronically recorded data capable, by way of an electronic device, of being produced on a computer monitor, television screen, liquid crystal display or similar medium as an image, including an image in the form of text.

conduct, for chapter 23, see section 230A.

consent, for chapter 32, see section 348.

court, for chapter 62, chapter division 3, see section 590AD.

crematorium includes the land or water where the crematorium is situated.

criminal history, for chapter 62, chapter division 3, see section 590AD.

criminally responsible means liable to punishment as for an offence.

criminal organisation means—

(a) an organisation of 3 or more persons—

(i) who predominately associate for the purpose of engaging in, organising, planning, facilitating, supporting, or otherwise conspiring to engage in, serious criminal activity as defined under the *Criminal Organisation Act 2009*; and

(ii) who, by their association, represent an unacceptable risk to the safety, welfare or order of the community; or

(b) a criminal organisation under the *Criminal Organisation Act 2009*.

criminal responsibility means liability to punishment as for an offence.

Crown Law Officer means the Attorney-General or director of public prosecutions.

damage, in relation to a document, includes—

(a) obliterate the document; and

(b) make the whole document or part of the document illegible or irrecoverable.

detriment, caused to a person, includes detriment caused to a person's property.

disclosure obligation, for chapter 62, chapter division 4A, see section 590E.

disclosure obligation direction, for chapter 62, chapter division 4A, see section 590E.

document includes—

(a) anything on which there is writing; and

(b) anything on which there are marks, figures, symbols, codes, perforations or anything else having a meaning

for a person qualified to interpret them; and

(c) a record.

domestic relationship means a domestic relationship as defined under the *Domestic and Family Violence Protection Act 1989*, section 11A(1) and 12, 12A, 12B or 12C.

DPP presenter, for chapter 60, see section 559A.

dwelling includes any building or structure, or part of a building or structure, which is for the time being kept by the owner or occupier for the residence therein of himself or herself, his or her family, or servants, or any of them, and it is immaterial that it is from time to time uninhabited.

A building or structure adjacent to, and occupied with, a dwelling is deemed to be part of the dwelling if there is a communication between such building or structure and the dwelling, either immediate or by means of a covered and enclosed passage leading from the one to the other, but not otherwise.

Evidence Act section 93A device statement, for chapter 62, chapter division 3, see section 590AD.

exculpatory thing, for chapter 62, chapter division 3, see section 590AD.

explosive substance includes a gaseous substance in such a state of compression as to be capable of explosion.

family, for chapter 16, see section 119A.

film, for chapter 22, see section 207A.

forge a document, means make, alter or deal with the document so that the whole of it or a material part of it—

(a) purports to be what, or of an effect that, in fact it is not; or

(b) purports to be made, altered or dealt with by a person who did not make, alter or deal with it or by or for some person who does not, in fact exist; or

(c) purports to be made, altered or dealt with by authority of a person who did not give that authority; or

(d) otherwise purports to be made, altered or dealt with in circumstances in which it was not made, altered or dealt with.

genitalia includes surgically constructed genitalia.

grievous bodily harm means—

(a) the loss of a distinct part or an organ of the body; or

(b) serious disfigurement; or

(c) any bodily injury of such a nature that, if left untreated, would endanger or be likely to endanger life, or cause or be likely to cause permanent injury to health;

whether or not treatment is or could have been available.

indecent matter includes indecent film, videotape, audiotape, picture, photograph or printed or written matter.

indictment means a written charge preferred against an accused person in order to the person's trial before some court other than justices exercising summary jurisdiction.

inland water includes river, canal and reservoir.

judicial officer includes—

(a) an arbitrator, or umpire, appointed in relation to an arbitration in which evidence may be taken on oath; and

(b) a member of a tribunal established under an Act to perform judicial functions or judicial functions and other functions; and

(c) a person conducting a hearing of the Crime and Misconduct Commission under the *Crime and Misconduct Act 2001*, chapter 4; and

(d) a justice of the peace constituting a court.

judicial proceeding, for chapter 16, see section 119.

knowingly, used in connection with any term denoting uttering or using, implies knowledge of the character of the thing uttered or used.

law enforcement agency means—

(a) the Queensland Police Service; or

(b) the Office of the Director of Public Prosecutions; or

(c) the Crime and Misconduct Commission; or

(d) any other entity of—

(i) another State; or

(ii) the Commonwealth;

that performs a similar function to an entity in paragraphs (a) to (c).

law enforcement officer means—

(a) a member or officer of a law enforcement agency, including a person appearing for the director under the *Director of Public Prosecutions Act 1984*, section 10(4); or

(b) a person who is authorised, in writing, by the commissioner of the police service, or the chairperson of the Crime and Misconduct Commission, to help a member or officer of a law enforcement agency; or

(c) a person who belongs to a class of persons that is authorised, in writing, by the commissioner of the police service, or the chairperson of the Crime and Misconduct Commission, to help a member or officer of a law enforcement agency.

liable, used alone, means liable on conviction upon indictment.

licensed brothel has the meaning given by the *Prostitution Act 1999*, schedule 4.

licensee, for a licensed brothel, means the person who holds the brothel licence for the brothel under the *Prostitution Act 1999*.

material, for chapter 22, see section 207A.

money includes bank notes, bank drafts, cheques, and any other orders, warrants, authorities, or requests, for the payment of money.

motor vehicle includes any machine or apparatus designed for propulsion wholly or partly by gas, motor spirit, oil, electricity, steam or other mechanical power, and also includes a motor cycle, or a caravan, caravan trailer or other trailer designed to be attached to a motor vehicle.

It is immaterial whether the machine or apparatus is incapable of use through mechanical defect or whether any part or parts thereof have been removed for any purpose or by any person.

night or ***night-time*** means the interval between 9p.m. and 6a.m.

observe, for chapter 22, see section 207A.

occupier, for chapter 23, see section 230A.

offence see section 2.

original evidence, for chapter 62, chapter division 3, see section 590AD.

party, for chapter 62, chapter division 4A, see section 590E.

penetrate, for chapter 32, see section 347.

penis includes a surgically constructed penis, whether provided for a male or female.

person and ***owner***, and other like terms, when used with reference to property, include corporations of all kinds, and any other associations of persons capable of owning property, and also, when so used, include Her Majesty.

person employed in the public service includes police officers, staff members under the *Ministerial and Other Office*

Holder Staff Act 2010 and persons employed to execute any process of a court of justice, and also includes the chief executive officer of a rail GOC or a subsidiary of a rail GOC and persons employed by a rail GOC or a subsidiary of a rail GOC.

person with an impairment of the mind means a person with a disability that—

(a) is attributable to an intellectual, psychiatric, cognitive or neurological impairment or a combination of these; and

(b) results in—

(i) a substantial reduction of the person's capacity for communication, social interaction or learning; and

(ii) the person needing support.

picture includes image including computer generated image.

place, for chapter 23, see section 230A.

port includes harbour and dock.

possession includes having under control in any place whatever, whether for the use or benefit of the person of whom the term is used or of another person, and although another person has the actual possession or custody of the thing in question.

possession of the prosecution, for chapter 62, chapter division 3, see section 590AE.

premises includes—

(a) a building or structure, or part of a building or structure, of any type; and

(b) a group of, or part of a group of, buildings or structures, of any type; and

(c) the land or water where a building or structure or a group of buildings or structures is situated; and

(d) a vehicle, or a caravan; and

(e) a tent, or a cave; and

(f) premises in which more than 1 person has ownership.

prescribed summary trial, for chapter 62, chapter division 3, see section 590AD.

private act, for chapter 22, see section 207A.

private place, for chapter 22, see section 207A.

property includes—

(a) every thing animate or inanimate that is capable of being the subject of ownership; and

(b) money; and

(c) electrical or other energy, gas and water; and

(d) a plant; and

(e) an animal that is—

(i) a tame animal, whether or not naturally tame; or

(ii) an untamed animal of a type that, if kept, is usually kept confined; or

(iii) an untamed animal in a person's possession or being pursued for return to possession after escape; and

(f) a thing produced by an animal mentioned in paragraph (e); and

(g) any other property real or personal, legal or equitable, including things in action and other intangible property.

prosecution—

(a) for chapter 62, chapter division 3, see section 590AD; or

(b) for chapter 62, chapter division 4A, see section 590E.

prostitution has the meaning given by section 229E.

publication, for chapter 22, see section 207A.

public officer means a person other than a judicial officer, whether or not the person is remunerated—

(a) discharging a duty imposed under an Act or of a public nature; or

(b) holding office under or employed by the Crown;

and includes, whether or not the person is remunerated—

(c) a person employed to execute any process of a court; and

(d) a public service employee; and

(e) a person appointed or employed under any of the following Acts—

(i) the *Police Service Administration Act 1990*;

(ii) the *Transport Infrastructure Act 1994*;

(iii) the *State Buildings Protective Security Act 1983*; and

(f) a member, officer, or employee of an authority, board, corporation, commission, local government, council, committee or other similar body established for a public purpose under an Act.

public place, for chapter 23, see section 230A.

rail GOC see the *Transport Infrastructure Act 1994*, schedule 6.

railway includes every kind of way on which vehicles are borne upon a rail or rails, whatever may be the means of propulsion.

record means any thing or process—

(a) on or by which information is recorded or stored; or

(b) by means of which sounds, images, writings, messages or anything else having meaning can be conveyed in any way in a visible or recoverable form;

even if the use or assistance of some electronic, electrical, mechanical, chemical or other device or process is required to recover or convey the information or meaning.

registered brand and ***registered mark*** mean respectively a brand or mark which is registered under the authority of the laws relating to brands and each such registered brand or registered mark shall for the purposes of this Code be deemed to be the registered brand or registered mark respectively of the person in whose name such brand or mark is registered.

However, where such brand or mark is registered in the names of 2 or more persons such registered brand or registered mark shall for the purposes of this Code be deemed to be the registered brand or registered mark respectively of each of such persons.

relevant proceeding, for chapter 62, chapter division 3, see section 590AD.

sensitive evidence, for chapter 62, chapter division 3, see section 590AF.

serious disease means a disease that would, if left untreated, be of such a nature as to—

(a) cause or be likely to cause any loss of a distinct part or organ of the body; or

(b) cause or be likely to cause serious disfigurement; or

(c) endanger or be likely to endanger life, or to cause or be likely to cause permanent injury to health;

whether or not treatment is or could have been available.

ship includes every kind of vessel used in navigation not propelled by oars.

someone, for chapter 22, see section 207A.

spent conviction, for chapter 62, chapter division 3, see section 590AD.

statement, for chapter 62, chapter division 3, see section 590AD.

state of undress, for chapter 22, see section 207A.

stock means any of the following animals or their young—

(a) horse, asses, mules or camels;

(b) cattle, oxen or buffalo;

(c) sheep;

(d) swine;

(e) deer;

(f) goats.

summary conviction means summary conviction before a Magistrates Court.

the offender can not be arrested without warrant see section 5(3).

the offender may be arrested without warrant see section 5(1).

trial includes a proceeding wherein a person is to be sentenced.

uncorroborated testimony means testimony which is not corroborated in some material particular by other evidence implicating the accused person.

unlawful game, for chapter 23, see section 230A.

utter means and includes using or dealing with, and attempting to use or deal with, and attempting to induce any person to use, deal with, or act upon, the thing in question.

vagina includes a surgically constructed vagina, whether provided for a male or female.

valuable security includes any document which is the property of any person, and which is evidence of the ownership of any property or of the right to recover or receive any property.

vehicle includes—

(a) a motor vehicle, train, aircraft, or vessel; or

(b) anything else used or to be used to carry persons or goods from place to place.

vessel includes a ship, or boat, and every other kind of vessel used in navigation.

view, for chapter 62, chapter division 3, see section 590AD.

visually record, for chapter 22, see section 207A.

vulva includes a surgically constructed vulva, whether provided for a male or female.

woman includes any female.

writing includes any way of representing or reproducing in a visible form any word, inscription, signature or other mark.

2 Definition of *offence*

An act or omission which renders the person doing the act or making the omission liable to punishment is called an ***offence***.

3 Division of offences

(1) Offences are of 2 kinds, namely, criminal offences and regulatory offences.

(2) Criminal offences comprise crimes, misdemeanours and simple offences.

(3) Crimes and misdemeanours are indictable offences; that is to say, the offenders can not, unless otherwise expressly stated, be prosecuted or convicted except upon indictment.

(4) A person guilty of a regulatory offence or a simple offence may be summarily convicted by a Magistrates Court.

(5) An offence not otherwise designated is a simple offence.

4 Attempts to commit offences

(1) When a person, intending to commit an offence, begins to put the person's intention into execution by means adapted to its

fulfilment, and manifests the person's intention by some overt act, but does not fulfil the person's intention to such an extent as to commit the offence, the person is said to attempt to commit the offence.

(2) It is immaterial, except so far as regards punishment, whether the offender does all that is necessary on the offender's part for completing the commission of the offence, or whether the complete fulfilment of the offender's intention is prevented by circumstances independent of his or her will, or whether the offender desists of his or her own motion from the further prosecution of the offender's intention.

(3) It is immaterial that by reason of circumstances not known to the offender it is impossible in fact to commit the offence.

(4) The same facts may constitute one offence and an attempt to commit another offence.

5 Arrest without warrant

(1) The expression ***the offender may be arrested without warrant*** means that the provisions of this Code relating to the arrest of offenders or suspected offenders without warrant are applicable to the offence in question, either generally or subject to such conditions (if any) as to time, place, or circumstance, or as to the person authorised to make the arrest, as are specified in the particular case.

(2) Except when otherwise stated, the definition of an offence as a crime imports that the offender may be arrested without warrant.

(3) The expression ***the offender can not be arrested without warrant*** means that the provisions of this Code relating to the arrest of offenders or suspected offenders without warrant are not applicable to the crime in question, except subject to such conditions (if any) as to time, place, or circumstance, or as to the person authorised to make the arrest as are specified in the particular case.

6 Carnal knowledge

(1) If ***carnal knowledge*** is used in defining an offence, the offence, so far as regards that element of it, is complete on penetration to any extent.

(2) ***Carnal knowledge*** includes sodomy.

Chapter 2 Parties to offences

7 Principal offenders

(1) When an offence is committed, each of the following persons is deemed to have taken part in committing the offence and to be guilty of the offence, and may be charged with actually committing it, that is to say—

(a) every person who actually does the act or makes the omission which constitutes the offence;

(b) every person who does or omits to do any act for the purpose of enabling or aiding another person to commit the offence;

(c) every person who aids another person in committing the offence;

(d) any person who counsels or procures any other person to commit the offence.

(2) Under subsection (1)(d) the person may be charged either with committing the offence or with counselling or procuring its commission.

(3) A conviction of counselling or procuring the commission of an offence entails the same consequences in all respects as a conviction of committing the offence.

(4) Any person who procures another to do or omit to do any act of such a nature that, if the person had done the act or made the omission, the act or omission would have constituted an

offence on the person's part, is guilty of an offence of the same kind, and is liable to the same punishment, as if the person had done the act or made the omission; and the person may be charged with doing the act or making the omission.

8 Offences committed in prosecution of common purpose

When 2 or more persons form a common intention to prosecute an unlawful purpose in conjunction with one another, and in the prosecution of such purpose an offence is committed of such a nature that its commission was a probable consequence of the prosecution of such purpose, each of them is deemed to have committed the offence.

9 Mode of execution immaterial

(1) When a person counsels another to commit an offence, and an offence is actually committed after such counsel by the person to whom it is given, it is immaterial whether the offence actually committed is the same as that counselled or a different one, or whether the offence is committed in the way counselled, or in a different way, provided in either case that the facts constituting the offence actually committed are a probable consequence of carrying out the counsel.

(2) In either case the person who gave the counsel is deemed to have counselled the other person to commit the offence actually committed by the other person.

10 Accessories after the fact

A person who receives or assists another who is, to the person's knowledge, guilty of an offence, in order to enable the person to escape punishment, is said to become an accessory after the fact to the offence.

10A Interpretation of ch 2

(1) Under section 7, a person's criminal responsibility extends to any offence that, on the evidence admissible against him or her, is either the offence proved against the person who did the act or made the omission that constitutes that offence or any statutory or other alternative to that offence.

(2) Under section 8, a person's criminal responsibility extends to any offence that, on the evidence admissible against him or her, is a probable consequence of the prosecution of a common intention to prosecute an unlawful purpose, regardless of what offence is proved against any other party to the common intention.

(3) This section does not limit any other provision of this chapter.

Chapter 3 Application of criminal law

11 Effect of changes in law

(1) A person can not be punished for doing or omitting to do an act unless the act or omission constituted an offence under the law in force when it occurred; nor unless doing or omitting to do the act under the same circumstances would constitute an offence under the law in force at the time when the person is charged with the offence.

(2) If the law in force when the act or omission occurred differs from that in force at the time of the conviction, the offender can not be punished to any greater extent than was authorised by the former law, or to any greater extent than is authorised by the latter law.

12 Application of Code as to offences wholly or partially committed in Queensland

(1) This Code applies to every person who does an act in Queensland or makes an omission in Queensland, which in either case constitutes an offence.

(2) Where acts or omissions occur which, if they all occurred in Queensland, would constitute an offence and any of the acts or omissions occur in Queensland, the person who does the acts or makes the omissions is guilty of an offence of the same kind and is liable to the same punishment as if all the acts or omissions had occurred in Queensland.

(3) Where an event occurs in Queensland caused by an act done or omission made out of Queensland which, if done or made in Queensland, would constitute an offence, the person who does the act or makes the omission is guilty of an offence of the same kind and is liable to the same punishment as if the act or omission had occurred in Queensland.

(3A) It is a defence to prove that the person did not intend that the act or omission should have effect in Queensland.

(4) Where an event occurs out of Queensland caused by an act done or omission made in Queensland, which act or omission would constitute an offence had the event occurred in Queensland, the person who does the act or makes the omission is guilty of an offence of the same kind and is liable to the same punishment as if the event had occurred in Queensland.

(5) This section does not extend to a case where the only material event that occurs in Queensland is the death in Queensland of a person whose death is caused by an act done or an omission made out of Queensland at a time when the person was out of Queensland.

13 Offences enabled, aided, procured or counselled by persons out of Queensland

(1) Any person who while out of Queensland—

(a) does or omits to do an act for the purpose of enabling or aiding another person to commit an offence that is actually committed in Queensland; or

(b) aids another person in committing an offence that is actually committed in Queensland; or

(c) counsels or procures another person to commit an offence that is actually committed in Queensland;

is guilty of an offence of the same kind and is liable to the same punishment as if the person had committed the offence in Queensland.

(2) Any person who while out of Queensland procures another to do or omit to do in Queensland an act of such a nature that, if the person had done the act or made the omission in Queensland, the person would have been guilty of an offence is guilty of an offence of the same kind and is liable to the same punishment as if the person had done the act or made the omission in Queensland.

14 Offences procured in Queensland to be committed out of Queensland

Any person who while in Queensland procures another to do an act or make an omission at a place not in Queensland of such a nature that, if the person had done the act or made the omission in Queensland, the person would have been guilty of an offence, and that, if the person had done the act or made the omission, the person would have been guilty of an offence under the laws in force in the place where the act or omission is done or made, is guilty of an offence of the same kind, and is liable to the same punishment, as if the act had been done or the omission had been made in Queensland, but so that the punishment does not exceed that which the person would have incurred under the laws in force in the place where the act was done or the omission was made, if the person had done the act or made the omission.

15 Defence Force

Officers and other members of the Australian Defence Force are, while on duty or in uniform, subject to the special laws relating to that Force, but are not exempt from the provisions of this Code.

16 Person not to be twice punished for same offence

A person can not be twice punished either under the provisions of this Code or under the provisions of any other law for the same act or omission, except in the case where the act or omission is such that by means thereof the person causes the death of another person, in which case the person may be convicted of the offence of which the person is guilty by reason of causing such death, notwithstanding that the person has already been convicted of some other offence constituted by the act or omission.

17 Former conviction or acquittal

It is a defence to a charge of any offence to show that the accused person has already been tried, and convicted or acquitted upon an indictment on which the person might have been convicted of the offence with which the person is charged, or has already been acquitted upon indictment, or has already been convicted, of an offence of which the person might be convicted upon the indictment or complaint on which the person is charged.

Note—

This section does not apply to the charge mentioned in section 678B (Court may order retrial for murder—fresh and compelling evidence) or 678C (Court may order retrial for 25 year offence—tainted acquittal).

Chapter 4 Royal prerogative of mercy

18 Royal prerogative of mercy

This Code does not affect the Royal prerogative of mercy.

Chapter 5 Criminal responsibility

22 Ignorance of the law—bona fide claim of right

(1) Ignorance of the law does not afford any excuse for an act or omission which would otherwise constitute an offence, unless knowledge of the law by the offender is expressly declared to be an element of the offence.

(2) But a person is not criminally responsible, as for an offence relating to property, for an act done or omitted to be done by the person with respect to any property in the exercise of an honest claim of right and without intention to defraud.

(3) A person is not criminally responsible for an act or omission done or made in contravention of a statutory instrument if, at the time of doing or making it, the statutory instrument was not known to the person and had not been published or otherwise reasonably made available or known to the public or those persons likely to be affected by it.

(4) In this section—

publish—

(a) in relation to a statutory instrument that is subordinate legislation—means notify in accordance with section 47 (Notification) of the *Statutory Instruments Act 1992*; and

(b) in relation to a statutory instrument that is not subordinate legislation—means publish in the gazette.

23 Intention—motive

(1) Subject to the express provisions of this Code relating to negligent acts and omissions, a person is not criminally responsible for—

(a) an act or omission that occurs independently of the exercise of the person's will; or

(b) an event that—

(i) the person does not intend or foresee as a possible consequence; and

(ii) an ordinary person would not reasonably foresee as a possible consequence.

(1A) However, under subsection (1)(b), the person is not excused from criminal responsibility for death or grievous bodily harm that results to a victim because of a defect, weakness, or abnormality.

(2) Unless the intention to cause a particular result is expressly declared to be an element of the offence constituted, in whole or part, by an act or omission, the result intended to be caused by an act or omission is immaterial.

(3) Unless otherwise expressly declared, the motive by which a person is induced to do or omit to do an act, or to form an intention, is immaterial so far as regards criminal responsibility.

24 Mistake of fact

(1) A person who does or omits to do an act under an honest and reasonable, but mistaken, belief in the existence of any state of things is not criminally responsible for the act or omission to any greater extent than if the real state of things had been such as the person believed to exist.

(2) The operation of this rule may be excluded by the express or implied provisions of the law relating to the subject.

25 Extraordinary emergencies

Subject to the express provisions of this Code relating to acts done upon compulsion or provocation or in self-defence, a person is not criminally responsible for an act or omission done or made under such circumstances of sudden or extraordinary emergency that an ordinary person possessing ordinary power of self-control could not reasonably be expected to act otherwise.

26 Presumption of sanity

Every person is presumed to be of sound mind, and to have been of sound mind at any time which comes in question, until the contrary is proved.

27 Insanity

(1) A person is not criminally responsible for an act or omission if at the time of doing the act or making the omission the person is in such a state of mental disease or natural mental infirmity as to deprive the person of capacity to understand what the person is doing, or of capacity to control the person's actions, or of capacity to know that the person ought not to do the act or make the omission.

(2) A person whose mind, at the time of the person's doing or omitting to do an act, is affected by delusions on some specific matter or matters, but who is not otherwise entitled to the benefit of subsection (1), is criminally responsible for the act or omission to the same extent as if the real state of things had been such as the person was induced by the delusions to believe to exist.

28 Intoxication

(1) The provisions of section 27 apply to the case of a person whose mind is disordered by intoxication or stupefaction caused without intention on his or her part by drugs or intoxicating liquor or by any other means.

(2) They do not apply to the case of a person who has, to any extent intentionally caused himself or herself to become intoxicated or stupefied, whether in order to afford excuse for the commission of an offence or not and whether his or her mind is disordered by the intoxication alone or in combination with some other agent.

(3) When an intention to cause a specific result is an element of an offence, intoxication, whether complete or partial, and whether intentional or unintentional, may be regarded for the purpose of ascertaining whether such an intention in fact existed.

29 Immature age

(1) A person under the age of 10 years is not criminally responsible for any act or omission.

(2) A person under the age of 14 years is not criminally responsible for an act or omission, unless it is proved that at the time of doing the act or making the omission the person had capacity to know that the person ought not to do the act or make the omission.

30 Judicial officers

Except as expressly provided by this Code, a judicial officer is not criminally responsible for anything done or omitted to be done by the judicial officer in the exercise of the officer's judicial functions, although the act done is in excess of the officer's judicial authority, or although the officer is bound to do the act omitted to be done.

31 Justification and excuse—compulsion

(1) A person is not criminally responsible for an act or omission, if the person does or omits to do the act under any of the following circumstances, that is to say—

(a) in execution of the law;

(b) in obedience to the order of a competent authority which he or she is bound by law to obey, unless the order is manifestly unlawful;

(c) when the act is reasonably necessary in order to resist actual and unlawful violence threatened to the person, or to another person in the person's presence;

(d) when—

(i) the person does or omits to do the act in order to save himself or herself or another person, or his or her property or the property of another person, from serious harm or detriment threatened to be inflicted by some person in a position to carry out the threat; and

(ii) the person doing the act or making the omission reasonably believes he or she or the other person is unable otherwise to escape the carrying out of the threat; and

(iii) doing the act or making the omission is reasonably proportionate to the harm or detriment threatened.

(2) However, this protection does not extend to an act or omission which would constitute the crime of murder, or an offence of which grievous bodily harm to the person of another, or an intention to cause such harm, is an element, nor to a person who has by entering into an unlawful association or conspiracy rendered himself or herself liable to have such threats made to the person.

(3) Whether an order is or is not manifestly unlawful is a question of law.

34 Offences by partners and members of companies with respect to partnership or corporate property

A person who, being a member of a co-partnership, corporation, or joint stock company, does or omits to do any act with respect to the property of the co-partnership, corporation, or company, which, if the person were not a

member of the co-partnership, corporation, or company, would constitute an offence, is criminally responsible to the same extent as if the person were not such member.

36 Application of rules

(1) The provisions of this chapter apply to all persons charged with any criminal offence against the statute law of Queensland.

(2) Except for sections 22(3), 29 and 31, this chapter does not apply to regulatory offences.

Part 2 Offences against public order

Chapter 7 Sedition

44 Definition of *seditious intention*

An intention to effect any of the following purposes, that is to say—

(a) to bring the Sovereign into hatred or contempt;

(b) to excite disaffection against the Sovereign or the Government or Constitution of the United Kingdom or of Queensland as by law established, or against either House of Parliament of the United Kingdom or of Queensland, or against the administration of justice;

(c) to excite Her Majesty's subjects to attempt to procure the alteration of any matter in the State as by law established otherwise than by lawful means;

(d) to raise discontent or disaffection amongst Her Majesty's subjects;

(e) to promote feelings of ill will and enmity between different classes of Her Majesty's subjects;

is a ***seditious intention***, unless it is justified by the provisions of section 45.

45 Innocent intentions

It is lawful for any person—

(a) to endeavour in good faith to show that the Sovereign has been mistaken in any of Her counsels; or

(b) to point out in good faith errors or defects in the government or Constitution of the United Kingdom or of Queensland as by law established, or in legislation, or in the administration of justice, with a view to the reformation of such errors or defects; or

(c) to excite in good faith Her Majesty's subjects to attempt to procure by lawful means the alteration of any matter in the State as by law established; or

(d) to point out in good faith in order to their removal any matters which are producing or have a tendency to produce feelings of ill will and enmity between different classes of Her Majesty's subjects.

46 Definition of *seditious enterprises* etc.

(1) A ***seditious enterprise*** is an enterprise which is undertaken in order to the carrying out of a seditious intention.

(2) ***Seditious words*** are words expressive of a seditious intention.

(3) In this Code—

seditious writing includes anything intended to be read, and any sign or visible representation, which is expressive of a seditious intention.

51 Unlawful drilling

(1) Any person who—

(a) in contravention of the directions under a regulation, trains or drills any other person to the use of arms or the practice of military exercises, movements, or evolutions; or

(b) is present at any meeting or assembly of persons held in contravention of the directions of any such proclamation, for the purpose of there training or drilling any other person to the use of arms or the practice of military exercises, movements, or evolutions;

is guilty of a crime, and is liable to imprisonment for 7 years.

(2) Any person who, at any meeting or assembly held in contravention of the directions under a regulation, is trained or drilled to the use of arms or the practice of military exercises, movements, or evolutions, or who is present at any such meeting or assembly for the purpose of being so trained or drilled, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

(2A) The offender may be arrested without warrant.

(3) A prosecution for any of the offences defined in this section must be begun within 6 months after the offence is committed.

52 Sedition

(1) Any person who—

(a) conspires with any person to carry into execution a seditious enterprise; or

(b) advisedly publishes any seditious words or writing;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

(2) If the person has been previously convicted of any such offence the person is guilty of a crime, and is liable to imprisonment for 7 years.

(3) A prosecution for any of the offences defined in this section must be begun within 6 months after the offence is committed.

(4) A person can not be convicted of any of the offences defined in this section upon the uncorroborated testimony of 1 witness.

Chapter 8 Offences against the executive and legislative power

54 Interference with Governor or Ministers

(1) Any person who—

(a) does any act with intention to interfere with the free exercise by the Governor of the duties or authority of the Governor's office; or

(b) does any act with intention to interfere with the free exercise by a member of the Executive Council of the duties or authority of the member's office as a member of the Executive Council or as a Minister of State;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

(2) The offender may be, and it is hereby declared that the offender always was liable to be, arrested without warrant.

54A Demands with menaces upon agencies of government

(1) Any person who demands that anything be done or omitted to be done or be procured by—

(a) the Government of Queensland or a person in the employment of the Crown in right of Queensland, in performance of the duties of the person's employment or otherwise in the person's official capacity; or

(b) the Governor, in his or her role of Governor; or

(c) a Minister of the Crown, in his or her office as Minister or as a member of the Executive Council of Queensland; or

(d) a government corporation, in discharge of its functions conferred by law, or a person in the employment of a government corporation, in performance of the duties of the person's employment or otherwise in the person's official capacity;

with threats of detriment of any kind to be caused to any person aforesaid or any other person or to the public or any member or members of the public or to property, by the offender or by any other person, if the demand is not complied with is guilty of a crime and is liable to imprisonment for 14 years.

(2) A person is not criminally responsible for an act referred to in subsection (1) if the detriment is threatened to himself or herself only or to property of which the person is the sole owner.

(3) It is immaterial to the commission of an offence defined in this section that—

(a) the demand or threat is made by means of a medium ordinarily used for disseminating information to the public and not to a particular person; or

(b) the threat does not specify the detriment that is to be caused or the person or persons to whom or the property to which it is to be caused.

(4) If the carrying out of the threat would be likely to cause—

(a) loss of life or serious personal injury to any person; or

(b) substantial economic loss—

(i) to the Crown; or

(ii) to a government corporation; or

(iii) in any industrial or commercial activity whether conducted by a public authority or as a private enterprise;

the offender is liable to imprisonment for life and if, in addition, the offender or another person on the offender's behalf has carried out the threat and thereby caused a consequence specified in this subsection or has by some overt act begun to prepare for the carrying out of the threat, the offender is liable to imprisonment for life, which can not be mitigated or varied under this Code or any other law or is liable to an indefinite sentence under part 10 of the *Penalties and Sentences Act 1992*.

(5) A prosecution for an offence defined in this section shall not be commenced without the consent of the Attorney-General.

(6) For the purposes of this section—

detriment includes destruction of or damage to—

(a) flora or fauna protected by or under an Act; or

(b) any place, thing or living creature or plant that by reason of its cultural, educational, environmental, historical, recreational, religious or scientific significance is of substantial public interest or concern;

and, in the absence of proof that any such item destroyed or damaged was or is the property of a particular person, shall be deemed to be detriment to the Crown.

government corporation means any body corporate or corporation sole constituted by or under an Act that represents the Crown or that is declared under a regulation to be a government corporation for the purposes of this section.

55 Interference with the Legislature

(1) Any person who, by force or fraud, intentionally interferes or attempts to interfere with the free exercise by the Legislative Assembly of its authority, or with the free exercise by any member of the Legislative Assembly of the member's duties or authority as such member, or as a member of a committee of the Legislative Assembly is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

(2) The offender may be, and it is hereby declared that the offender always was liable to be, arrested without warrant.

56A Disturbance in House when Parliament not sitting

(1) Any person creating or joining in any disturbance in Parliament House or within the precincts thereof at any time other than during an actual sitting of Parliament therein or at the office or residence of the Governor or of any member of the Legislative Assembly or of the Executive Council shall be guilty of an offence and—

(a) if the person created or joined in such disturbance in Parliament House or within the precincts thereof—may be apprehended without warrant on the verbal order of the Speaker or, in the Speaker's absence, of the clerk of the Parliament, or of the person for the time being discharging the duties of the office of the clerk of the Parliament, and may be kept in custody by any officer of Parliament or by any police officer; or

(b) if the person created or joined in such disturbance at the office or residence of the Governor or of any member of the Legislative Assembly or of the Executive Council—may be apprehended without warrant on the verbal order of the Governor or, as the case may be, member of the Legislative Assembly or of the Executive Council concerned, and may be kept in custody by any police officer.

(2) Such person may be so kept in custody until the person can be dealt with in the manner following, that is to say—

(a) every such person shall, as soon as reasonably may be, be brought before a magistrate without formal written complaint and there and then charged with such offence and summarily dealt with according to law;

(b) any such person on summary conviction shall be liable to a fine of 100 penalty units or imprisonment for a term not exceeding 2 years.

56B Going armed to Parliament House

(1) Any person who without lawful excuse being armed enters or is found in Parliament House or in any of the grounds thereof or in any building in or upon such grounds is guilty of an offence and is liable on summary conviction to a fine of 100 penalty units with or without imprisonment for a term not exceeding 2 years.

(1A) The offender may be arrested without warrant.

(2) On the conviction of a person for an offence against subsection (1), any arms found in the person's possession or under the person's control are forfeited to the State.

(3) For the purposes of this section—

armed shall mean having in the person's possession or under the person's immediate control whether concealed or not—

(a) any firearm whatsoever loaded or unloaded and whether capable of projecting a missile or not; or

(b) any bomb or other explosive matter, machine, or device mechanical or otherwise capable of causing injury to any person or damage to any property or any dangerous or offensive weapon or instrument; or

(c) any corrosive substance;

and the word ***arms*** shall have a correlative meaning.

59 Member of Parliament receiving bribes

(1) Any person who, being a member of the Legislative Assembly, asks for, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself, herself or any other person upon any understanding that the person's vote, opinion, judgment, or action, in the Legislative Assembly, or in any committee thereof, shall be influenced thereby, or shall be given in any particular manner or in favour of any particular side of any question or matter, is guilty of a crime, and is liable to imprisonment for 7 years, and is disqualified from sitting or voting as a member of the Legislative Assembly for 7 years.

(2) The offender can not be arrested without warrant.

60 Bribery of member of Parliament

(1) Any person who—

(a) in order to influence a member of the Legislative Assembly in the member's vote, opinion, judgment, or action, upon any question or matter arising in the Legislative Assembly or in any committee thereof or in order to induce the member to absent himself or herself from the Assembly or from any such committee, gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, any property or benefit of any kind to, upon, or for, such member, or to, upon, or for, any other person; or

(b) attempts, directly or indirectly, by fraud, or by threats or intimidation of any kind, to influence a member of the Legislative Assembly in the member's vote, opinion, judgment, or action, upon any such question or matter, or to induce the member to so absent himself or herself;

is guilty of a crime, and is liable to imprisonment for 7 years.

(2) The offender can not be arrested without warrant.

(3) Where a person has been convicted (whether before or after 1 July 1922) of an offence under this section, all property which

has been tendered or produced in evidence at the trial of the offender, as being the property or part of the property which the offender in the course of the commission of such offence gave, conferred or procured, or promised or offered to give, or confer or to procure, or attempt to procure, to, upon, or for a member of the Legislative Assembly, or to, upon, or for any other person, shall become and be deemed to have become forthwith upon such conviction and without any further judgment or order the absolute property of Her Majesty, whether such property is the property of the offender or of any other person.

Chapter 9 Breaches of the peace

61 Riot

(1) If—

(a) 12 or more persons who are present together (***assembled persons***) use or threaten to use unlawful violence to a person or property for a common purpose; and

(b) the conduct of them taken together would cause a person in the vicinity to reasonably fear for the person's personal safety;

each of the assembled persons commits the crime of taking part in a riot.

Maximum penalty—

(a) if the offender causes grievous bodily harm to a person, causes an explosive substance to explode or destroys or starts to destroy a building, vehicle or machinery—life imprisonment; or

(b) if—

(i) the offender is armed with a dangerous or offensive weapon, instrument or explosive substance; or

(ii) property is damaged, whether by the offender or another of the assembled persons—7 years imprisonment; or

(c) otherwise—3 years imprisonment.

(2) For subsection (1)(b), it is immaterial whether there is or is likely to be a person in the vicinity who holds the fear mentioned in the subsection.

(3) In this section—

building includes structure.

vehicle means a motor vehicle, train, aircraft or vessel.

69 Going armed so as to cause fear

(1) Any person who goes armed in public without lawful occasion in such a manner as to cause fear to any person is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

(2) The offender may be, and it is hereby declared that the offender always was liable to be, arrested without warrant.

70 Forcible entry

(1) Any person who, in a manner likely to cause, or cause reasonable fear of, unlawful violence to a person or to property, enters on land which is in the actual and peaceable possession of another commits a misdemeanour.

Maximum penalty—2 years imprisonment.

(2) It is immaterial whether the person is entitled to enter on the land or not.

71 Forcible detainer

Any person who, being in actual possession of land without colour of right, holds possession of it, in a manner likely to cause, or cause reasonable fear of, unlawful violence to a person or to property, against a person entitled by law to the possession of the land commits a misdemeanour.

Maximum penalty—2 years imprisonment.

72 Affray

Any person who takes part in a fight in a public place, or takes part in a fight of such a nature as to alarm the public in any other place to which the public have access, commits a misdemeanour.

Maximum penalty—1 year's imprisonment.

74 Prize fight

Any person who fights in a prize fight, or subscribes to or promotes a prize fight, is guilty of a misdemeanour, and is liable to imprisonment for 1 year.

75 Threatening violence

(1) Any person who—

(a) with intent to intimidate or annoy any person, by words or conduct threatens to enter or damage a dwelling or other premises; or

(b) with intent to alarm any person, discharges loaded firearms or does any other act that is likely to cause any person in the vicinity to fear bodily harm to any person or damage to property;

commits a crime.

Maximum penalty—2 years imprisonment.

(2) If the offence is committed in the night the offender is guilty of a crime, and is liable to imprisonment for 5 years.

Chapter 10 Offences against political liberty

78 Interfering with political liberty

(1) Any person who by violence, or by threats or intimidation of any kind, hinders or interferes with the free exercise of any political right by another person, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

(2) If the offender is a public officer, and commits the offence in abuse of the offender's authority as such officer, the offender is liable to imprisonment for 3 years.

Chapter 11 Piracy

79 Definition of *act of piracy*

(1) A person does an ***act of piracy*** if the person, in relation to a ship travelling at sea, unlawfully—

(a) boards the ship without the master's consent and with intent—

(i) to commit robbery; or

(ii) to deal with the ship, a person on the ship or the equipment of the ship in a way that would be likely to endanger the safe use of the ship; or

(b) boards the ship without the master's consent and—

(i) commits robbery; or

(ii) deals with the ship, a person on the ship or the equipment of the ship in a way that is likely to endanger the safe use of the ship; or

(c) steals the ship, or directly or indirectly takes control of the ship without the master's consent, in circumstances that constitute robbery; or

(d) having taken possession of the ship in contravention of paragraph (c), retains possession of the ship; or

(e) confines the ship's master against his or her will.

(2) A person also does ***an act of piracy*** if the person—

(a) trades with or supplies provisions to a pirate when the person knows or ought reasonably to know the person is dealing with a pirate; or

(b) builds a ship with the intention that the ship will be used for an act of piracy.

(3) In this section—

builds includes fits out.

master means the person having command or charge of the ship and does not include a pilot having the conduct of the ship, but not belonging to the ship.

pirate means a person carrying out or intending to carry out an act of piracy.

80 Crime of piracy

A person who does an act of piracy commits a crime.

Maximum penalty—life imprisonment.

Part 3 Offences against the administration of law and justice, against office and against public authority

Chapter 12 Unlawfully obtaining or disclosing information

85 Disclosure of official secrets

A person who is or has been employed as a public officer who unlawfully publishes or communicates any information that comes or came to his or her knowledge, or any document that comes or came into his or her possession, by virtue of the person's office, and that it is or was his or her duty to keep secret, commits a misdemeanour.

Maximum penalty—2 years imprisonment.

86 Obtaining of or disclosure of secret information about the identity of informant

(1) A person who, without lawful justification or excuse, obtains or attempts to obtain secret information in the possession of a law enforcement agency or law enforcement officer about the identity of a criminal organisation informant commits a crime.

Maximum penalty—10 years imprisonment.

(2) A person who, without lawful justification or excuse, publishes or communicates secret information in the possession of, or obtained from, a law enforcement agency or law enforcement officer about the identity of a criminal organisation informant commits a crime.

Maximum penalty—10 years imprisonment.

(3) In this section—

criminal organisation informant means any of the following—

(a) anyone who has given, to the police service or an external agency, information that the commissioner reasonably believes is criminal intelligence for the purposes of the *Criminal Organisation Act 2009*, and who is not a police officer or officer of the external agency;

(b) an authorised officer who has obtained information in relation to the activities of a criminal organisation while acting under the *Police Powers and Responsibilities Act 2000*, chapter 12;

(c) a police officer who has obtained information through the use of an assumed identity, whether or not under the *Police Powers and Responsibilities Act 2000*, chapter 12;

Editor's note—

Police Powers and Responsibilities Act 2000, chapter 12 (Assumed identities)

(d) an informant under the *Criminal Organisation Act 2009*, schedule 2, definition *informant*, paragraph (d).

external agency see the *Criminal Organisation Act 2009*, section 59A.

information, about the identity of a criminal organisation informant, includes information that is likely to lead to the identity of the informant becoming known.

secret information, in the possession of a law enforcement agency or law enforcement officer, means information it is the duty of the agency or officer to keep secret.

Chapter 13 Corruption and abuse of office

87 Official corruption

(1) Any person who—

(a) being employed in the public service, or being the holder of any public office, and being charged with the performance of any duty by virtue of such employment or office, not being a duty touching the administration of justice, corruptly asks for, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself, herself or any other person on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by the person in the discharge of the duties of the person's office; or

(b) corruptly gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, to, upon, or for, any person employed in the public service, or being the holder of any public office, or to, upon, or for, any other person, any property or benefit of any kind on account of any such act or omission on the part of the person so employed or holding such office;

is guilty of a crime, and is liable to imprisonment for 7 years, and to be fined at the discretion of the court.

(1A) If the offence is committed by or in relation to a Minister of the Crown, as the holder of public office mentioned in subsection (1), the offender is liable to imprisonment for 14 years, and to be fined at the discretion of the court.

(2) The offender can not be arrested without warrant.

88 Extortion by public officers

Any person who, being employed in the public service, takes or accepts from any person, for the performance of the

person's duty as such officer, any reward beyond the person's proper pay and emoluments, or any promise of such reward, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

89 Public officers interested in contracts

(1) Any person who, being employed in the public service, knowingly acquires or holds, directly or indirectly, otherwise than as a member of a registered joint stock company consisting of more than 20 persons, a private interest in any contract or agreement which is made on account of the public service with respect to any matter concerning the department of the service in which the person is employed, is guilty of a misdemeanour, and is liable to imprisonment for 3 years, and to be fined at the discretion of the court.

(2) A reference in subsection (1) to a person employed in the public service includes a ministerial staff member under the *Ministerial and Other Office Holder Staff Act 2010* and, for that purpose—

(a) a ministerial staff member employed in the office of a Minister is taken to be employed in each department administered by the Minister; and

(b) a ministerial staff member employed in the office of a Parliamentary Secretary is taken to be employed in each department for which the Parliamentary Secretary is given responsibility under his or her functions.

Note—

Under the *Constitution of Queensland 2001*, section 25, a Parliamentary Secretary has the functions decided by the Premier.

90 Officers charged with administration of property of a special character or with special duties

Any person who, being employed in the public service, and being charged by virtue of the person's employment with any

judicial or administrative duties respecting property of a special character, or respecting the carrying on of any manufacture, trade, or business, of a special character, and having acquired or holding, directly or indirectly, a private interest in any such property, manufacture, trade, or business, discharges any such duties with respect to the property, manufacture, trade, or business, in which the person has such interest, or with respect to the conduct of any person in relation thereto, is guilty of a misdemeanour, and is liable to imprisonment for 1 year, and to be fined at the discretion of the court.

91 False claims by officials

Any person who, being employed in the public service in such a capacity as to require the person or to enable the person to furnish returns or statements touching any remuneration payable or claimed to be payable to himself, herself or to any other person, or touching any other matter required by law to be certified for the purpose of any payment of money or delivery of goods to be made to any person, makes a return or statement touching any such matter which is, to the person's knowledge, false in any material particular, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

92 Abuse of office

(1) Any person who, being employed in the public service, does or directs to be done, in abuse of the authority of the person's office, any arbitrary act prejudicial to the rights of another is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

(2) If the act is done or directed to be done for purposes of gain, the person is liable to imprisonment for 3 years.

92A Misconduct in relation to public office

(1) A public officer who, with intent to dishonestly gain a benefit for the officer or another person or to dishonestly cause a detriment to another person—

(a) deals with information gained because of office; or

(b) performs or fails to perform a function of office; or

(c) without limiting paragraphs (a) and (b), does an act or makes an omission in abuse of the authority of office;

is guilty of a crime.

Maximum penalty—7 years imprisonment.

(2) A person who ceases to be a public officer in a particular capacity is guilty of a crime if, with intent to dishonestly gain a benefit for the person or another person or to dishonestly cause a detriment to another person, the person deals with information gained because of the capacity.

Maximum penalty—7 years imprisonment.

(3) Subsection (2) applies whether or not the person continues to be a public officer in some other capacity.

(4) A reference in subsections (1) and (2) to information gained because of office or a particular capacity includes information gained because of an opportunity provided by the office or capacity.

(5) In this section—

authority, of office, includes the trust imposed by office and the influence relating to office.

deals with includes the following—

(a) uses;

(b) supplies;

(c) copies;

(d) publishes.

function includes power.

information includes knowledge.

office, in relation to a person who is a public officer, means the position, role or circumstance that makes the person a public officer.

performs includes purportedly performs and in relation to a power, exercises and purportedly exercises.

93 Corruption of surveyor and valuator

Any person who, being duly appointed under any statute to be a valuator for determining the compensation to be paid to any person for land compulsorily taken from the person under the authority of any statute, or for injury done to any land under the authority of any statute—

(a) acts as such valuator while the person has, to the person's knowledge, an interest in the land in question; or

(b) executes unfaithfully, dishonestly, or with partiality, the duty of making a valuation of the land or of the extent of the injury;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

94 False certificates by public officers

Any person who, being authorised or required by law to give any certificate touching any matter by virtue whereof the rights of any person may be prejudicially affected, gives a certificate which is, to the person's knowledge, false in any material particular is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

95 Administering extrajudicial oaths

(1) Any person who administers an oath, or takes a solemn declaration or affirmation or affidavit, touching any matter

with respect to which the person has not by law any authority to do so, is guilty of a misdemeanour, and is liable to imprisonment for 1 year.

(2) This section does not apply to an oath, declaration, affirmation, or affidavit, administered or taken before a justice in any matter relating to the preservation of the peace or the punishment of offences, or relating to inquiries respecting sudden death, or to proceedings before the Legislative Assembly or a committee of the Legislative Assembly; nor to an oath, declaration, affirmation, or affidavit, administered or taken for some purpose which is lawful under the laws of another country, or for the purpose of giving validity to an instrument in writing which is intended to be used in another country.

96 False assumption of authority

Any person who—

(a) not being a justice assumes to act as a justice; or

(b) without authority assumes to act as a person having authority by law to administer an oath or take a solemn declaration or affirmation or affidavit, or to do any other act of a public nature which can only be done by persons authorised by law to do so; or

(c) represents himself or herself to be a person authorised by law to sign a document testifying to the contents of any register or record kept by lawful authority, or testifying to any fact or event, and signs such document as being so authorised, when the person is not, and knows that the person is not, in fact, so authorised;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

97 Personating public officers

(1) A person who—

(a) personates a public officer on an occasion when the officer is required or authorised to do an act or attend in a place by virtue of the officer's office; or

(b) falsely represents himself or herself to be a public officer, and assumes to do an act or to attend in a place for the purpose of doing an act by virtue of being that officer;

commits a misdemeanour.

Maximum penalty—3 years imprisonment.

(2) A person found committing the offence may be arrested without warrant.

(3) In this section—

office includes appointment and employment.

Chapter 14 Corrupt and improper practices at elections

Chapter division 1 Definitions for ch 14

98 Definitions

In this chapter—

authorising Act, for an election, means the Act under which the election is held.

ballot box includes any receptacle in which voting papers are put before being counted at an election.

election includes any election held under the authority of any statute providing for the choice of persons to fill any office or place of a public character.

elector includes any person entitled to vote at an election.

Chapter division 2 Legislative Assembly elections and referendums

98A Reference to election or referendum

In this chapter division—

(a) a reference to an election is a reference to an election of a member or members of the Legislative Assembly; and

(b) a reference to a referendum is a reference to a referendum under the *Referendums Act 1997*.

98B False or misleading information

(1) A person who gives information to the Electoral Commission of Queensland under the *Electoral Act 1992* or *Referendums Act 1997*, including information in a document, that the person knows is false or misleading in a material particular is guilty of a crime.

Maximum penalty—7 years imprisonment.

(2) Subsection (1) does not apply to a person giving a document if, when giving the document to someone, the person—

(a) informs the other person, to the best of the person's ability, how it is false or misleading; and

(b) if the person has, or can reasonably obtain, the correct information—gives the other person the correct information.

98C Bribery

(1) A person who—

(a) asks for or receives; or

(b) offers, or agrees, to ask for or receive;

a benefit of any kind, whether for himself or herself or for someone else, on the understanding that the person's election conduct will be influenced or affected is guilty of a crime.

Maximum penalty—7 years imprisonment.

(2) A person who, in order to influence or affect another person's election conduct, gives a benefit of any kind to anyone is guilty of a crime.

Maximum penalty—7 years imprisonment.

(3) In this section—

election conduct of a person means—

(a) the way in which the person votes at an election or referendum; or

(b) the person's nominating as a candidate for an election; or

(c) the person's support of, or opposition to, a candidate or a political party at an election; or

(d) the person's approval or disapproval of the Bill or question submitted to the electors at a referendum.

give includes promise or offer to give.

98D Forging or uttering electoral or referendum paper

(1) A person who—

(a) forges an electoral or referendum paper; or

(b) utters a forged electoral or referendum paper knowing it to be forged;

is guilty of a crime.

Maximum penalty—10 years imprisonment.

(2) A person who makes the signature of another person on—

(a) an electoral paper, unless the person is authorised to do so under the *Electoral Act 1992*; or

(b) a referendum paper, unless the person is authorised to do so under the *Referendums Act 1997*;

is guilty of a crime.

Maximum penalty—10 years imprisonment.

(3) In this section—

electoral paper means a ballot paper, declaration envelope or other document issued by the Electoral Commission of Queensland under the *Electoral Act 1992*.

referendum paper means a ballot paper, declaration envelope or other document issued by the Electoral Commission of Queensland under the *Referendums Act 1997*.

98E Influencing voting

(1) A person who improperly influences the vote of a person at an election or referendum is guilty of a crime.

Maximum penalty—2 years imprisonment.

(2) In this section—

improperly influence means influence by intimidation or violence.

98F Providing money for illegal payments

A person who knowingly provides money for—

(a) a payment that is contrary to law relating to elections or referendums; or

(b) replacing any money that has been spent in making a payment that is contrary to law relating to elections or referendums;

is guilty of a crime.

Maximum penalty—2 years imprisonment.

98G Voting if not entitled

A person who, at an election or referendum—

(a) votes in the name of another person, including a dead or fictitious person; or

(b) votes more than once; or

(c) casts a vote that the person knows the person is not entitled to cast; or

(d) procures someone to vote who, to the procuring person's knowledge, is not entitled to vote;

is guilty of a crime.

Maximum penalty—3 years imprisonment.

Chapter division 3 Other elections

98H Application of ch div 3

This chapter division applies to an election other than—

(a) an election of a member or members of the Legislative Assembly; or

(b) an election for a local government.

99 Voting if not entitled

(1) A person who votes at an election in the name of another person, including a dead or fictitious person, commits a misdemeanour.

Maximum penalty—2 years imprisonment.

(2) A person who votes at an election more often than the person is entitled to vote at the election commits a misdemeanour.

Maximum penalty—2 years imprisonment.

(3) A person who casts a vote at an election that the person knows the person is not entitled to cast commits a misdemeanour.

Maximum penalty—2 years imprisonment.

(4) A person who procures another person to vote at an election who, to the procurer's knowledge, is not entitled to vote at the election commits a misdemeanour.

Maximum penalty—2 years imprisonment.

(5) A person who, at an election for which voting is by post, attests the signature to a voting paper of a person who is, to the first person's knowledge, not entitled to vote at the election by way of the voting paper commits a misdemeanour.

Maximum penalty—2 years imprisonment.

100 Hindering or interfering with voting conduct

(1) A person who, in order to hinder or interfere with another person's voting conduct—

(a) acts fraudulently; or

(b) uses or threatens to use force against any person; or

(c) causes or threatens to cause a detriment to any person;

commits a misdemeanour.

Maximum penalty—1 year's imprisonment.

(2) A person who causes or threatens to cause a detriment to another person (the ***affected person***) because of the voting conduct of any person (whether or not the affected person) commits a misdemeanour.

Maximum penalty—1 year's imprisonment.

(3) In this section—

voting conduct of a person means—

(a) the person's voting or not voting at an election; or

(b) the way in which the person votes at an election.

101 Bribery

(1) A person who—

(a) asks for or receives; or

(b) offers, or agrees, to ask for or receive;

a benefit, whether for the person or for another person, on the understanding that the person's election conduct will be influenced or affected commits a misdemeanour.

Maximum penalty—1 year's imprisonment.

(2) A person who, in order to influence or affect the election conduct of another person (the ***affected person***), gives a benefit to any person (whether or not the affected person) commits a misdemeanour.

Maximum penalty—1 year's imprisonment.

(3) In this section—

election conduct of a person means—

(a) the person's voting or not voting at an election; or

(b) the way in which the person votes at an election; or

(c) the person's nominating as a candidate for an election; or

(d) the person's support of, or opposition to, a candidate at an election.

give includes promise and offer to give.

102 Publishing false information about a candidate

A person who, before or during an election, in order to affect the election result, knowingly publishes false information about—

(a) a candidate's personal character or conduct; or

(b) whether a candidate has withdrawn from the election;

commits a misdemeanour.

Maximum penalty—1 year's imprisonment.

103 Providing money for illegal payments

A person who knowingly provides money—

(a) for a payment that is contrary to this chapter division or the authorising Act for an election; or

(b) to replace money that has been spent in making a payment mentioned in paragraph (a);

commits an offence.

Maximum penalty—10 penalty units.

104 Election notices to contain particular matters

(1) A person who, before or during an election, prints or publishes, or permits another person to print or publish, an election notice for the election that does not state the name and address of the person who authorised the notice commits an offence.

Maximum penalty—3 penalty units.

(2) In this section—

address means address other than a post office box.

election notice means a notice containing anything able to, or intended to—

(a) influence an elector in relation to voting in an election; or

(b) affect the result of an election.

notice includes a poster, handbill and pamphlet.

publish includes publish on the internet, even if the internet site on which the publication is made is located outside Queensland.

107 Corrupt and illegal practices—time

(1) A prosecution for any of the offences defined in sections 99 to 104 must be begun within 1 year after the offence is committed.

(2) The service or execution of process on or against the alleged offender is deemed to be the commencement of the prosecution, unless such service or execution is prevented by some act on the person's part, in which case the issue of the process is deemed to be the commencement of the proceeding.

108 Interfering at elections

A person who wilfully interrupts, obstructs or disturbs a proceeding at an election commits a misdemeanour.

Maximum penalty—3 years imprisonment.

109 Electors attempting to violate secrecy of ballot

Any person who, having received a ballot paper from the presiding officer at an election—

(a) wilfully makes on the ballot paper any mark or writing not expressly authorised by law; or

(b) wilfully fails to fold up the ballot paper in such a manner as to conceal how the person has voted; or

(c) wilfully fails to deposit the ballot paper in the ballot box in the presence of the presiding officer;

commits a misdemeanour.

Maximum penalty—3 years imprisonment.

110 Stuffing ballot boxes

A person who wilfully puts in a ballot box a ballot paper that has not been lawfully handed to, and marked by, an elector commits a crime.

Maximum penalty—7 years imprisonment.

111 Presiding officer helping an elector with a disability

If—

(a) a presiding officer at an election agrees to help an elector who is blind, or otherwise unable to vote without help, by marking the elector's ballot paper for the elector; and

(b) the presiding officer wilfully fails to mark the ballot paper—

(i) in the way requested by the elector; and

(ii) in the sight of anyone else lawfully present;

the presiding officer commits a misdemeanour.

Maximum penalty—3 years imprisonment.

112 False or misleading information

(1) A person (the ***giver***) who gives to another person, under the authorising Act for an election, for a purpose relating to the election, information that the giver knows is false or misleading in a material particular commits a crime.

Maximum penalty—7 years imprisonment.

(2) Subsection (1) does not apply if, when giving information in a document, the giver—

(a) informs the recipient, to the best of the giver's ability, how it is false or misleading; and

(b) if the giver has, or can reasonably obtain, the correct information—gives the correct information to the recipient.

113 Interfering with secrecy at elections

(1) This section applies to an election at which voting is by ballot.

(2) A person who unfolds a ballot paper that has been marked and folded by an elector at the election commits a misdemeanour.

Maximum penalty—2 years imprisonment.

(3) An officer who ascertains or discovers, or attempts to ascertain or discover, how an elector has voted at the election commits a misdemeanour.

Maximum penalty—2 years imprisonment.

(4) An officer who discloses any information about how an elector has voted at the election commits a misdemeanour.

Maximum penalty—2 years imprisonment.

(5) An officer who places a mark or writing on an elector's ballot paper commits a misdemeanour.

Maximum penalty—2 years imprisonment.

(6) A person does not commit an offence against this section only by doing something the person is ordered by a court or authorised under the authorising Act to do.

(7) Also this section does not apply to a police officer doing a thing in the course of performing a duty of a police officer.

(8) In this section—

officer, in relation to an election, means a person performing duties at the election under the authorising Act.

114 Breaking the seal of a parcel at elections

(1) A person who wilfully opens or breaks the seal of a parcel sealed under the authorising Act for an election commits a misdemeanour.

Maximum penalty—2 years imprisonment.

(2) A person does not commit an offence against subsection (1) only by doing something the person is ordered by a court or authorised under the authorising Act to do.

(3) Also subsection (1) does not apply to a police officer doing a thing in the course of performing a duty of a police officer.

Chapter 15 Selling and trafficking in offices

118 Bargaining for offices in public service

Any person who—

(a) corruptly asks for, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself, herself or any other person on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by the person or any other person, with regard to the appointment or contemplated appointment of any person to any office or employment in the public service, or with regard to any application by any person for employment in the public service; or

(b) corruptly gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, to, upon, or for, any person any property or benefit of any kind on account of any such act or omission;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years, and to be fined at the discretion of the court.

Chapter 16 Offences relating to the administration of justice

119 Definitions for ch 16

In this chapter—

family see section 119A.

judicial proceeding includes any proceeding had or taken in or before any court, tribunal or person, in which evidence may be taken on oath.

119A Meaning of *family*

(1) Each of the following is a member of a person's ***family***—

(a) a spouse of the person;

(b) a child of the person;

(c) a parent, grandparent, grandchild or sibling of the person, including—

(i) if the person is an Aboriginal person, a person—

(A) who is recognised under Aboriginal tradition as a member of the Aboriginal person's family; and

Editor's note—

Acts Interpretation Act 1954, section 36—

Aboriginal tradition means the body of traditions, observances, customs and beliefs of Aboriginal people generally or of a particular community or group of Aboriginal people, and includes any such traditions, observances, customs and beliefs relating to particular persons, areas, objects or relationships.

(B) with whom the Aboriginal person has a relationship like that between an individual

and a parent, grandparent, grandchild or sibling of the individual; or

(ii) if the person is a Torres Strait Islander, a person—

(A) who is recognised under Island custom as a member of the Torres Strait Islander's family; and

Editor's note—

Acts Interpretation Act 1954, section 36—

Island custom, known in the Torres Strait as Ailan Kastom, means the body of customs, traditions, observances and beliefs of Torres Strait Islanders generally or of a particular community or group of Torres Strait Islanders, and includes any such customs, traditions, observances and beliefs relating to particular persons, areas, objects or relationships.

(B) with whom the Torres Strait Islander has a relationship like that between an individual and a parent, grandparent, grandchild or sibling of the individual.

(2) For subsection (1)(b)—

(a) a biological, adopted, step or foster child of a person is a child of the person; and

(b) an individual who is under 18 years and ordinarily a member of a person's household is also a child of the person; and

(c) if a person is an Aboriginal person, an individual who is recognised under Aboriginal tradition as a child of the person is also a child of the person; and

(d) if a person is a Torres Strait Islander, an individual who is recognised under Island custom as a child of the person is also a child of the person.

119B Retaliation against or intimidation of judicial officer, juror, witness etc.

(1) A person who, without reasonable cause, causes, or threatens to cause, any injury or detriment to a judicial officer, juror, witness or member of a community justice group, or a member of the family of a judicial officer, juror, witness or member of a community justice group, for the purpose of retaliation or intimidation because of—

(a) anything lawfully done or omitted to be done or that may be lawfully done or omitted to be done by the judicial officer as a judicial officer; or

(b) anything lawfully done or omitted to be done or that may be lawfully done or omitted to be done by the juror or witness in any judicial proceeding; or

(c) anything lawfully done or omitted to be done or that may be lawfully done or omitted to be done by any member of the community justice group a representative of which makes or may make a submission—

(i) to a court or police officer under the *Bail Act 1980* about a defendant who is an Aboriginal or Torres Strait Islander person; or

(ii) to a court or police officer under the *Youth Justice Act 1992* about a child who is an Aboriginal or Torres Strait Islander person; or

(iii) to a court under the *Penalties and Sentences Act 1992* about an offender who is an Aboriginal or Torres Strait Islander person;

is guilty of a crime.

Maximum penalty—7 years imprisonment.

(1A) The offender is liable to a maximum penalty of 10 years imprisonment if the act constituting the offence is done in relation to a proceeding before a court under the *Criminal Organisation Act 2009*.

(2) In this section—

community justice group means—

(a) for a defendant under the *Bail Act 1980*—see the *Bail Act 1980*, section 6; or

(b) for a child under the *Youth Justice Act 1992*—see the *Youth Justice Act 1992*, schedule 4; or

(c) for an offender under the *Penalties and Sentences Act 1992*—see the *Penalties and Sentences Act 1992*, section 4.

injury or detriment includes intimidation.

intimidation includes harassment.

120 Judicial corruption

(1) Any person who—

(a) being a judicial officer, corruptly asks for, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself, herself or any other person on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by the person in the person's judicial capacity; or

(b) corruptly gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, to, upon, or for, a judicial officer, or to, upon, or for any other person, any property or benefit of any kind on account of any such act or omission on the part of the judicial officer;

is guilty of a crime, and is liable to imprisonment for 14 years, and to be fined at the discretion of the court.

(2) However, if the judicial officer is an arbitrator or umpire, the maximum term of imprisonment to which the person is liable is 7 years.

(3) The offender can not be arrested without warrant.

(4) A prosecution for an offence against subsection (1) can not be started without a Crown Law Officer's consent.

121 Official corruption not judicial but relating to offences

(1) Any person who—

(a) being a justice not acting judicially, or being a person employed in the public service in any capacity not judicial for the prosecution or detention or punishment of offenders, corruptly asks for, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself, herself or any other person, on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by the person, with a view to corrupt or improper interference with the due administration of justice, or the procurement or facilitation of the commission of any offence, or the protection of any offender or intending offender from detection or punishment; or

(b) corruptly gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, to, upon, or for, any such person, or to, upon, or for, any other person, any property or benefit of any kind, on account of any such act or omission on the part of the justice or other person so employed;

is guilty of a crime, and is liable to imprisonment for 14 years, and to be fined at the discretion of the court.

(2) The offender can not be arrested without warrant.

122 Corruption of jurors

Any person who—

(a) attempts by threats or intimidation of any kind, or by benefits or promises of benefit of any kind, or by other corrupt means, to influence any person, whether a particular person or not, in the person's conduct as a

juror in any judicial proceeding, whether the person has been sworn as a juror or not; or

(b) accepts any benefit or promise of benefit on account of anything to be done by the person as a juror in any judicial proceeding, whether the person has been sworn as a juror or not, or on account of anything already done by the person as a juror in any judicial proceeding;

is guilty of a crime.

Maximum penalty—7 years imprisonment.

123 Perjury

(1) Any person who in any judicial proceeding, or for the purpose of instituting any judicial proceeding, knowingly gives false testimony touching any matter which is material to any question then depending in that proceeding, or intended to be raised in that proceeding, is guilty of a crime, which is called ***perjury***.

(2) It is immaterial whether the testimony is given on oath or under any other sanction authorised by law.

(3) The forms and ceremonies used in administering the oath or in otherwise binding the person giving the testimony to speak the truth are immaterial, if the person assents to the forms and ceremonies actually used.

(4) It is immaterial whether the false testimony is given orally or in writing.

(5) It is immaterial whether the court or tribunal is properly constituted, or is held in the proper place, or not, if it actually acts as a court or tribunal in the proceeding in which the testimony is given.

(6) It is immaterial whether the person who gives the testimony is a competent witness or not, or whether the testimony is admissible in the proceeding or not.

(7) The offender can not be arrested without warrant.

123A Perjury—contradictory statements

If, on the trial of a person for perjury, the jury is satisfied that—

(a) the accused has made 2 statements on oath or under another sanction authorised by law, 1 of which is irreconcilably in conflict with the other; and

(b) the accused made 1 of the statements knowing it to be false;

but the jury is unable to say which statement was falsely made, the jury may make a special finding to that effect and find the accused guilty of perjury.

124 Punishment of perjury

(1) Any person who commits perjury is liable to imprisonment for 14 years.

(2) If the offender commits the crime in order to procure the conviction of another person for a crime punishable with imprisonment for life, the offender is liable to imprisonment for life.

125 Evidence on charge of perjury

A person can not be convicted of committing perjury or of counselling or procuring the commission of perjury upon the uncorroborated testimony of 1 witness.

126 Fabricating evidence

(1) Any person who, with intent to mislead any tribunal in any judicial proceeding—

(a) fabricates evidence by any means other than perjury or counselling or procuring the commission of perjury; or

(b) knowingly makes use of such fabricated evidence;

is guilty of a crime, and is liable to imprisonment for 7 years.

(2) The offender can not be arrested without warrant.

127 Corruption of witnesses

(1) Any person who—

(a) gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, any property or benefit of any kind to, upon, or for, any person, upon any agreement or understanding that any person called or to be called as a witness in any judicial proceeding shall give false testimony or withhold true testimony; or

(b) attempts by any other means to induce a person called or to be called as a witness in any judicial proceeding to give false testimony or to withhold true testimony; or

(c) asks for, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself, herself or any other person, upon any agreement or understanding that any person shall as a witness in any judicial proceeding give false testimony or withhold true testimony;

is guilty of a crime, and is liable to imprisonment for 7 years.

(2) The offender can not be arrested without warrant.

128 Deceiving witnesses

Any person who practises any fraud or deceit, or knowingly makes or exhibits any false statement, representation, token, or writing, to any person called or to be called as a witness in any judicial proceeding, with intent to affect the testimony of such person as a witness, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

129 Damaging evidence with intent

A person who, knowing something is or may be needed in evidence in a judicial proceeding, damages it with intent to stop it being used in evidence commits a misdemeanour.

Maximum penalty—7 years imprisonment.

130 Preventing witnesses from attending

Any person who wilfully prevents or attempts to prevent any person who has been duly summoned to attend as a witness before any court or tribunal from attending as a witness, or from producing anything in evidence pursuant to the subpoena or summons, commits a misdemeanour.

Maximum penalty—3 years imprisonment.

131 Conspiracy to bring false accusation

(1) Any person who conspires with another to charge any person or cause any person to be charged with any offence, whether alleged to have been committed in Queensland, or elsewhere, knowing that such person is innocent of the alleged offence, or not believing the person to be guilty of the alleged offence, is guilty of a crime.

(2) If the offence is such that a person convicted of it is liable to be sentenced to imprisonment for life, the offender is liable to imprisonment for life.

(3) If the offence is such that a person convicted of it is liable to be sentenced to imprisonment, but for a term less than life, the offender is liable to imprisonment for 14 years.

(4) In any other case the offender is liable to imprisonment for 7 years.

(5) The offender can not be arrested without warrant.

(6) A prosecution for an offence defined in this section shall not be instituted without the consent of the Attorney-General.

132 Conspiring to defeat justice

(1) Any person who conspires with another to obstruct, prevent, pervert, or defeat, the course of justice is guilty of a crime, and is liable to imprisonment for 7 years.

(2) The offender can not be arrested without warrant.

(3) A prosecution for an offence defined in this section shall not be instituted without the consent of the Attorney-General.

133 Compounding an indictable offence

(1) Any person who asks for, receives, or obtains, or agrees or attempts to receive or obtain, any property or benefit of any kind for himself, herself or any other person, upon any agreement or understanding that the person will compound or conceal an indictable offence, or will abstain from, discontinue, or delay, a prosecution for an indictable offence, or will withhold any evidence thereof, is guilty of an indictable offence.

(2) If the indictable offence is such that a person convicted of it is liable to be sentenced to imprisonment for life, the offender is guilty of a crime, and is liable to imprisonment for 7 years.

(3) In any other case the offender is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

(4) The offender can not be arrested without warrant.

(5) Subsection (1) does not apply to an act done for the purpose of the following—

(a) negotiations in accordance with established legal practice between a lawyer representing the alleged offender and the prosecution to achieve a just outcome in relation to the proceedings for the offence;

(b) mediation in good faith between the alleged offender and a victim of the offence or anyone acting in the interests of the victim in relation to an apology, compensation or restitution;

(c) dispute resolution relating to the alleged offence;

(d) discussions in good faith between the alleged offender and police officers calculated to ameliorate the conduct of the offender relevant to the alleged offence.

136 Justices exercising jurisdiction in a matter of personal interest

A person who, being a justice, wilfully and perversely exercises jurisdiction in a matter in which the justice has a personal interest commits a misdemeanour.

Maximum penalty—3 years imprisonment.

137 Delay to take person arrested before magistrate

(1) Any person who, having arrested another upon a charge of an offence, wilfully and without lawful excuse delays to take the person before a justice to be dealt with according to law is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

(2) For subsection (1)—

(a) if the person carrying out the arrest is a police officer, it is sufficient if the person complies with the requirements of the *Police Powers and Responsibilities Act 2000*, section 393; and

(b) if the person carrying out the arrest is not a police officer, it is sufficient if the person immediately delivers the arrested person into the custody of a police officer as mentioned in section 552(2).

139 Inserting advertisement without authority of court

Any person who, without authority, or knowing the advertisement to be false in any material particular, inserts or causes to be inserted in the gazette or in any newspaper an advertisement purporting to be published under the authority

of any court or tribunal is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

140 Attempting to pervert justice

A person who attempts to obstruct, prevent, pervert, or defeat the course of justice is guilty of a crime.

Maximum penalty—7 years imprisonment.

Chapter 17 Escapes—obstructing officers of courts

141 Aiding persons to escape from lawful custody

A person who—

(a) aids a person in lawful custody to escape, or to attempt to escape, from lawful custody; or

(b) conveys anything to a person in lawful custody, or to a place where a person is or will be in lawful custody, with the intention of aiding a person to escape from lawful custody; or

(c) frees a person from lawful custody without authority;

is guilty of a crime.

Maximum penalty—imprisonment for 7 years.

142 Escape by persons in lawful custody

A person who escapes from lawful custody is guilty of a crime.

Maximum penalty—imprisonment for 7 years.

143 Permitting escape

A person who is responsible for keeping another person in lawful custody and permits the other person to escape is guilty of a crime.

Maximum penalty—imprisonment for 7 years.

144 Harbouring escaped prisoners etc.

A person who harbours, maintains or employs another person knowing that the other person has escaped from lawful custody is guilty of a crime.

Maximum penalty—imprisonment for 2 years.

145A Sections 141 to 144 do not apply to certain types of custody

Sections 141 to 144 do not apply to—

(a) the custody of a patient mentioned in the *Mental Health Act 2000*; or

(b) the custody of a child under the *Child Protection Act 1999*; or

(c) the custody of a forensic disability client mentioned in the *Forensic Disability Act 2011*;

unless the person is held in a corrective services facility within the meaning of the *Corrective Services Act 2006*.

145B Evidence of lawful custody

Evidence given by a person authorised by the chief executive (corrective services) to give the evidence that a person is, or on a particular date was, in lawful custody is to be admitted as prima facie evidence of the custody.

147 Removing etc. property under lawful seizure

Any person who, when any property has been attached or taken under the process or authority of any court of justice, knowingly, and with intent to hinder or defeat the attachment, or process, receives, removes, retains, conceals, or disposes of, such property, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

148 Obstructing officers of courts of justice

Any person who wilfully obstructs or resists any person lawfully charged with the execution of an order or warrant of any court of justice commits a misdemeanour.

Maximum penalty—2 years imprisonment.

Chapter 20 Miscellaneous offences against public authority

193 False verified statements

(1) A person who makes a verified statement that the person knows is false in a material particular when the person is required by law to make the statement in the form of a verified statement commits a crime.

Maximum penalty—7 years imprisonment.

(2) The person can not be arrested without a warrant.

(3) In this section—

verified statement means—

(a) a statement made on oath or under another sanction that may by law be substituted for an oath; or

(b) a statement verified by solemn declaration or affirmation.

194 False declarations

(1) A person who makes a declaration that the person knows is false in a material particular, whether or not the person is permitted or required by law to make the declaration, before a person authorised by law to take or receive declarations, commits a misdemeanour.

Maximum penalty—3 years imprisonment.

(2) In this section—

declaration includes a statement and an affidavit.

195 Evidence

A person can not be convicted of any of the offences defined in sections 193 and 194 upon the uncorroborated testimony of 1 witness.

195A Contradictory statements—false statements or declarations

If, on the trial of a person for an offence defined in section 193 or 194, the jury is satisfied that—

(a) the accused has made 2 statements or declarations and 1 is irreconcilably in conflict with the other; and

(b) the accused made 1 of the statements or declarations knowing it to be false;

but the jury is unable to say which statement or declaration was falsely made, the jury may make a special finding to that effect and find the accused guilty of the offence.

199 Resisting public officers

Any person who in any manner obstructs or resists any public officer while engaged in the discharge or attempted discharge of the duties of his or her office under any statute, or obstructs or resists any person while engaged in the discharge or

attempted discharge of any duty imposed on the person by any statute, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

200 Refusal by public officer to perform duty

Any person who, being employed in the public service, or as an officer of any court or tribunal, perversely and without lawful excuse omits or refuses to do any act which it is his or her duty to do by virtue of his or her employment is guilty of a misdemeanour, and is liable to imprisonment for 2 years, and to be fined at the discretion of the court.

204 Disobedience to statute law

(1) Any person who without lawful excuse, the proof of which lies on the person, does any act which the person is, by the provisions of any public statute in force in Queensland, forbidden to do, or omits to do any act which the person is, by the provisions of any such statute, required to do, is guilty of a misdemeanour, unless some mode of proceeding against the person for such disobedience is expressly provided by statute, and is intended to be exclusive of all other punishment.

(2) The offender is liable to imprisonment for 1 year.

205 Disobedience to lawful order issued by statutory authority

(1) Any person who without lawful excuse, the proof of which lies on the person, disobeys any lawful order issued by any court of justice, or by any person authorised by any public statute in force in Queensland to make the order, is guilty of a misdemeanour, unless some mode of proceeding against the person for such disobedience is expressly provided by statute, and is intended to be exclusive of all other punishment.

(2) The offender is liable to imprisonment for 1 year.

Part 4 Acts injurious to the public in general

Chapter 21 Offences relating to religious worship

206 Offering violence to officiating ministers of religion

Any person who—

(a) by threats or force prevents or attempts to prevent any minister of religion from lawfully officiating in any place of religious worship, or from performing the minister's duty in the lawful burial of the dead in any cemetery or other burial place; or

(b) by threats or force obstructs or attempts to obstruct any minister of religion while so officiating or performing the minister's duty; or

(c) assaults, or, upon or under the pretence of executing any civil process, arrests, any minister of religion who is engaged in, or is, to the knowledge of the offender, about to engage in, any of the offices or duties aforesaid, or who is, to the knowledge of the offender, going to perform the same or returning from the performance thereof;

is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

207 Disturbing religious worship

Any person who wilfully and without lawful justification or excuse, the proof of which lies on the person, disquiets or disturbs any meeting of persons lawfully assembled for religious worship, or assaults any person lawfully officiating at any such meeting, or any of the persons there assembled, is

guilty of an offence, and is liable on summary conviction to imprisonment for 2 months, or to a fine of $10.

Chapter 22 Offences against morality

207A Definitions for this chapter

In this chapter—

child exploitation material means material that, in a way likely to cause offence to a reasonable adult, describes or depicts someone who is, or apparently is, a child under 16 years—

(a) in a sexual context, including for example, engaging in a sexual activity; or

(b) in an offensive or demeaning context; or

(c) being subjected to abuse, cruelty or torture.

classification officer means—

(a) the computer games classification officer under the *Classification of Computer Games and Images Act 1995*; or

(b) the films classification officer under the *Classification of Films Act 1991*; or

(c) the publications classification officer under the *Classification of Publications Act 1991*.

classified—

(a) for a computer game—see the *Classification of Computer Games and Images Act 1995*; or

(b) for a film—see the *Classification of Films Act 1991*; or

(c) for a publication—see the *Classification of Publications Act 1991*.

computer game see the *Classification of Computer Games and Images Act 1995*.

film see the *Classification of Films Act 1991*.

material includes anything that contains data from which text, images or sound can be generated.

observe means observe by any means.

private act, for a person, means—

(a) showering or bathing; or

(b) using a toilet; or

(c) another activity when the person is in a state of undress; or

(d) intimate sexual activity that is not ordinarily done in public.

private place means a place where a person might reasonably be expected to be engaging in a private act.

publication see the *Classification of Publications Act 1991*.

someone, in the context of a description or depiction, includes the body parts of someone, including for example, someone's breast or genitalia.

state of undress, for a person, means—

(a) the person is naked or the person's genital or anal region is bare or, if the person is female, the person's breasts are bare; or

(b) the person is wearing only underwear; or

(c) the person is wearing only some outer garments so that some of the person's underwear is not covered by an outer garment.

visually record, a person, means record, or transmit, by any means, moving or still images of the person or part of the person.

208 Unlawful sodomy

(1) A person who does, or attempts to do, any of the following commits a crime—

(a) sodomises a person under 18 years;

(b) permits a male person under 18 years to sodomise him or her;

(c) sodomises a person with an impairment of the mind;

(d) permits a person with an impairment of the mind to sodomise him or her.

Maximum penalty—14 years imprisonment.

(2) For an offence other than an attempt, the offender is liable to imprisonment for life if the offence is committed in respect of—

(a) a child under 12 years; or

(b) a child, or a person with an impairment of the mind, who is to the knowledge of the offender—

(i) his or her lineal descendant; or

(ii) under his or her guardianship or care.

(3) For an offence defined in subsection (1)(a) or (b) alleged to have been committed in respect of a child who is 12 years or more, it is a defence to prove that the accused person believed, on reasonable grounds, that the person in respect of whom the offence was committed was 18 years or more.

(4) It is a defence to a charge of an offence defined in subsection (1)(c) or (d) to prove—

(a) that the accused person believed on reasonable grounds that the person was not a person with an impairment of the mind; or

(b) that the act that was the offence did not, in the circumstances, constitute sexual exploitation of the person with an impairment of the mind.

210 Indecent treatment of children under 16

(1) Any person who—

(a) unlawfully and indecently deals with a child under the age of 16 years; or

(b) unlawfully procures a child under the age of 16 years to commit an indecent act; or

(c) unlawfully permits himself or herself to be indecently dealt with by a child under the age of 16 years; or

(d) wilfully and unlawfully exposes a child under the age of 16 years to an indecent act by the offender or any other person; or

(e) without legitimate reason, wilfully exposes a child under the age of 16 years to any indecent object or any indecent film, videotape, audiotape, picture, photograph or printed or written matter; or

(f) without legitimate reason, takes any indecent photograph or records, by means of any device, any indecent visual image of a child under the age of 16 years;

is guilty of an indictable offence.

(2) If the child is of or above the age of 12 years, the offender is guilty of a crime, and is liable to imprisonment for 14 years.

(3) If the child is under the age of 12 years, the offender is guilty of a crime, and is liable to imprisonment for 20 years.

(4) If the child is, to the knowledge of the offender, his or her lineal descendant or if the offender is the guardian of the child or, for the time being, has the child under his or her care, the offender is guilty of a crime, and is liable to imprisonment for 20 years.

(5) If the offence is alleged to have been committed in respect of a child of or above the age of 12 years, it is a defence to prove that the accused person believed, on reasonable grounds, that the child was of or above the age of 16 years.

(6) In this section—

deals with includes doing any act which, if done without consent, would constitute an assault as defined in this Code.

211 Bestiality

Any person who has carnal knowledge with or of an animal is guilty of a crime and is liable to imprisonment for 7 years.

213 Owner etc. permitting abuse of children on premises

(1) Any person who, being the owner or occupier of any premises, or having, or acting or assisting in, the management or control of any premises, induces or knowingly permits any child under the prescribed age to be in or upon the premises for the purpose of any person, whether a particular person or not, doing an act in relation to the child (a ***proscribed act***) defined to constitute an offence in section 208, 210 or 215 is guilty of an indictable offence.

(2) If the child is of or above the age of 12 years, the offender is guilty of a crime, and is liable to imprisonment for 10 years.

(3) If the child is under the age of 12 years, the offender is guilty of a crime, and is liable to imprisonment—

(a) for life, where the proscribed act is one defined to constitute an offence in section 208 or 215; or

(b) for 14 years in any other case.

(4) If the proscribed act is one defined to constitute an offence in section 208 and the child is of or above 12 years, it is a defence to prove that the accused person believed, on reasonable grounds, that the child was of or above 18 years.

(5) If the proscribed act is one defined to constitute an offence in section 210 or 215 and the child is of or above 12 years, it is a defence to prove that the accused person believed, on reasonable grounds, that the child was of or above 16 years.

(6) In this section—

prescribed age means—

(a) for an offence defined in section 208—18 years; or

(b) for an offence defined in section 210 or 215—16 years.

215 Carnal knowledge with or of children under 16

(1) Any person who has or attempts to have unlawful carnal knowledge with or of a child under the age of 16 years is guilty of an indictable offence.

(2) If the child is of or above the age of 12 years, the offender is guilty of a crime, and is liable to imprisonment for 14 years.

(3) If the child is under the age of 12 years, the offender is guilty of a crime, and is liable to imprisonment for life or, in the case of an attempt to have unlawful carnal knowledge, to imprisonment for 14 years.

(4) If the child is not the lineal descendant of the offender but the offender is the child's guardian or, for the time being, has the child under the offender's care, the offender is guilty of a crime, and is liable to imprisonment for life or, in the case of an attempt to have unlawful carnal knowledge, to imprisonment for 14 years.

(5) If the offence is alleged to have been committed in respect of a child of or above the age of 12 years, it is a defence to prove that the accused person believed, on reasonable grounds, that the child was of or above the age of 16 years.

(6) In this section—

carnal knowledge does not include sodomy.

216 Abuse of persons with an impairment of the mind

(1) Any person who has or attempts to have unlawful carnal knowledge of a person with an impairment of the mind is, subject to subsection (3)(a) and (b), guilty of a crime, and is liable to imprisonment for 14 years.

(2) Any person who—

(a) unlawfully and indecently deals with a person with an impairment of the mind; or

(b) unlawfully procures a person with an impairment of the mind to commit an indecent act; or

(c) unlawfully permits himself or herself to be indecently dealt with by a person with an impairment of the mind; or

(d) wilfully and unlawfully exposes a person with an impairment of the mind to an indecent act by the offender or any other person; or

(e) without legitimate reason, wilfully exposes a person with an impairment of the mind to any indecent object or any indecent film, videotape, audiotape, picture, photograph or printed or written matter; or

(f) without legitimate reason, takes any indecent photograph or records, by means of any device, any indecent visual image of a person with an impairment of the mind;

is, subject to subsection (3)(c), guilty of a crime, and is liable to imprisonment for 10 years.

(3) If the person with an impairment of the mind is not the lineal descendant of the offender but the offender is the guardian of that person or, for the time being, has that person under the offender's care, the offender is guilty of a crime, and is liable—

(a) in the case of the offence of having unlawful carnal knowledge—to imprisonment for life; or

(b) in the case of an attempt to have unlawful carnal knowledge—to imprisonment for life; or

(c) in the case of an offence defined in subsection (2)—to imprisonment for 14 years.

(3A) In the case of an offence defined in subsection (2), if the person with an impairment of the mind is, to the knowledge of the offender, the offender's lineal descendant, the offender is guilty of a crime, and is liable to imprisonment for 14 years.

(4) It is a defence to a charge of an offence defined in this section to prove—

(a) that the accused person believed on reasonable grounds that the person was not a person with an impairment of the mind; or

(b) that the doing of the act or the making of the omission which, in either case, constitutes the offence did not in the circumstances constitute sexual exploitation of the person with an impairment of the mind.

(5) In this section—

carnal knowledge does not include sodomy.

deals with includes doing any act that, if done without consent, would constitute an assault.

217 Procuring young person etc. for carnal knowledge

(1) A person who procures a person who is not an adult or is a person with an impairment of the mind to engage in carnal knowledge (either in Queensland or elsewhere) commits a crime.

Maximum penalty—imprisonment for 14 years.

(2) In this section—

procure means knowingly entice or recruit for the purposes of sexual exploitation.

218 Procuring sexual acts by coercion etc.

(1) A person who—

(a) by threats or intimidation of any kind, procures a person to engage in a sexual act, either in Queensland or elsewhere; or

(b) by a false pretence, procures a person to engage in a sexual act, either in Queensland or elsewhere; or

(c) administers to a person, or causes a person to take, a drug or other thing with intent to stupefy or overpower the person to enable a sexual act to be engaged in with the person;

commits a crime.

Maximum penalty—imprisonment for 14 years.

(2) For subsection (1), a person engages in a sexual act if the person—

(a) allows a sexual act to be done to the person's body; or

(b) does a sexual act to the person's own body or the body of another person; or

(c) otherwise engages in an act of an indecent nature with another person.

(3) Subsection (2) is not limited to sexual intercourse or acts involving physical contact.

(4) In this section—

procure means knowingly entice or recruit for the purposes of sexual exploitation.

218A Using internet etc. to procure children under 16

(1) Any adult who uses electronic communication with intent to—

(a) procure a person under the age of 16 years, or a person the adult believes is under the age of 16 years, to engage in a sexual act, either in Queensland or elsewhere; or

(b) expose, without legitimate reason, a person under the age of 16 years, or a person the adult believes is under

the age of 16 years, to any indecent matter, either in Queensland or elsewhere;

commits a crime.

Editor's note—

See section 1 for the definition of *indecent matter.*

Maximum penalty—5 years imprisonment.

(2) The adult is liable to 10 years imprisonment if the person is—

(a) a person under 12 years; or

(b) a person the adult believes is under 12 years.

(3) For subsection (1)(a), a person engages in a sexual act if the person—

(a) allows a sexual act to be done to the person's body; or

(b) does a sexual act to the person's own body or the body of another person; or

(c) otherwise engages in an act of an indecent nature.

(4) Subsection (3) is not limited to sexual intercourse or acts involving physical contact.

(5) For subsection (1)(a), it is not necessary to prove that the adult intended to procure the person to engage in any particular sexual act.

(6) Also, for subsection (1)(a), it does not matter that, by reason of circumstances not known to the adult, it is impossible in fact for the person to engage in the sexual act.

(7) For subsection (1), it does not matter that the person is a fictitious person represented to the adult as a real person.

(8) Evidence that the person was represented to the adult as being under the age of 16 years, or 12 years, as the case may be, is, in the absence of evidence to the contrary, proof that the adult believed the person was under that age.

(9) It is a defence to a charge under this section to prove the adult believed on reasonable grounds that the person was at least 16 years, or 12 years, as the case may be.

(10) In this section—

electronic communication means email, internet chat rooms, SMS messages, real time audio/video or other similar communication.

procure means knowingly entice or recruit for the purposes of sexual exploitation.

219 Taking child for immoral purposes

(1) Any person who takes or entices away, or detains a child who is under the prescribed age and is not the husband or wife of that person for the purpose of any person, whether a particular person or not, doing an act in relation to the child (a ***proscribed act***) defined to constitute an offence in section 208, 210 or 215 is guilty of a crime.

(2) If the child is of or above the age of 12 years, the offender is liable to imprisonment for 10 years.

(3) If the child is under the age of 12 years, the offender is liable to imprisonment—

(a) for life, where the proscribed act is one defined to constitute an offence in section 208 or 215; or

(b) for 14 years in any other case.

(4) If the proscribed act is one defined to constitute an offence defined in section 208 and the child is of or above 12 years, it is a defence to prove that the accused person believed, on reasonable grounds, the child was of or above 18 years.

(5) If the proscribed act is one defined to constitute an offence defined in section 210 or 215 and the child is of or above 12 years, it is a defence to prove that the accused person believed, on reasonable grounds, the child was of or above 16 years.

(6) In this section—

prescribed age means—

(a) for an offence defined in section 208—18 years; or

(b) for an offence defined in section 210 or 215—16 years.

221 Conspiracy to defile

Any person who conspires with another to induce any person, by any false pretence or other fraudulent means, to permit any person to have unlawful carnal knowledge with or of him or her commits a crime.

Maximum penalty—10 years imprisonment.

222 Incest

(1) Any person who—

(a) has carnal knowledge with or of the person's offspring or other lineal descendant, or sibling, parent, grandparent, uncle, aunt, nephew or niece; and

(b) knows that the other person bears that relationship to him or her, or some relationship of that type to him or her;

commits a crime.

Maximum penalty—imprisonment for life.

(2) Any person who attempts to commit the crime of incest is liable to imprisonment for 10 years.

(3) It is immaterial that the act or attempted act of carnal knowledge happened with the consent of either person.

(4) It is a defence to a charge under this section to prove that the accused person was, at the time when the act or attempted act of carnal knowledge happened, acting under the coercion of the other person.

(5) A reference in this section to an offspring or other lineal descendant, or a sibling or a parent includes a relationship of that type that is a half, adoptive or step relationship.

(6) For subsection (5), a reference to a step relationship includes a relationship corresponding to a step relationship arising because of cohabitation in a de facto relationship or because of a foster relationship or a legal arrangement.

(7) Also, for subsection (5), a reference to a step relationship does not include a step relationship that first arose after the relevant persons became adults.

(7A) Also, if a parentage order is made under the *Surrogacy Act 2010*, a reference in this section to an offspring or other lineal descendant, or a sibling or a parent includes a relationship of that type that—

(a) existed before the making of the order; or

(b) came into existence as a result of the making of the order regardless of whether the order has been discharged.

(8) This section does not apply to carnal knowledge between persons who are lawfully married or entitled to be lawfully married.

224 Attempts to procure abortion

Any person who, with intent to procure the miscarriage of a woman, whether she is or is not with child, unlawfully administers to her or causes her to take any poison or other noxious thing, or uses any force of any kind, or uses any other means whatever, is guilty of a crime, and is liable to imprisonment for 14 years.

225 The like by women with child

Any woman who, with intent to procure her own miscarriage, whether she is or is not with child, unlawfully administers to herself any poison or other noxious thing, or uses any force of

any kind, or uses any other means whatever, or permits any such thing or means to be administered or used to her, is guilty of a crime, and is liable to imprisonment for 7 years.

226 Supplying drugs or instruments to procure abortion

Any person who unlawfully supplies to or procures for any person anything whatever, knowing that it is intended to be unlawfully used to procure the miscarriage of a woman, whether she is or is not with child, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

227 Indecent acts

(1) Any person who—

(a) wilfully and without lawful excuse does any indecent act in any place to which the public are permitted to have access, whether on payment of a charge for admission or not; or

(b) wilfully does any indecent act in any place with intent to insult or offend any person;

is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

(2) The offender may be arrested without warrant.

(3) Subsection (1) does not apply to a person who does an indecent act under the authority of an adult entertainment permit.

227A Observations or recordings in breach of privacy

(1) A person who observes or visually records another person, in circumstances where a reasonable adult would expect to be afforded privacy—

(a) without the other person's consent; and

(b) when the other person—

(i) is in a private place; or

(ii) is engaging in a private act and the observation or visual recording is made for the purpose of observing or visually recording a private act;

commits a misdemeanour.

Maximum penalty—2 years imprisonment.

Examples of circumstances where a reasonable adult would expect to be afforded privacy—

1 A person changing in a communal change room at a swimming pool may expect to be observed by another person who is also changing in the room but may not expect to be visually recorded.

2 A person who needs help to dress or use a toilet may expect to be observed by the person giving the help but may not expect to be observed by another person.

(2) A person who observes or visually records another person's genital or anal region, in circumstances where a reasonable adult would expect to be afforded privacy in relation to that region—

(a) without the other person's consent; and

(b) when the observation or visual recording is made for the purpose of observing or visually recording the other person's genital or anal region;

commits a misdemeanour.

Maximum penalty—2 years imprisonment.

Example for subsection (2)—

using a mobile phone in a public place to take photos of women's underwear under their skirts without their consent

(3) In subsection (2)—

genital or anal region, of a person, means the person's genital or anal region when the region is covered by underwear or bare.

227B Distributing prohibited visual recordings

(1) A person who distributes a prohibited visual recording of another person having reason to believe it to be a prohibited visual recording, without the other person's consent, commits a misdemeanour.

Maximum penalty—2 years imprisonment.

(2) In this section—

distribute includes—

(a) communicate, exhibit, send, supply or transmit to someone, whether to a particular person or not; and

(b) make available for access by someone, whether by a particular person or not; and

(c) enter into an agreement or arrangement to do something in paragraph (a) or (b); and

(d) attempt to distribute.

prohibited visual recording, of another person, means—

(a) a visual recording of the person in a private place or engaging in a private act made in circumstances where a reasonable adult would expect to be afforded privacy; or

(b) a visual recording of the person's genital or anal region, when it is covered by underwear or bare, made in circumstances where a reasonable adult would expect to be afforded privacy in relation to that region.

227C Persons who are not criminally responsible for offences against ss 227A and 227B

(1) A person is not criminally responsible for an offence against section 227A(1) or (2) or 227B(1) if—

(a) the person is, at the time of the offence, a law enforcement officer acting in the course of the person's duties; and

(b) the person's conduct is reasonable in the circumstances for the performance of the duties.

(2) A person is not criminally responsible for an offence against section 227A(1) or (2) or 227B(1) in relation to an observation or visual recording of another person who is in lawful custody or subject to a supervision order if—

(a) the person is, at the time of the offence, acting in the course of the person's duties in relation to the other person's lawful custody or supervision order; and

(b) the person's conduct is reasonable in the circumstances for the performance of the duties.

Examples of conduct that may be reasonable for the performance of duties—

- the observation of a person for the safety of the person or another person
- the observation of a person providing a urine sample for a drug test

(3) In this section—

lawful custody includes detention under the *Mental Health Act 2000* in—

(a) an authorised mental health service or a high security unit within the meaning of that Act; or

(b) the forensic disability service within the meaning of the *Forensic Disability Act 2011*.

supervision order, for a person, means an order under an Act or a law of the Commonwealth or another State or made by an Australian court that subjects the person to supervision including, for example, the following orders—

(a) a community based order under the *Penalties and Sentences Act 1992*;

(b) a community based order or supervised release order under the *Youth Justice Act 1992*;

(c) a parole order or a conditional release order under the *Corrective Services Act 2006*;

(d) an intensive drug rehabilitation order under the *Drug Court Act 2000*;

(e) a supervision order or an interim supervision order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

228 Obscene publications and exhibitions

(1) Any person who knowingly, and without lawful justification or excuse—

(a) publicly sells, distributes or exposes for sale any obscene book or other obscene printed or written matter, any obscene computer generated image or any obscene picture, photograph, drawing, or model, or any other object tending to corrupt morals; or

(b) exposes to view in any place to which the public are permitted to have access, whether on payment of a charge for admission or not, any obscene picture, photograph, drawing, or model, or any other object tending to corrupt morals; or

(c) publicly exhibits any indecent show or performance, whether on payment of a charge for admission to see the show or performance or not;

is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

(2) In the case of an offence defined in subsection (1)(a) or (b), if the matter or thing is obscene or tends to corrupt morals by reason of depicting a person who is or is represented to be—

(a) a child under the age of 16 years—the offender is liable to imprisonment for 5 years; or

(b) a child under the age of 12 years—the offender is liable to imprisonment for 10 years.

(3) In the case of an offence defined in subsection (1)(c), if a person appearing in the indecent show or performance is or is represented to be—

(a) a child under the age of 16 years—the offender is liable to imprisonment for 5 years; or

(b) a child under the age of 12 years—the offender is liable to imprisonment for 10 years.

(4) It is a defence to a charge of any of the offences defined in this section to prove that it was for the public benefit that the act complained of should be done.

(5) Whether the doing of any such act is or is not for the public benefit is a question of fact.

(6) In this section—

computer generated image means electronically recorded data capable, by way of an electronic device, of being produced on a computer monitor, television screen, liquid crystal display or similar medium as an image, including an image in the form of text.

228A Involving child in making child exploitation material

(1) A person who involves a child in the making of child exploitation material commits a crime.

Maximum penalty—10 years imprisonment.

(2) In this section—

involves a child in the making of child exploitation material includes—

(a) in any way concerns a child in the making of child exploitation material; and

(b) attempts to involve a child in the making of child exploitation material.

228B Making child exploitation material

(1) A person who makes child exploitation material commits a crime.

Maximum penalty—10 years imprisonment.

(2) In this section—

make child exploitation material includes—

(a) produce child exploitation material; and

(b) attempt to make child exploitation material.

228C Distributing child exploitation material

(1) A person who distributes child exploitation material commits a crime.

Maximum penalty—10 years imprisonment.

(2) In this section—

distribute child exploitation material includes—

(a) communicate, exhibit, send, supply or transmit child exploitation material to someone, whether to a particular person or not; and

(b) make child exploitation material available for access by someone, whether by a particular person or not; and

(c) enter into an agreement or arrangement to do something in paragraph (a) or (b); and

(d) attempt to distribute child exploitation material.

228D Possessing child exploitation material

A person who knowingly possesses child exploitation material commits a crime.

Maximum penalty—5 years imprisonment.

228E Defences for ss 228A–228D

(1) Subsections (2), (3) and (5) prescribe defences available to a person charged with an offence against section 228A, 228B, 228C or 228D.

(2) It is a defence for the person to prove that—

(a) the person engaged in the conduct that is alleged to constitute the offence for a genuine artistic, educational, legal, medical, scientific or public benefit purpose; and

(b) the person's conduct was, in the circumstances, reasonable for that purpose.

Example of something made for a public benefit—

a current affairs television program showing children being tortured during a civil war

(3) It is a defence for the person to prove that, at the time of the alleged offence—

(a) a classification exemption had been given to an entity for the material that is alleged to be child exploitation material; and

(b) the person engaged in the conduct that is alleged to constitute the offence—

(i) for a purpose for which the exemption was given; and

(ii) in a way that is consistent with the exemption, including any conditions imposed on the exemption.

Example—

A Brisbane medical school is given an exemption under the *Classification of Computer Games and Images Act 1995*, section 59, to allow the medical school to possess computer images of tortured children, and to distribute the images to its medical students. The exemption is subject to a condition that the medical students are not allowed to distribute the images to anyone, including to themselves at another computer. Amy, a medical student, sends a copy of the images to her home computer and also to her brother Bob's computer. Neither Amy

nor Bob could claim a defence under subsection (3), because their possession of the images is not consistent with the exemption.

(4) Whether conduct was engaged in for a purpose mentioned in subsection (2)(a) or (3)(b)(i) is a question of fact.

(5) It is a defence for the person to prove that the material alleged to be child exploitation material is—

(a) a computer game that, under the *Classification (Publications, Films and Computer Games) Act 1995* (Cwlth), is a film classified R or R 18+ or X 18+; or

(b) a computer game, film or publication that is classified as something other than RC.

(6) For subsection (5), the material may have been classified before, or may be classified after, the offence is alleged to have been committed.

(7) A certificate that states any of the following facts is evidence of that fact—

(a) whether a stated computer game, film or publication has been classified;

(b) if a stated computer game, film or publication has been classified—the classification given to the computer game, film or publication.

(8) In this section—

certificate means—

(a) a certificate under the *Classification (Publications, Films and Computer Games) Act 1995* (Cwlth), section 87; or

(b) a certificate signed, or purporting to be signed, by—

(i) for a computer game—the computer games classification officer under the *Classification of Computer Games and Images Act 1995*; or

(ii) for a publication—the publications classification officer under the *Classification of Publications Act 1991*.

classification exemption means an exemption given under—

(a) for a computer game—the *Classification of Computer Games and Images Act 1995*, section 59; or

(b) for a publication—the *Classification of Publications Act 1991*, section 37.

228F Excluding non-essential persons from court when child exploitation material displayed

(1) When material alleged to be child exploitation material is on display in a courtroom, the court must exclude from the courtroom anyone who is not an essential person.

(2) An ***essential person*** is—

(a) a party, or a person representing a party, to the proceeding; or

(b) a Crown Law Officer or a person authorised by a Crown Law Officer; or

(c) the prosecutor; or

(d) a witness giving evidence; or

(e) a person who a witness is entitled to have present in court under the *Evidence Act 1977*, section 21A(2)(d) or 21AV or the *Criminal Law (Sexual Offences) Act 1978*, section 5(1)(f); or

(f) a person whose presence is, in the court's opinion, necessary or desirable for the proper conduct of the proceeding; or

(g) a person who applies to the court to be present and whose presence, in the court's opinion—

(i) would serve a proper interest of the person; and

(ii) would not be prejudicial to the interests of any child described or depicted in the child exploitation material, whether or not any child can be identified from the child exploitation material.

(3) When forming an opinion under subsection (2)(f) or (g), the court must consider the public benefit of limiting the number of people with access to child exploitation material.

228G Forfeiture of child exploitation material etc.

(1) This section applies if a person is prosecuted for an offence against—

(a) section 210(1)(f) or 218A; or

(b) section 228A, 228B, 228C or 228D.

(2) Whether or not the person is convicted of the offence, the court may order the photograph, visual image, or material that is the subject of the offence be forfeited to the State.

(3) If the person is convicted of the offence, the court may also order that anything used to commit the offence be forfeited to the State.

Example of a thing used to commit the offence—

a computer, camera or sound recording device

(4) Subsections (2) and (3) apply whether the thing to be forfeited has been seized or is in its owner's possession.

(5) The court may also make any order that it considers appropriate to enforce the forfeiture.

(6) This section does not limit the court's powers under the *Penalties and Sentences Act 1992*, the *Criminal Proceeds Confiscation Act 2002* or another law.

(7) When forfeited to the State, the thing becomes the State's property and may be dealt with as directed by the chief executive.

228H Possession etc. of child exploitation material by law enforcement officer

(1) A person is not criminally responsible for an offence against section 228B, 228C or 228D if—

(a) the person is, at the time of the offence, a classification officer or law enforcement officer acting in the course of the person's duties; and

(b) the person's conduct is reasonable in the circumstances for the performance of the duties.

Examples of conduct that may be reasonable for the performance of a law enforcement officer's duties—

- copying child exploitation material for the purposes of preparing a brief for police prosecutors
- supplying child exploitation material to a classification officer for classification or to the Office of the Director of Public Prosecutions for use during the prosecution of a person for an offence
- keeping child exploitation material obtained during an investigation for legitimate intelligence purposes

(2) However, subsection (1) does not apply to the extent that the person's conduct consists of engaging in conduct or an activity that—

(a) is authorised under—

(i) the *Police Powers and Responsibilities Act 2000*, chapter 10 or 11; or

(ii) the *Crime and Misconduct Act 2001*, chapter 3, part 6A; or

(b) is otherwise directed to gaining evidence of the commission of an offence against a particular person.

229 Knowledge of age immaterial

Except as otherwise expressly stated, it is immaterial, in the case of any of the offences defined in this chapter committed with respect to a person under a specified age, that the accused

person did not know that the person was under that age, or believed that the person was not under that age.

229B Maintaining a sexual relationship with a child

(1) Any adult who maintains an unlawful sexual relationship with a child under the prescribed age commits a crime.

Maximum penalty—life imprisonment.

(2) An unlawful sexual relationship is a relationship that involves more than 1 unlawful sexual act over any period.

(3) For an adult to be convicted of the offence of maintaining an unlawful sexual relationship with a child, all the members of the jury must be satisfied beyond reasonable doubt that the evidence establishes that an unlawful sexual relationship with the child involving unlawful sexual acts existed.

(4) However, in relation to the unlawful sexual acts involved in an unlawful sexual relationship—

(a) the prosecution is not required to allege the particulars of any unlawful sexual act that would be necessary if the act were charged as a separate offence; and

(b) the jury is not required to be satisfied of the particulars of any unlawful sexual act that it would have to be satisfied of if the act were charged as a separate offence; and

(c) all the members of the jury are not required to be satisfied about the same unlawful sexual acts.

(5) If the child was at least 12 years when the crime was alleged to have been committed, it is a defence to prove the adult believed on reasonable grounds the child was at least the prescribed age.

(6) An adult can not be prosecuted for the crime without a Crown Law Officer's consent.

(7) An adult may be charged in 1 indictment with—

(a) the offence of maintaining an unlawful sexual relationship with a child (the ***maintaining offence***); and

(b) 1 or more other offences of a sexual nature alleged to have been committed by the adult in relation to the child in the course of the alleged unlawful sexual relationship (the ***other offence or offences***).

(8) The adult charged in 1 indictment as mentioned in subsection (7) may be convicted of and punished for any or all of the offences charged.

(9) However, if the adult is—

(a) charged in 1 indictment as mentioned in subsection (7); and

(b) sentenced to imprisonment for the maintaining offence and for the other offence or offences;

the court imposing imprisonment may not order that the sentence for the maintaining offence be served cumulatively with the sentence or sentences for the other offence or offences.

Editor's note—

See the *Penalties and Sentences Act 1992*, section 155 (Imprisonment to be served concurrently unless otherwise ordered).

(10) In this section—

offence of a sexual nature means an offence defined in section 208, 210 (other than section 210(1)(e) or (f)), 215, 222, 349, 350 or 352.

prescribed age, for a child, means—

(a) if the unlawful sexual relationship involves an act that constitutes, or would constitute (if it were sufficiently particularised), an offence defined in section 208—18 years; or

(b) in any other case—16 years.

unlawful sexual act means an act that constitutes, or would constitute (if it were sufficiently particularised), an offence of a sexual nature.

Chapter 22A Prostitution

229C Definitions for ch 22A

In this chapter—

address means current place of residence.

arrangement includes scheme, agreement, understanding, promise or undertaking, whether express or implied.

capacity means ability or power (whether direct or indirect), and includes ability or power that is exercisable because of, by way of, in breach of, or by revocation of, any of, or any combination of, the following (whether or not they are enforceable)—

(a) trusts;

(b) arrangements;

(c) practices.

carry on a business see section 229F.

control means the capacity of an entity to dominate, whether directly or indirectly, decision making in relation to the financial and operating policies of another entity so as to enable the other entity to operate with the first entity in pursuing the first entity's objectives.

entity means any legal, administrative or fiduciary arrangement, organisational structure or other party (including a person) having the capacity to deploy scarce resources in order to achieve objectives.

participate means enable, aid, facilitate, organise or control.

place includes—

(a) vacant land (which may be held under more than 1 title or owner); and

(b) a place in Queensland waters; and

(c) premises.

premises includes—

(a) a building or structure, or a part of a building or structure, of any type; and

(b) a group of buildings or structures, or a part of a group of buildings or structures, of any type (which may be held under more than 1 title or owner); and

(c) the land or water on which a building or structure is, or a group of buildings or structures are, situated (which may be held under more than 1 title or owner); and

(d) a vehicle, caravan, vessel or aircraft.

prostitution see section 229E.

publishing means publishing in Queensland or elsewhere by way of television, newspaper, radio or another form of communication.

unlawful prostitution means prostitution by 2 or more prostitutes, other than at a licensed brothel in accordance with the brothel licence for the brothel.

229D Meaning of *sexual intercourse* for ch 22A

(1) For this chapter, ***sexual intercourse*** includes either or both of the following activities—

(a) the penetration, to any extent, of the vagina, vulva or anus of a person by any part of the body of another person;

(b) the penetration, to any extent, of the vagina, vulva or anus of a person, carried out by another person using an object.

(2) In this section—

penetration does not include penetration carried out for a proper medical, hygienic or law enforcement purpose.

229E Meaning of *prostitution*

(1) A person engages in ***prostitution*** if the person engages, or offers to engage, in the provision to another person, under an arrangement of a commercial character, of any of the following activities—

(a) sexual intercourse;

(b) masturbation;

(c) oral sex;

(d) any activity, other than sexual intercourse, masturbation or oral sex, that involves the use of 1 person by another for his or her sexual satisfaction involving physical contact.

(2) However, a person does not engage in prostitution if—

(a) the activity is an activity mentioned in subsection (1)(d); and

(b) the person is providing adult entertainment under an adult entertainment permit and is an adult and is not a person with an impairment of the mind; and

(c) the activity is authorised under the permit.

(3) Subsection (1) applies equally to males and females.

(4) It does not matter, in relation to an arrangement for the provision of an activity mentioned in subsection (1)(a), (b), (c) or (d), whether—

(a) the arrangement is initiated with the person engaging in the provision of the activity or a third person; or

(b) the pecuniary or other reward under the arrangement is to be received by the person engaging in the provision of the activity or a third person.

(5) In this section—

oral sex means the bringing into contact of any part of the genitalia or anus of a person with any part of the mouth of another person.

229F Meaning of *carry on a business*

To carry on a business, a person must at least—

(a) provide finance for the business; and

(b) either—

(i) take part in the management of the business; or

(ii) control the business.

229FA Obtaining prostitution from person who is not an adult

(1) A person (a ***client***) who obtains prostitution from a person who is not an adult and who the client knows, or ought reasonably to know, is not an adult, commits a crime.

Maximum penalty—imprisonment for 7 years.

(2) If the person who provides the prostitution is under 16 years, the offender is liable to a maximum penalty of 14 years imprisonment.

229G Procuring engagement in prostitution

(1) A person who—

(a) procures another person to engage in prostitution, either in Queensland or elsewhere; or

(b) procures another person—

(i) to leave Queensland for the purpose of engaging in prostitution elsewhere; or

(ii) to come to Queensland for the purpose of engaging in prostitution; or

(iii) to leave the other person's usual place of residence in Queensland for the purpose of engaging in prostitution, either in Queensland or elsewhere;

commits a crime.

Maximum penalty—imprisonment for 7 years.

(2) If the procured person is not an adult or is a person with an impairment of the mind, the offender is liable to a maximum penalty of 14 years imprisonment.

(3) A licensee or approved manager of a licensed brothel, or his or her agent, does not contravene subsection (1) only because the licensee, manager or agent has employed an adult who is not a person with an impairment of the mind to work as a prostitute at the brothel in accordance with the brothel licence for the brothel.

(4) For subsection (3), it does not matter whether the prostitute is employed under a contract of service or a contract for service.

(5) In this section—

procure includes knowingly entice or recruit for the purposes of sexual exploitation.

229H Knowingly participating in provision of prostitution

(1) A person who knowingly participates, directly or indirectly, in the provision of prostitution by another person commits a crime.

Maximum penalty—

(a) for a first offence—imprisonment for 3 years; or

(b) for a second offence—imprisonment for 5 years; or

(c) for a third or subsequent offence—imprisonment for 7 years.

Examples of the crime—

Example 1—

a person who knowingly participates in the provision of prostitution by another person through a company, or other entity, or through another individual

Example 2—

a person who provides financial or other resources to enable the establishment of premises from which prostitution is carried out or coordinated knowing that the premises will be so used

Example 3—

a person who receives financial or other benefit from another person engaging in prostitution in return for the procuring of clients

Example 4—

drivers, operators and hirers of vehicles who provide transport, or the means of transport, for prostitutes or clients knowing that the transport provided is assisting prostitution unless section 229HA(4)(b)(ii) applies

Example 5—

a person who receives, directs or redirects telephone calls or other forms of messages, or who takes bookings or receives money, knowing that the action is in connection with the engaging in of prostitution by another person unless section 229HA(5) applies

Example 6—

a person who participates, directly or indirectly, in any service, action or matter for the purpose of knowingly enabling another person to engage in prostitution

Note—

Some of these examples may also illustrate the offence defined in section 229HB.

(2) However, if a person who is not an adult or is a person with an impairment of the mind is, to the offender's knowledge, engaged in the provision of the prostitution, the offender is liable to a maximum penalty of 14 years imprisonment.

229HA When section 229H does not apply to a person

(1) Subsections (2) to (5) set out particular circumstances in which section 229H does not apply to a person.

(2) Section 229H does not apply to a person (the ***participant***) who knowingly participates, directly or indirectly, in the provision of prostitution by another person if—

(a) the provision of the prostitution by the other person happens at a licensed brothel in accordance with the brothel licence for the brothel; and

(b) the other person is an adult and is not a person with an impairment of the mind.

(3) Section 229H does not apply to a person (also the ***participant***) who knowingly participates, directly or indirectly, in the provision of prostitution by another person if—

(a) the activity constituting the prostitution is an activity mentioned in section 229E(1)(d); and

(b) the person engaging in the activity is providing adult entertainment under an adult entertainment permit and is an adult and is not a person with an impairment of the mind; and

(c) the activity is authorised under the permit.

(4) Section 229H does not apply to a person (also the ***participant***) who knowingly participates, directly or indirectly, in the provision of prostitution by another person if—

(a) the provision of the prostitution by the other person does not take place at a licensed brothel, and the prostitution is not unlawful prostitution; and

(b) either—

(i) the participant—

(A) is the holder of a current licence issued under the *Security Providers Act 1993* for carrying out the functions of a bodyguard under that Act; and

(B) participates in the provision of the prostitution no more than the extent necessary for providing services as a bodyguard; and

(C) participates in the provision of the prostitution by the other person and no one else; or

(ii) the participant—

(A) is the holder of a current licence issued under the *Security Providers Act 1993* for carrying out the functions of a crowd controller under that Act; and

(B) participates in the provision of the prostitution no more than the extent necessary for providing services as a driver; and

(C) participates in the provision of the prostitution by the other person and no one else; and

(c) the other person is an adult and is not a person with an impairment of the mind.

(5) Section 229H does not apply to a person (also the ***participant***) who knowingly participates, directly or indirectly, in the provision of prostitution by another person if—

(a) the provision of the prostitution by the other person does not take place at a licensed brothel, and the prostitution is not unlawful prostitution; and

(b) the participant directly receives a message from the other person about the other person's location, or the activity being undertaken by the other person, in relation to the provision of prostitution by the other person; and

(c) the participant participates in the provision of the prostitution no more than the extent necessary for ensuring the safety of the other person; and

(d) the participant participates in the provision of the prostitution by the other person and no one else; and

(e) the participant does not engage in prostitution.

229HB Carrying on business of providing unlawful prostitution

(1) A person who knowingly carries on the business of providing unlawful prostitution commits a crime.

Maximum penalty—imprisonment for 7 years.

(2) However, if a person who is not an adult or is a person with an impairment of the mind is, to the offender's knowledge, engaged in the provision of the prostitution, the offender is liable to a maximum penalty of 14 years imprisonment.

(3) This section and section 229H do not limit each other.

229HC Persons engaging in or obtaining prostitution through unlawful prostitution business

(1) A person who engages in prostitution through a business suspected on reasonable grounds of providing unlawful prostitution commits a crime.

Maximum penalty—

(a) for a first offence—imprisonment for 3 years; or

(b) for a second offence—imprisonment for 5 years; or

(c) for a third or subsequent offence—imprisonment for 7 years.

(2) A person who, without reasonable excuse, obtains prostitution through a business suspected on reasonable grounds of providing unlawful prostitution commits a crime.

Maximum penalty—

(a) for a first offence—imprisonment for 3 years; or

(b) for a second offence—imprisonment for 5 years; or

(c) for a third or subsequent offence—imprisonment for 7 years.

229I Persons found in places reasonably suspected of being used for prostitution etc.

(1) A person who, without reasonable excuse, is found in, or leaving after having been in, a place suspected on reasonable grounds of being used for the purposes of prostitution by 2 or more prostitutes commits a crime.

Maximum penalty—

(a) for a first offence—imprisonment for 3 years; or

(b) for a second offence—imprisonment for 5 years; or

(c) for a third or subsequent offence—imprisonment for 7 years.

(2) However, if a person who is not an adult or is a person with an impairment of the mind is, to the offender's knowledge, in the place at the time of the offence, the offender is liable to a maximum penalty of 14 years imprisonment.

(3) In sentencing an offender who is a prostitute or client, the court may, in mitigation of sentence, have regard to evidence of an appropriate sexual health check undergone by the offender within 3 months before the offence.

(4) Subsection (1) does not apply to a person (the ***relevant person***) if the place is a licensed brothel, unless—

(a) if the relevant person, without reasonable excuse, is found in the place—a person who is not an adult or who is a person with an impairment of the mind is, to the relevant person's knowledge, also in the place; or

(b) if the relevant person, without reasonable excuse, is found leaving after having been in the place—a person who is not an adult or who is a person with an impairment of the mind was, to the relevant person's knowledge, also in the place when the relevant person was in the place.

229J Certificate of discharge for particular offences

(1) In this section—

defendant means a person charged with an unlawful prostitution offence or an unlawful presence offence.

identifying matter means—

(a) the name, address, place of employment or another particular of the defendant or another person that is likely to lead to the identification of the defendant; or

(b) any photograph, picture, videotape or other visual representation of the defendant or another person that is likely to lead to the identification of the defendant.

the court means a court before which is brought a charge against a defendant for an unlawful prostitution offence or an unlawful presence offence, and includes a justice conducting an examination of witnesses in relation to an unlawful prostitution offence or an unlawful presence offence charged against a defendant.

unlawful presence offence means an offence against section 229I.

unlawful prostitution offence means an offence against section 229HC(1) or (2).

(2) At any time before being found guilty of the unlawful prostitution offence or the unlawful presence offence, the defendant—

(a) may apply to the court for the issue of the certificate of discharge mentioned in subsection (6) in relation to the unlawful prostitution offence or the unlawful presence offence; and

(b) may apply to the court for an order prohibiting publication of identifying matter in relation to the defendant if the certificate is granted.

(3) The application may be heard in court or in chambers.

(4) If the defendant has been charged on indictment, the application is to be heard and determined by a judge sitting alone without a jury.

(5) On making the application the defendant must give evidence, and may be cross-examined, in relation to all matters relevant to—

(a) the commission, by the defendant, of the unlawful prostitution offence or the unlawful presence offence; and

(b) the commission, by any other person, of an offence against this Code—

(i) if the offence is an unlawful prostitution offence—in relation to carrying on the business of providing unlawful prostitution; or

(ii) if the offence is an unlawful presence offence—in relation to the premises.

(6) If the court is satisfied that the evidence is a full and true disclosure by the defendant of all material particulars within the defendant's knowledge relevant to the application, the court must immediately give the defendant a certificate stating that the defendant is discharged on the unlawful prostitution offence or the unlawful presence offence.

(7) The defendant can not afterwards be convicted or further prosecuted for the unlawful prostitution offence or the unlawful presence offence.

(8) If the court grants an application under subsection (2)(b), the court may make an order prohibiting the publishing of any identifying matter in relation to the defendant either indefinitely or until further order.

(9) A police officer or other person may serve a copy of the order on any person.

(10) A person who knowingly contravenes an order under subsection (8) commits a crime.

Maximum penalty for subsection (10)—2000 penalty units, imprisonment for 5 years or both.

229K Having an interest in premises used for prostitution etc.

(1) In this section—

interested person, in relation to premises, means a person who—

(a) owns, leases, rents or otherwise has an interest in premises; or

(b) is entitled to occupy or use premises; or

(c) controls an entity that—

(i) owns, leases, rents or otherwise has an interest in premises; or

(ii) is entitled to occupy or use premises.

(2) A person who—

(a) is an interested person in relation to premises; and

(b) knowingly allows the premises to be used for the purposes of prostitution by 2 or more prostitutes;

commits a crime.

Maximum penalty—

(a) for a first offence—imprisonment for 3 years; or

(b) for a second offence—imprisonment for 5 years; or

(c) for a third or subsequent offence—imprisonment for 7 years.

(3) However, if a person who is not an adult or is a person with an impairment of the mind is, to the offender's knowledge, in the premises at a time of the offence, the offender is liable to a maximum penalty of 14 years imprisonment.

(3A) Subsection (2) does not apply to an interested person in relation to a licensed brothel.

(3B) However, subsection (3A) does not apply if, to the interested person's knowledge, a person who was not an adult or who was a person with an impairment of the mind was in the premises when the interested person was allowing the person to be using the premises for prostitution.

(4) A person allows premises to be used for the purposes of prostitution if the person—

(a) knowingly permits the premises to be used for the purposes of prostitution; or

(b) knowing that the premises are being used for the purposes of prostitution, fails to take every reasonable step to stop that use.

(5) A police officer may serve on a person who is an interested person in relation to premises a written warning to the effect that the premises are being used for the purposes of prostitution by 2 or more prostitutes.

(6) In a prosecution against the interested person mentioned in subsection (5), or another person aware of the warning, for an offence against subsection (2), evidence of the warning and its contents are admissible against the defendant.

(7) If a person who is an interested person in relation to premises—

(a) is served with a warning under subsection (5) in relation to the premises; or

(b) otherwise has reasonable grounds to suspect that the premises are being used for the purposes of prostitution by 2 or more prostitutes;

the person may, by writing served on an occupier or user of the premises, require the occupier or user to leave the premises not later than 7 days after the service of the notice and not return.

(8) A person who, without reasonable excuse, contravenes a requirement made of the person under subsection (7) commits a crime.

Example of reasonable excuse—

If the premises concerned were not used for the purposes of prostitution by 2 or more prostitutes, the person has a reasonable excuse for failing to comply with the requirement.

Maximum penalty—imprisonment for 7 years.

229L Permitting young person etc. to be at place used for prostitution

A person who knowingly causes or permits a person who is not an adult or is a person with an impairment of the mind to be at a place used for the purposes of prostitution by 2 or more prostitutes commits a crime.

Maximum penalty—imprisonment for 14 years.

229M Evidence that business of prostitution is being carried on

(1) The fact that a business of prostitution is being carried on may be inferred from employment records, business records, telephone records, advertisements and other relevant factors and circumstances.

(2) However, evidence of condoms and other material for safe sex practices is not admissible against a defendant.

229N Evidence that place is being used for prostitution

(1) The fact that a place is being used for the purposes of prostitution may be inferred from evidence of the condition of the place, material found at the place and other relevant factors and circumstances.

(2) However, evidence of condoms and other material for safe sex practices is not admissible against a defendant.

229O Non-compellability of health service providers

(1) In this section—

health service means a service genuinely provided to a person for the benefit of human health, and includes services specified in the *Health Quality and Complaints Commission Act 2006*, schedule 1, part 1.

health services provider means—

(a) a registered provider within the meaning of the *Health Quality and Complaints Commission Act 2006*; or

(b) another person who provides a health service; or

(c) an employee of a person mentioned in paragraph (a) or (b).

(2) A health services provider is entitled to refuse to provide any document or information, or answer any question, in relation to an investigation of, or prosecution for, an offence against this chapter on the ground that it would disclose information gained in providing a health service.

Chapter 23 Nuisances—misconduct relating to corpses

230A Definitions for ch 23

In this chapter—

conduct means conduct, promote, organise, control or operate.

occupier, of a place, means any of the following—

(a) the owner, lessee or person apparently in charge of the place;

(b) the person who has the care, management or supervision of the place or who is conducting a business at the place.

place includes land, premises and a vehicle.

public place means—

(a) a place, or part of a place, that the public is entitled to use, is open to members of the public or is used by the public, whether or not on payment of money; or

(b) a place, or part of a place, the occupier of which allows, whether or not on payment of money, members of the public to enter.

unlawful game means a game of chance, or mixed chance and skill, that—

(a) is not authorised under an Act; and

(b) is played by 1 or more persons (***players***) who gamble or bet on an outcome of the game for the purpose of winning money or another consideration; and

(c) has at least 1 of the following characteristics—

(i) the game is conducted or played in a public place;

(ii) the game is played in a place, or part of a place, the occupier of which allows, on payment of money or for other consideration, players to enter and use for playing the game;

(iii) a percentage of the amount gambled or bet is—

(A) kept by 1 or more of the players, or another person; and

(B) not included in the winnings of the players.

230 Common nuisances

Any person who—

(a) without lawful justification or excuse, the proof of which lies on the person, does any act, or omits to do any act with respect to any property under the person's control, by which act or omission danger is caused to the lives, safety, or health, of the public; or

(b) without lawful justification or excuse, the proof of which lies on the person, does any act, or omits to do any act with respect to any property under the person's control, by which act or omission danger is caused to the property or comfort of the public, or the public are obstructed in the exercise or enjoyment of any right common to all Her Majesty's subjects, and by which injury is caused to the person of some person;

is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

232 Operating a place for unlawful games

(1) A person who operates a place—

(a) for the purpose of conducting an unlawful game, by the person or another person; or

(b) for the purpose of playing an unlawful game;

commits a misdemeanour.

Maximum penalty—600 penalty units or 3 years imprisonment.

(2) In this section—

operates includes owns, leases, manages, controls and maintains.

233 Possession of thing used to play an unlawful game

(1) A person who possesses gaming equipment that has been used, or is intended to be used, for playing an unlawful game commits an offence.

Maximum penalty—200 penalty units.

(2) In this section—

gaming equipment means a machine or other device (whether electronic, electrical or mechanical), computer software, or

another thing, used or suitable for use, for playing an unlawful game.

Example of another thing, used or suitable for use, for playing an unlawful game—

implements for playing two-up

234 Conducting or playing unlawful games

(1) A person who conducts an unlawful game commits an offence.

Maximum penalty—200 penalty units.

(2) A person who plays an unlawful game commits an offence.

Maximum penalty—40 penalty units.

236 Misconduct with regard to corpses

Any person who, without lawful justification or excuse, the proof of which lies on the person—

(a) neglects to perform any duty imposed upon the person by law, or undertaken by the person, whether for reward or otherwise, touching the burial or other disposition of a human body or human remains; or

(b) improperly or indecently interferes with, or offers any indignity to, any dead human body or human remains, whether buried or not;

is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

Chapter 24 Offences against public health

238 Contamination of goods

(1) A person who contaminates or interferes with goods, or makes it appear that goods have been contaminated or interfered with, commits a misdemeanour.

Maximum penalty—3 years imprisonment.

(2) If the person commits the offence with intent to cause—

(a) public alarm or anxiety; or

(b) members of the public who are aware of the contamination or interference or apparent contamination or interference to refrain from purchasing those goods or goods of that or any similar class; or

(c) any person to suffer economic loss through taking steps to avoid public alarm or anxiety; or

(d) members of the public to refrain from purchasing those goods or goods of that or any similar class;

the person commits a crime.

Maximum penalty—10 years imprisonment.

(3) A person who, with any intent mentioned in subsection (2), threatens that he or she or any other person will contaminate or interfere with goods or make it appear that goods have been contaminated or interfered with, commits a crime.

Maximum penalty—7 years imprisonment.

(4) If the threat is accompanied by the making of a demand, the person commits a crime.

Maximum penalty—14 years imprisonment.

239 Hoax contamination of goods

A person who makes a statement or conveys information to another person that he or she knows or believes to be false

with the intention of inducing in that person or another person a belief that goods have been contaminated or interfered with and causes—

(a) public alarm or anxiety; or

(b) that person or that other person to refrain from purchasing those goods or goods of that or any similar class; or

(c) any person to suffer economic loss through taking steps to avoid public alarm or anxiety; or

(d) members of the public to refrain from purchasing those goods or goods of that or any similar class;

commits a crime.

Maximum penalty—7 years imprisonment.

240 Dealing in contaminated goods

A person who knowingly—

(a) sells or exposes for sale as goods for human consumption, or has in the person's possession with intent to sell it as goods for human consumption, any article that the person knows to be contaminated or otherwise unfit as goods for human consumption; or

(b) takes into a slaughter house used for the slaughter of any animals intended for human consumption the whole or any part of the carcass of an animal that has died of a disease; or

(c) sells or exposes for sale the whole or part of the carcass of an animal that has died of a disease or that was diseased when slaughtered;

commits a misdemeanour.

Maximum penalty—3 years imprisonment.

241 Definitions for ch 24

In this chapter—

contaminate includes to add, mix or put in a deleterious or poisonous substance.

goods includes beverage and food for human consumption and any substances whether natural or manufactured and whether or not incorporated in or mixed with other goods.

Part 5 Offences against the person and relating to marriage and parental rights and duties

Chapter 26 Assaults and violence to the person generally—justification and excuse

245 Definition of *assault*

(1) A person who strikes, touches, or moves, or otherwise applies force of any kind to, the person of another, either directly or indirectly, without the other person's consent, or with the other person's consent if the consent is obtained by fraud, or who by any bodily act or gesture attempts or threatens to apply force of any kind to the person of another without the other person's consent, under such circumstances that the person making the attempt or threat has actually or apparently a present ability to effect the person's purpose, is said to assault that other person, and the act is called an ***assault***.

(2) In this section—

applies force includes the case of applying heat, light, electrical force, gas, odour, or any other substance or thing

whatever if applied in such a degree as to cause injury or personal discomfort.

246 Assaults unlawful

(1) An assault is unlawful and constitutes an offence unless it is authorised or justified or excused by law.

(2) The application of force by one person to the person of another may be unlawful, although it is done with the consent of that other person.

247 Execution of sentence

It is lawful for a person who is charged by law with the duty of executing or giving effect to the lawful sentence of a court to execute or give effect to that sentence.

248 Execution of process

It is lawful for a person who is charged by law with the duty of executing the lawful process of a court, and who is required to arrest or detain another person under such process, and for every person lawfully assisting a person so charged, to arrest or detain that other person according to the terms of the process.

249 Execution of warrants

It is lawful for a person who is charged by law with the duty of executing a lawful warrant issued by any court or justice or other person having jurisdiction to issue it, and who is required to arrest or detain another person under such warrant, and for every person lawfully assisting a person so charged, to arrest or detain that other person according to the directions of the warrant.

250 Erroneous sentence or process or warrant

If the sentence was passed, or the process was issued, by a court having jurisdiction under any circumstances to pass such a sentence or to issue such process, or if the warrant was issued by a court or justice or other person having authority under any circumstances to issue such a warrant, it is immaterial whether the court or justice or person had or had not authority to pass the sentence or issue the process or warrant in the particular case; unless the person executing the same knows that the sentence or process or warrant was in fact passed or issued without authority.

251 Sentence or process or warrant without jurisdiction

A person who executes or assists in executing any sentence, process, or warrant, which purports to be passed or issued by a court, justice, or other person, and who would be justified, under the provisions of sections 247 to 250, in executing the same if it had been passed or issued by a court, justice, or person having authority to pass or issue it, is not criminally responsible for any act done in such execution, notwithstanding that the court, justice, or person, had no authority to pass the sentence or issue the process or warrant, if in such execution the person acted in good faith and in the belief that the sentence, process, or warrant, was that of a court, justice, or other person, having such authority.

252 Arrest of wrong person

(1) A person who, being duly authorised to execute a warrant to arrest one person, arrests another person, believing in good faith and on reasonable grounds that the person arrested is the person named in the warrant, is not criminally responsible for doing so to any greater extent than if the person arrested had been the person named in the warrant.

(2) Any person who lawfully assists in making such an arrest, believing that the person arrested is the person named in the warrant, or who, being required by the warrant to receive and

detain the person named in it, receives and detains the person so arrested, is not criminally responsible for doing so to any greater extent than if the person arrested had been the person named in the warrant.

253 Irregular process or warrant

When any process or warrant is bad in law by reason of some defect in substance or in form apparent on the face of it, a person who, in good faith and believing that it is good in law, acts in the execution of the process or warrant, is not criminally responsible for anything done in such execution to any greater extent than if the process or warrant were good in law.

254 Force used in executing process or in arrest

It is lawful for a person who is engaged in the lawful execution of any sentence, process, or warrant, or in making any arrest, and for any person lawfully assisting the person, to use such force as may be reasonably necessary to overcome any force used in resisting such execution or arrest.

255 Duty of persons arresting

(1) It is the duty of a person executing any process or warrant to have it with him or her, if reasonably practicable, and to produce it if required.

(2) It is the duty of a person arresting another, whether with or without warrant, to give notice, if practicable, of the process or warrant under which the person is acting or of the cause of the arrest.

(3) A failure to fulfil either of the aforesaid duties does not of itself make the execution of the process or warrant or the arrest unlawful, but is relevant to the inquiry whether the process or warrant might not have been executed or the arrest made by reasonable means in a less forcible manner.

257 Other cases of preventing escape from arrest

(1) When a person who is not a police officer is proceeding lawfully to arrest, without warrant, another person for an offence which is such that the offender may be arrested without warrant, and when any person is proceeding lawfully to arrest another person for any cause other than such an offence, and, in either case, the person sought to be arrested takes to flight in order to avoid arrest, it is lawful for the person seeking to arrest the other person to use such force as may be reasonably necessary to prevent the other person's escape.

(2) But this section does not authorise the use of force which is intended or is likely to cause death or grievous bodily harm.

258 Preventing escape or rescue after arrest

(1) When any person has lawfully arrested another person for any offence, it is lawful for the person to use such force as the person believes, on reasonable grounds, to be necessary to prevent the escape or rescue of the person arrested.

(2) But, if the offence is not a crime which is such that the offender may be arrested without warrant, this section does not authorise the use of force which is intended or is likely to cause death or grievous bodily harm.

(3) This section does not limit the powers a police officer has under the *Police Powers and Responsibilities Act 2000*.

260 Preventing a breach of the peace

It is lawful for any person who witnesses a breach of the peace to interfere to prevent the continuance or renewal of it, and to use such force as is reasonably necessary for such prevention and is reasonably proportioned to the danger to be apprehended from such continuance or renewal, and to detain any person who is committing or who is about to join in or to renew the breach of the peace for such time as may be

reasonably necessary in order to give the person into the custody of a police officer.

261 Suppression of riot

It is lawful for any person to use such force as is necessary to suppress a riot, and is reasonably proportioned to the danger to be apprehended from its continuance.

262 Suppression of riot by magistrates

It is lawful for a justice to use or order to be used such force as the justice believes, on reasonable grounds, to be necessary in order to suppress a riot, and is reasonably proportioned to the danger which the justice believes, on reasonable grounds, is to be apprehended from its continuance.

263 Suppression of riot by person acting under lawful orders

(1) It is lawful for any person acting in good faith in obedience to orders, not manifestly unlawful, given by a justice for the suppression of a riot, to use such force as the person believes, on reasonable grounds, to be necessary for carrying such orders into effect.

(2) Whether any particular order so given is or is not manifestly unlawful is a question of law.

264 Suppression of riot by person acting without order in case of emergency

When any person, whether subject to military law or not, believes, on reasonable grounds, that serious mischief will arise from a riot before there is time to procure the intervention of a justice, it is lawful for the person to use such force as the person believes, on reasonable grounds, to be necessary for the suppression of the riot, and as is reasonably proportioned to the danger which the person believes, on

reasonable grounds, is to be apprehended from its continuance.

265 Riot—persons subject to military law

(1) It is lawful for a person who is bound by military law to obey the lawful commands of the person's superior officer to obey any command given to the person by his or her superior officer in order to the suppression of a riot, unless the command is manifestly unlawful.

(2) Whether any particular command is or is not manifestly unlawful is a question of law.

266 Prevention of crimes and offences for which an offender may be arrested without warrant—prevention of violence by particular persons

It is lawful for any person to use such force as is reasonably necessary in order to prevent the commission of an offence which is such that the offender may be arrested without warrant; or in order to prevent any act from being done as to which the person believes, on reasonable grounds, that it would, if done, amount to any such offence; or in order to prevent a person whom the person believes, on reasonable grounds, to be an involuntary patient under the *Mental Health Act 2000* or a forensic disability client under the *Forensic Disability Act 2011* from doing violence to any person or property.

267 Defence of dwelling

It is lawful for a person who is in peaceable possession of a dwelling, and any person lawfully assisting him or her or acting by his or her authority, to use force to prevent or repel another person from unlawfully entering or remaining in the dwelling, if the person using the force believes on reasonable grounds—

(a) the other person is attempting to enter or to remain in the dwelling with intent to commit an indictable offence in the dwelling; and

(b) it is necessary to use that force.

268 Provocation

(1) The term ***provocation***, used with reference to an offence of which an assault is an element, means and includes, except as hereinafter stated, any wrongful act or insult of such a nature as to be likely, when done to an ordinary person, or in the presence of an ordinary person to another person who is under the person's immediate care, or to whom the person stands in a conjugal, parental, filial, or fraternal, relation, or in the relation of master or servant, to deprive the person of the power of self-control, and to induce the person to assault the person by whom the act or insult is done or offered.

(2) When such an act or insult is done or offered by one person to another, or in the presence of another to a person who is under the immediate care of that other, or to whom the latter stands in any such relation as aforesaid, the former is said to give to the latter provocation for an assault.

(3) A lawful act is not provocation to any person for an assault.

(4) An act which a person does in consequence of incitement given by another person in order to induce the person to do the act, and thereby to furnish an excuse for committing an assault, is not provocation to that other person for an assault.

(5) An arrest which is unlawful is not necessarily provocation for an assault, but it may be evidence of provocation to a person who knows of the illegality.

269 Defence of provocation

(1) A person is not criminally responsible for an assault committed upon a person who gives the person provocation for the assault, if the person is in fact deprived by the

provocation of the power of self-control, and acts upon it on the sudden and before there is time for the person's passion to cool, and if the force used is not disproportionate to the provocation and is not intended, and is not such as is likely, to cause death or grievous bodily harm.

(2) Whether any particular act or insult is such as to be likely to deprive an ordinary person of the power of self-control and to induce the ordinary person to assault the person by whom the act or insult is done or offered, and whether, in any particular case, the person provoked was actually deprived by the provocation of the power of self-control, and whether any force used is or is not disproportionate to the provocation, are questions of fact.

270 Prevention of repetition of insult

It is lawful for any person to use such force as is reasonably necessary to prevent the repetition of an act or insult of such a nature as to be provocation to the person for an assault, if the force used is not intended, and is not such as is likely, to cause death or grievous bodily harm.

271 Self-defence against unprovoked assault

(1) When a person is unlawfully assaulted, and has not provoked the assault, it is lawful for the person to use such force to the assailant as is reasonably necessary to make effectual defence against the assault, if the force used is not intended, and is not such as is likely, to cause death or grievous bodily harm.

(2) If the nature of the assault is such as to cause reasonable apprehension of death or grievous bodily harm, and the person using force by way of defence believes, on reasonable grounds, that the person can not otherwise preserve the person defended from death or grievous bodily harm, it is lawful for the person to use any such force to the assailant as is necessary for defence, even though such force may cause death or grievous bodily harm.

272 Self-defence against provoked assault

(1) When a person has unlawfully assaulted another or has provoked an assault from another, and that other assaults the person with such violence as to cause reasonable apprehension of death or grievous bodily harm, and to induce the person to believe, on reasonable grounds, that it is necessary for the person's preservation from death or grievous bodily harm to use force in self-defence, the person is not criminally responsible for using any such force as is reasonably necessary for such preservation, although such force may cause death or grievous bodily harm.

(2) This protection does not extend to a case in which the person using force which causes death or grievous bodily harm first begun the assault with intent to kill or to do grievous bodily harm to some person; nor to a case in which the person using force which causes death or grievous bodily harm endeavoured to kill or to do grievous bodily harm to some person before the necessity of so preserving himself or herself arose; nor, in either case, unless, before such necessity arose, the person using such force declined further conflict, and quitted it or retreated from it as far as was practicable.

273 Aiding in self-defence

In any case in which it is lawful for any person to use force of any degree for the purpose of defending himself or herself against an assault, it is lawful for any other person acting in good faith in the first person's aid to use a like degree of force for the purpose of defending the first person.

274 Defence of moveable property against trespassers

It is lawful for any person who is in peaceable possession of any moveable property, and for any person lawfully assisting him or her or acting by his or her authority, to use such force as is reasonably necessary in order to resist the taking of such property by a trespasser, or in order to retake it from a

trespasser, provided that the person does not do grievous bodily harm to the trespasser.

275 Defence of moveable property with claim of right

When a person is in peaceable possession of any moveable property under a claim of right, it is lawful for the person, and for any person lawfully assisting him or her or acting by his or her authority, to use such force as is reasonably necessary in order to defend the person's possession of the property, even against a person who is entitled by law to possession of the property, provided that he or she does not do grievous bodily harm to such other person.

276 Defence of moveable property without claim of right

When a person who is entitled by law to the possession of moveable property attempts to take it from another person who is in possession of the property, but who neither claims right to it, nor acts by the authority of a person who claims right, and the person in possession resists him or her, it is lawful for the person so entitled to possession to use the force that is reasonably necessary in order to obtain possession of the property, provided that he or she does not do grievous bodily harm to the person in possession.

277 Defence of premises against trespassers—removal of disorderly persons

(1) It is lawful for a person who is in peaceable possession of any land, structure, vessel, or place, or who is entitled to the control or management of any land, structure, vessel, or place, and for any person lawfully assisting him or her or acting by his or her authority, to use such force as is reasonably necessary in order to prevent any person from wrongfully entering upon such land, structure, vessel, or place, or in order to remove therefrom a person who wrongfully remains

therein, provided that he or she does not do grievous bodily harm to such person.

(2) It is lawful for a person who is in peaceable possession of any land, structure, vessel, or place, or who is entitled to the control or management of any land, structure, vessel, or place, and for any person acting by his or her authority, to use the force that is reasonably necessary in order to remove therefrom any person who conducts himself or herself in a disorderly manner therein, provided that he or she does not do the person grievous bodily harm.

(3) In this section—

place includes any part of an enclosure or structure, whether separated from the rest of the enclosure or structure by a partition, fence, rope, or any other means, or not.

278 Defence of possession of real property or vessel with claim of right

When a person is in peaceable possession of any land, structure, or vessel, with a claim of right, it is lawful for the person, and for any person lawfully assisting him or her or acting by his or her authority, to use such force as is reasonably necessary in order to defend the person's possession, even against a person who is entitled by law to the possession of the property, provided that he or she does not do grievous bodily harm to such person.

279 Exercise of right of way or easement

When a person who is lawfully entitled to enter upon land for the exercise of a right of way or other easement or profit enters upon the land for the purpose of exercising such right of way, easement, or profit, after notice that right to use such way or easement or to take such profit is disputed by the person in possession of the land, or having entered persists in entry after such notice, it is lawful for the person in possession, and for any person lawfully assisting him or her or

acting by his or her authority, to use such force as is reasonably necessary for the purpose of making the person so entering desist from the entry, provided that he or she does not do the person entering grievous bodily harm.

280 Domestic discipline

It is lawful for a parent or a person in the place of a parent, or for a schoolteacher or master, to use, by way of correction, discipline, management or control, towards a child or pupil, under the person's care such force as is reasonable under the circumstances.

281 Discipline of vehicle

It is lawful for a person in charge of a vehicle on a journey and for any person acting by his or her authority to use, for the purpose of maintaining good order and discipline on board the vehicle, such force as the person or such person acting by his or her authority believes, on reasonable grounds, to be necessary, and as is reasonable under the circumstances.

282 Surgical operations and medical treatment

(1) A person is not criminally responsible for performing or providing, in good faith and with reasonable care and skill, a surgical operation on or medical treatment of—

(a) a person or an unborn child for the patient's benefit; or

(b) a person or an unborn child to preserve the mother's life;

if performing the operation or providing the medical treatment is reasonable, having regard to the patient's state at the time and to all the circumstances of the case.

(2) If the administration by a health professional of a substance to a patient would be lawful under this section, the health professional may lawfully direct or advise another person, whether the patient or another person, to administer the

substance to the patient or procure or supply the substance for that purpose.

(3) It is lawful for a person acting under the lawful direction or advice, or in the reasonable belief that the advice or direction was lawful, to administer the substance, or supply or procure the substance, in accordance with the direction or advice.

(4) In this section—

health professional has the same meaning as in the *Health Services Act 1991*, section 60.

medical treatment, for subsection (1)(a), does not include medical treatment intended to adversely affect an unborn child.

patient means the person or unborn child on whom the surgical operation is performed or of whom the medical treatment is provided.

surgical operation, for subsection (1)(a), does not include a surgical operation intended to adversely affect an unborn child.

282A Palliative care

(1) A person is not criminally responsible for providing palliative care to another person if—

(a) the person provides the palliative care in good faith and with reasonable care and skill; and

(b) the provision of the palliative care is reasonable, having regard to the other person's state at the time and all the circumstances of the case; and

(c) the person is a doctor or, if the person is not a doctor, the palliative care is ordered by a doctor who confirms the order in writing.

(2) Subsection (1) applies even if an incidental effect of providing the palliative care is to hasten the other person's death.

(3) However, nothing in this section authorises, justifies or excuses—

(a) an act done or omission made with intent to kill another person; or

(b) aiding another person to kill himself or herself.

(4) To remove any doubt, it is declared that the provision of the palliative care is reasonable only if it is reasonable in the context of good medical practice.

(5) In this section—

good medical practice means good medical practice for the medical profession in Australia having regard to—

(a) the recognised medical standards, practices and procedures of the medical profession in Australia; and

(b) the recognised ethical standards of the medical profession in Australia.

palliative care means care, whether by doing an act or making an omission, directed at maintaining or improving the comfort of a person who is, or would otherwise be, subject to pain and suffering.

283 Excessive force

In any case in which the use of force by one person to another is lawful the use of more force than is justified by law under the circumstances is unlawful.

284 Consent to death immaterial

Consent by a person to the causing of the person's own death does not affect the criminal responsibility of any person by whom such death is caused.

Chapter 27 Duties relating to the preservation of human life

285 Duty to provide necessaries

It is the duty of every person having charge of another who is unable by reason of age, sickness, unsoundness of mind, detention, or any other cause, to withdraw himself or herself from such charge, and who is unable to provide himself or herself with the necessaries of life, whether the charge is undertaken under a contract, or is imposed by law, or arises by reason of any act, whether lawful or unlawful, of the person who has such charge, to provide for that other person the necessaries of life; and the person is held to have caused any consequences which result to the life or health of the other person by reason of any omission to perform that duty.

286 Duty of person who has care of child

(1) It is the duty of every person who has care of a child under 16 years to—

(a) provide the necessaries of life for the child; and

(b) take the precautions that are reasonable in all the circumstances to avoid danger to the child's life, health or safety; and

(c) take the action that is reasonable in all the circumstances to remove the child from any such danger;

and he or she is held to have caused any consequences that result to the life and health of the child because of any omission to perform that duty, whether the child is helpless or not.

(2) In this section—

person who has care of a child includes a parent, foster parent, step parent, guardian or other adult in charge of the

child, whether or not the person has lawful custody of the child.

288 Duty of persons doing dangerous acts

It is the duty of every person who, except in a case of necessity, undertakes to administer surgical or medical treatment to any other person, or to do any other lawful act which is or may be dangerous to human life or health, to have reasonable skill and to use reasonable care in doing such act, and the person is held to have caused any consequences which result to the life or health of any person by reason of any omission to observe or perform that duty.

289 Duty of persons in charge of dangerous things

It is the duty of every person who has in the person's charge or under the person's control anything, whether living or inanimate, and whether moving or stationary, of such a nature that, in the absence of care or precaution in its use or management, the life, safety, or health, of any person may be endangered, to use reasonable care and take reasonable precautions to avoid such danger, and the person is held to have caused any consequences which result to the life or health of any person by reason of any omission to perform that duty.

290 Duty to do certain acts

When a person undertakes to do any act the omission to do which is or may be dangerous to human life or health, it is the person's duty to do that act: and the person is held to have caused any consequences which result to the life or health of any person by reason of any omission to perform that duty.

Chapter 28 Homicide—suicide— concealment of birth

291 Killing of a human being unlawful

It is unlawful to kill any person unless such killing is authorised or justified or excused by law.

292 When a child becomes a human being

A child becomes a person capable of being killed when it has completely proceeded in a living state from the body of its mother, whether it has breathed or not, and whether it has an independent circulation or not, and whether the navel-string is severed or not.

293 Definition of *killing*

Except as hereinafter set forth, any person who causes the death of another, directly or indirectly, by any means whatever, is deemed to have killed that other person.

294 Death by acts done at childbirth

When a child dies in consequence of an act done or omitted to be done by any person before or during its birth, the person who did or omitted to do such act is deemed to have killed the child.

295 Causing death by threats

A person who, by threats or intimidation of any kind, or by deceit, causes another person to do an act or make an omission which results in the death of that other person, is deemed to have killed the other person.

296 Acceleration of death

A person who does any act or makes any omission which hastens the death of another person who, when the act is done or the omission is made, is labouring under some disorder or disease arising from another cause, is deemed to have killed that other person.

297 When injury or death might be prevented by proper precaution

When a person causes a bodily injury to another from which death results, it is immaterial that the injury might have been avoided by proper precaution on the part of the person injured, or that the injured person's death from that injury might have been prevented by proper care or treatment.

298 Injuries causing death in consequence of subsequent treatment

When a person does grievous bodily harm to another, and such other person has recourse to surgical or medical treatment, and death results either from the injury or the treatment, the person is deemed to have killed that other person, although the immediate cause of death was the surgical or medical treatment, provided that the treatment was reasonably proper under the circumstances, and was applied in good faith.

300 Unlawful homicide

Any person who unlawfully kills another is guilty of a crime, which is called murder or manslaughter, according to the circumstances of the case.

302 Definition of *murder*

(1) Except as hereinafter set forth, a person who unlawfully kills another under any of the following circumstances, that is to say—

(a) if the offender intends to cause the death of the person killed or that of some other person or if the offender intends to do to the person killed or to some other person some grievous bodily harm;

(b) if death is caused by means of an act done in the prosecution of an unlawful purpose, which act is of such a nature as to be likely to endanger human life;

(c) if the offender intends to do grievous bodily harm to some person for the purpose of facilitating the commission of a crime which is such that the offender may be arrested without warrant, or for the purpose of facilitating the flight of an offender who has committed or attempted to commit any such crime;

(d) if death is caused by administering any stupefying or overpowering thing for either of the purposes mentioned in paragraph (c);

(e) if death is caused by wilfully stopping the breath of any person for either of such purposes;

is guilty of ***murder***.

(2) Under subsection (1)(a) it is immaterial that the offender did not intend to hurt the particular person who is killed.

(3) Under subsection (1)(b) it is immaterial that the offender did not intend to hurt any person.

(4) Under subsection (1)(c) to (e) it is immaterial that the offender did not intend to cause death or did not know that death was likely to result.

303 Definition of *manslaughter*

A person who unlawfully kills another under such circumstances as not to constitute murder is guilty of ***manslaughter***.

304 Killing on provocation

(1) When a person who unlawfully kills another under circumstances which, but for the provisions of this section, would constitute murder, does the act which causes death in the heat of passion caused by sudden provocation, and before there is time for the person's passion to cool, the person is guilty of manslaughter only.

(2) Subsection (1) does not apply if the sudden provocation is based on words alone, other than in circumstances of a most extreme and exceptional character.

(3) Also, subsection (1) does not apply, other than in circumstances of a most extreme and exceptional character, if—

(a) a domestic relationship exists between 2 persons; and

(b) one person unlawfully kills the other person (the ***deceased***); and

(c) the sudden provocation is based on anything done by the deceased or anything the person believes the deceased has done—

(i) to end the relationship; or

(ii) to change the nature of the relationship; or

(ii) to indicate in any way that the relationship may, should or will end, or that there may, should or will be a change to the nature of the relationship.

(4) For subsection (3)(a) a domestic relationship between 2 persons may be constituted by an intimate personal relationship as defined under the *Domestic and Family Violence Protection Act 1989*, section 12A(2), even if the

persons' lives are not enmeshed as mentioned in section 12A(2)(b) of the Act.

(5) Subsection (3)(c)(i) applies even if the relationship has ended before the sudden provocation and killing happens.

(6) For proof of circumstances of a most extreme and exceptional character mentioned in subsection (2) or (3) regard may be had to any history of violence that is relevant in all the circumstances.

(7) On a charge of murder, it is for the defence to prove that the person charged is, under this section, liable to be convicted of manslaughter only.

(8) When 2 or more persons unlawfully kill another, the fact that 1 of the persons is, under this section, guilty of manslaughter only does not affect the question whether the unlawful killing amounted to murder in the case of the other person or persons.

304A Diminished responsibility

(1) When a person who unlawfully kills another under circumstances which, but for the provisions of this section, would constitute murder, is at the time of doing the act or making the omission which causes death in such a state of abnormality of mind (whether arising from a condition of arrested or retarded development of mind or inherent causes or induced by disease or injury) as substantially to impair the person's capacity to understand what the person is doing, or the person's capacity to control the person's actions, or the person's capacity to know that the person ought not to do the act or make the omission, the person is guilty of manslaughter only.

(2) On a charge of murder, it shall be for the defence to prove that the person charged is by virtue of this section liable to be convicted of manslaughter only.

(3) When 2 or more persons unlawfully kill another, the fact that 1 of such persons is by virtue of this section guilty of manslaughter only shall not affect the question whether the

unlawful killing amounted to murder in the case of any other such person or persons.

304B Killing for preservation in an abusive domestic relationship

(1) A person who unlawfully kills another (the ***deceased***) under circumstances that, but for the provisions of this section, would constitute murder, is guilty of manslaughter only, if—

(a) the deceased has committed acts of serious domestic violence against the person in the course of an abusive domestic relationship; and

(b) the person believes that it is necessary for the person's preservation from death or grievous bodily harm to do the act or make the omission that causes the death; and

(c) the person has reasonable grounds for the belief having regard to the abusive domestic relationship and all the circumstances of the case.

(2) An ***abusive domestic relationship*** is a domestic relationship existing between 2 persons in which there is a history of acts of serious domestic violence committed by either person against the other.

(3) A history of acts of serious domestic violence may include acts that appear minor or trivial when considered in isolation.

(4) Subsection (1) may apply even if the act or omission causing the death (the ***response***) was done or made in response to a particular act of domestic violence committed by the deceased that would not, if the history of acts of serious domestic violence were disregarded, warrant the response.

(5) Subsection (1)(a) may apply even if the person has sometimes committed acts of domestic violence in the relationship.

(6) For subsection (1)(c), without limiting the circumstances to which regard may be had for the purposes of the subsection, those circumstances include acts of the deceased that were not acts of domestic violence.

(7) In this section—

domestic violence means domestic violence as defined under the *Domestic and Family Violence Protection Act 1989*, section 11.

305 Punishment of murder

(1) Any person who commits the crime of murder is liable to imprisonment for life, which can not be mitigated or varied under this Code or any other law or is liable to an indefinite sentence under part 10 of the *Penalties and Sentences Act 1992*.

(2) If the person is being sentenced—

(a) on more than 1 conviction of murder; or

(b) on 1 conviction of murder and another offence of murder is taken into account; or

(c) on a conviction of murder and the person has on a previous occasion been sentenced for another offence of murder;

the court sentencing the person must make an order that the person must not be released from imprisonment until the person has served a minimum of 20 or more specified years of imprisonment, unless released sooner under exceptional circumstances parole under the *Corrective Services Act 2006*.

(3) Subsection (2)(c) applies whether the crime for which the person is being sentenced was committed before or after the conviction for the other offence of murder mentioned in the paragraph.

306 Attempt to murder

Any person who—

(a) attempts unlawfully to kill another; or

(b) with intent unlawfully to kill another does any act, or omits to do any act which it is the person's duty to do, such act or omission being of such a nature as to be likely to endanger human life;

is guilty of a crime, and is liable to imprisonment for life.

307 Accessory after the fact to murder

Any person who becomes an accessory after the fact to murder is guilty of a crime, and is liable to imprisonment for life.

308 Threats to murder in document

Any person who, knowing the contents thereof, directly or indirectly causes any person to receive any document threatening to kill any person, is guilty of a crime, and is liable to imprisonment for 7 years.

309 Conspiring to murder

Any person who conspires with any other person to kill any person, whether such person is in Queensland or elsewhere, is guilty of a crime, and is liable to imprisonment for 14 years.

310 Punishment of manslaughter

Any person who commits the crime of manslaughter is liable to imprisonment for life.

311 Aiding suicide

Any person who—

(a) procures another to kill himself or herself; or

(b) counsels another to kill himself or herself and thereby induces the other person to do so; or

(c) aids another in killing himself or herself;

is guilty of a crime, and is liable to imprisonment for life.

313 Killing unborn child

(1) Any person who, when a female is about to be delivered of a child, prevents the child from being born alive by any act or omission of such a nature that, if the child had been born alive and had then died, the person would be deemed to have unlawfully killed the child, is guilty of a crime, and is liable to imprisonment for life.

(2) Any person who unlawfully assaults a female pregnant with a child and destroys the life of, or does grievous bodily harm to, or transmits a serious disease to, the child before its birth, commits a crime.

Maximum penalty—imprisonment for life.

314 Concealing the birth of children

Any person who, when a woman is delivered of a child, endeavours, by any secret disposition of the dead body of the child, to conceal the birth, whether the child died before, at, or after, its birth, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

Chapter 29 Offences endangering life or health

315 Disabling in order to commit indictable offence

Any person who, by any means calculated to choke, suffocate, or strangle, and with intent to commit or to facilitate the commission of an indictable offence, or to facilitate the flight of an offender after the commission or attempted commission

of an indictable offence, renders or attempts to render any person incapable of resistance, is guilty of a crime, and is liable to imprisonment for life.

316 Stupefying in order to commit indictable offence

Any person who, with intent to commit or to facilitate the commission of an indictable offence, or to facilitate the flight of an offender after the commission or attempted commission of an indictable offence, administers, or attempts to administer, any stupefying or overpowering drug or thing to any person, is guilty of a crime, and is liable to imprisonment for life.

316A Unlawful drink spiking

(1) A person who administers, or attempts to administer, in drink a substance to another person (the ***other person***) without the other person having knowledge of the substance with intent to cause the other person to be stupefied or overpowered is guilty of a crime and is liable to imprisonment for 5 years.

(2) If the substance is alcohol, for section 24 only, the circumstances in which the other person is taken to have knowledge of the alcohol include where the other person would not object to the administration of the alcohol if the other person had actual knowledge of it.

(3) The following matters are immaterial—

(a) whether the lack of knowledge of the substance is lack of knowledge of the presence at all of the substance or of the particular quantity of the substance;

(b) whether the substance is capable of having the effect intended;

(c) whether a particular person is intended to be the person to whom the substance is administered or attempted to be administered.

(4) A reference to causing the other person to be stupefied or overpowered is—

(a) a reference to causing the other person to be stupefied or overpowered in circumstances where the other person is not intending to be stupefied or overpowered at all; or

(b) a reference to causing the other person to be further stupefied or overpowered in circumstances where the other person is not intending to be further stupefied or overpowered at all or to the extent intended by the person who administers, or attempts to administer, the substance.

(5) This section does not apply to an act lawfully done in the course of the practice of a health professional, the carrying out of a function under an Act or the performance of the responsibilities of a parent or carer.

(6) In relation to an attempt to administer a substance, for this section and section 4, attempt includes adding a substance to drink in preparation for the administration of the substance.

(7) In this section—

adding a substance, to drink, includes, without limiting section 7, the following—

(a) cause to be added to drink;

(b) substitute drink with other drink containing the substance;

(c) take any step to provide drink containing the substance instead of other drink.

circumstances, where the other person is not intending to be stupefied or overpowered, includes any circumstance of timing, place, condition, or way of stupefaction or overpowering.

dangerous drug see the *Drugs Misuse Act 1986*, section 4.

drink includes water, beverage, or other liquid, intended or prepared for human consumption.

health professional has the meaning given by the *Health Services Act 1991*, section 60.

stupefied or overpowered includes—

(a) a state of intoxication caused by alcohol, a drug or another substance; and

(b) behavioural change caused by a dangerous drug, whether or not the mind is otherwise affected.

317 Acts intended to cause grievous bodily harm and other malicious acts

Any person who, with intent—

(a) to maim, disfigure or disable, any person; or

(b) to do some grievous bodily harm or transmit a serious disease to any person; or

(c) to resist or prevent the lawful arrest or detention of any person; or

(d) to resist or prevent a public officer from acting in accordance with lawful authority—

either—

(e) in any way unlawfully wounds, does grievous bodily harm, or transmits a serious disease to, any person; or

(f) unlawfully strikes, or attempts in any way to strike, any person with any kind of projectile or anything else capable of achieving the intention; or

(g) unlawfully causes any explosive substance to explode; or

(h) sends or delivers any explosive substance or other dangerous or noxious thing to any person; or

(i) causes any such substance or thing to be taken or received by any person; or

(j) puts any corrosive fluid or any destructive or explosive substance in any place; or

(k) unlawfully casts or throws any such fluid or substance at or upon any person, or otherwise applies any such fluid or substance to the person of any person;

is guilty of a crime, and is liable to imprisonment for life.

317A Carrying or sending dangerous goods in a vehicle

(1) Any person who—

(a) carries or places dangerous goods in or on a vehicle; or

(b) delivers dangerous goods to another person for the purpose of such goods being placed in or on a vehicle; or

(c) has dangerous goods in his or her possession in or on a vehicle;

is guilty of a crime and is liable to imprisonment for 14 years.

(2) A person who knowingly sends by a vehicle any dangerous goods under a false description of the goods or with a false description of the sender of the goods commits a misdemeanour.

Maximum penalty—3 years imprisonment.

(3) It is a defence to a charge of any offence defined in subsection (1) to prove that the act was done by authority or permission of or under a law of the Commonwealth or of the State.

(4) For the purposes of this section—

dangerous goods means—

(a) firearms, ammunition, weapons and explosive substances; and

(b) an explosive or noxious substance, acid or other thing of a dangerous or destructive nature that because of its nature or condition may endanger the safety of a vehicle, a person in, on or in the vicinity of the vehicle.

318 Obstructing rescue or escape from unsafe premises

(1) Any person who unlawfully obstructs anyone in the other person's efforts to save the life of someone who is in, or escaping from, dangerous, destroyed or other unsafe premises commits a crime.

Maximum penalty—imprisonment for life.

(2) In this section—

obstruct includes hinder and attempt to obstruct.

319 Endangering the safety of a person in a vehicle with intent

(1) A person who does anything that endangers, or is likely to endanger, the safe use of a vehicle, with intent to injure or endanger the safety of any person in the vehicle, whether a particular person or not, commits a crime.

Maximum penalty—life imprisonment.

(2) In this section—

do anything, for a person who has a duty to do the thing, includes omit to do the thing.

in includes on.

320 Grievous bodily harm

Any person who unlawfully does grievous bodily harm to another is guilty of a crime, and is liable to imprisonment for 14 years.

320A Torture

(1) A person who tortures another person commits a crime.

Maximum penalty—14 years imprisonment.

(2) In this section—

pain or suffering includes physical, mental, psychological or emotional pain or suffering, whether temporary or permanent.

torture means the intentional infliction of severe pain or suffering on a person by an act or series of acts done on 1 or more than 1 occasion.

321 Attempting to injure by explosive or noxious substances

Any person who unlawfully, and with intent to do any bodily harm to another, puts any explosive or noxious substance in any place whatever, is guilty of a crime, and is liable to imprisonment for 14 years.

321A Bomb hoaxes

(1) Any person who—

(a) places an article or substance in any place; or

(b) sends an article or substance in any way;

with the intention of inducing in another person a belief that the article or substance is likely to explode, ignite, or discharge a dangerous or noxious substance, commits a crime.

Maximum penalty—7 years imprisonment.

(2) Any person who, in Queensland or elsewhere, makes a statement or conveys information to another person that he or she knows or believes to be false, with the intention of inducing in that person or another person a belief that an explosive or noxious substance, acid or other thing of a dangerous or destructive nature is present in a place in Queensland, commits a crime.

Maximum penalty—5 years imprisonment.

(3) Subsections (1) and (2) apply whether or not the accused had any particular person in mind as the person in whom he or she intended to induce the belief mentioned in the subsections.

322 Administering poison with intent to harm

A person who unlawfully, and with intent to injure or annoy another person, causes a poison or another noxious thing to be administered to, or taken by, any person commits a crime.

Maximum penalty—

(a) if the poison or other noxious thing endangers the life of, or does grievous bodily harm to, the person to whom it is administered or by whom it is taken—14 years imprisonment; or

(b) otherwise—7 years imprisonment.

323 Wounding

(1) A person who unlawfully wounds anyone else commits a misdemeanour.

Maximum penalty—7 years imprisonment.

(2) The offender may be arrested without warrant.

323A Female genital mutilation

(1) Any person who performs female genital mutilation on another person is guilty of a crime.

Maximum penalty—14 years imprisonment.

(2) It is not a defence that the other person, or, if the other person is a child, a parent or guardian of the other person, consented to the mutilation.

(3) In this section—

female genital mutilation means—

(a) clitoridectomy; or

(b) excision of any other part of the female genitalia; or

(c) a procedure to narrow or close the vaginal opening; or

(d) any other mutilation of the female genitalia;

but does not include—

(e) a sexual reassignment procedure; or

(f) a medical procedure for a genuine therapeutic purpose.

medical procedure for a genuine therapeutic purpose means a medical procedure that is—

(a) directed only at curing or alleviating a physiological disability, physical abnormality, psychological disorder or pathological condition; or

(b) performed on a person in labour or who has just given birth and directed only at alleviating physical symptoms in relation to the labour or birth or for other medical purposes; or

(c) performed on a person who has been subjected to female genital mutilation and directed only at treating the effects, or to reversing the effects, of the previous mutilation.

sexual reassignment procedure means a surgical procedure to give a person the genital appearance of a particular sex, whether male or female.

323B Removal of child from State for female genital mutilation

(1) Any person who takes a child from the State, or arranges for a child to be taken from the State, with the intention of having female genital mutilation performed on the child is guilty of a crime.

Maximum penalty—14 years imprisonment.

(2) In the absence of proof to the contrary, it is to be presumed that a person took a child, or arranged for a child to be taken, from the State with the intention of having female genital mutilation performed on the child if it is proved—

(a) the person took the child, or arranged for the child to be taken, from the State; and

(b) female genital mutilation was performed on the child while outside the State.

(3) In this section—

child means a person under 18 years.

female genital mutilation see section 323A.

324 Failure to supply necessaries

Any person who, being charged with the duty of providing for another the necessaries of life, without lawful excuse fails to do so, whereby the life of that other person is or is likely to be endangered or the other person's health is or is likely to be permanently injured, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

326 Endangering life of children by exposure

Any person who unlawfully abandons or exposes a child under the age of 7 years, whereby the life of such child is or is likely to be endangered, or the child's health is or is likely to be permanently injured, commits a crime.

Maximum penalty—7 years imprisonment.

327 Setting mantraps

(1) Any person who sets or places any spring gun, mantrap, or other engine calculated to destroy human life or to inflict grievous bodily harm, or causes any such thing to be set or placed, in any place with the intent that it may kill or inflict grievous bodily harm upon a trespasser or other person coming in contact with it, or sets or places any such thing in any such place and in any such manner that it is likely to cause any such result, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

(2) Any person who knowingly permits any such spring gun, mantrap, or other engine, which has been set or placed by

another person in any such place and in any such manner that it is likely to cause any such result, to continue so set or placed in any place which is then in, or afterwards comes into, the person's possession or occupation, is deemed to have set and placed the gun, trap, or engine, with the intent aforesaid.

(3) This section does not make it unlawful to set any gin or trap such as is usually set for the purpose of destroying vermin; or to set any spring gun, mantrap, or engine, at night in a dwelling house for the protection of the dwelling house.

328 Negligent acts causing harm

(1) Any person who unlawfully does any act, or omits to do any act which it is the person's duty to do, by which act or omission bodily harm is actually caused to any person, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

(2) The offender may be arrested without warrant.

328A Dangerous operation of a vehicle

(1) A person who operates, or in any way interferes with the operation of, a vehicle dangerously in any place commits a misdemeanour.

Maximum penalty—200 penalty units or 3 years imprisonment.

(2) If the offender—

(a) at the time of committing the offence is adversely affected by an intoxicating substance; or

(b) at the time of committing the offence is excessively speeding or taking part in an unlawful race or unlawful speed trial; or

(c) has been previously convicted either upon indictment or summarily of an offence against this section;

the person commits a crime.

Maximum penalty—400 penalty units or 5 years imprisonment.

(3) If the offender has been—

(a) previously convicted either upon indictment or summarily of an offence against this section committed while the offender was adversely affected by an intoxicating substance; or

(b) twice previously convicted either upon indictment or summarily (or once upon indictment and once summarily) of the same prescribed offence or different prescribed offences;

the court or justices shall, upon conviction, impose as the whole or part of the punishment, imprisonment.

(4) A person who operates, or in any way interferes with the operation of, a vehicle dangerously in any place and causes the death of or grievous bodily harm to another person commits a crime and is liable on conviction on indictment—

(a) to imprisonment for 10 years, if neither paragraph (b) nor (c) applies; or

(b) to imprisonment for 14 years if, at the time of committing the offence, the offender is—

(i) adversely affected by an intoxicating substance; or

(ii) excessively speeding; or

(iii) taking part in an unlawful race or unlawful speed trial; or

(c) to imprisonment for 14 years, if the offender knows, or ought reasonably know, the other person has been killed or injured, and the offender leaves the scene of the incident, other than to obtain medical or other help for the other person, before a police officer arrives.

(5) The offender may be arrested without warrant.

(6) In this section—

excessively speeding means driving or operating a vehicle at a speed more than 40km/h over the speed limit applying to the driver under the *Transport Operations (Road Use Management) Act 1995*.

operates, or in any way interferes with the operation of, a vehicle dangerously means operate, or in any way interfere with the operation of, a vehicle at a speed or in a way that is dangerous to the public, having regard to all the circumstances, including—

(a) the nature, condition and use of the place; and

(b) the nature and condition of the vehicle; and

(c) the number of persons, vehicles or other objects that are, or might reasonably be expected to be, in the place; and

(d) the concentration of alcohol in the operator's blood or breath; and

(e) the presence of any other substance in the operator's body.

place does not include a place being lawfully used to race or test vehicles under a licence or another authority under an Act and from which other traffic is excluded at the time.

prescribed offence means—

(a) an offence against this section; or

(b) an offence charged on indictment involving the driving or operation of a vehicle at a speed causing or likely to cause injury to anyone; or

(c) an offence against the *Transport Operations (Road Use Management) Act 1995*, section 79(1), (1F), (2), (2AA), (2A), (2B), (2D) or (2J).

the public includes passengers in a vehicle whether in a public or private place.

unlawful race means a race involving a vehicle in contravention of the *Transport Operations (Road Use Management) Act 1995*, section 85.

unlawful speed trial mean a trial of the speed of a vehicle in contravention of the *Transport Operations (Road Use Management) Act 1995*, section 85.

328B Additional power to convict for dangerous driving

(1) Upon an indictment charging a person with any offence in connection with or arising out of the driving of a motor vehicle by the person (not being the offence defined in section 328A), the person may be convicted of the offence defined in section 328A with or without a circumstance of aggravation specified in section 328A(4), if such offence is established by the evidence.

(2) The provisions of this section shall apply notwithstanding the provisions of section 576.

329 Endangering safety of persons travelling by railway

Any person who by any unlawful act, or by any omission to do any act which it is the person's duty to do, causes the safety of any person travelling by any railway to be endangered, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

330 Sending or taking unseaworthy ships to sea

(1) Any person who—

(a) sends or attempts to send a ship to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered; or

Editor's note—

Subsection (1)(a) as originally enacted was numbered as (1) and subsection (1)(b) was numbered as (2).

(b) being a master of a British ship, knowingly takes or attempts to take the ship to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered;

is guilty of a crime, and is liable to imprisonment for 14 years.

(2) It is a defence to a charge of any of the offences defined in this section to prove that the going of the ship to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable.

(3) It is a defence to a charge of either of the offences firstly defined in this section to show that the accused person used all reasonable means to ensure the ship being sent to sea in a seaworthy state.

333 Evading laws as to equipment of ships

Any person who, being a person having actual control over a vessel on board of which any article has been placed with the person's knowledge or consent in order to the obtaining of permission or authority to leave a port, removes or allows the removal of such article from the vessel after such permission or authority has been obtained is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

334 Landing explosives

Any person who—

(a) being charged by law with any duty respecting the landing or delivery of any explosive substance or of any acid or other thing of a dangerous or destructive nature, from any vessel, fails to perform that duty; or

(b) being concerned in the landing of any such substance or thing from any vessel, violates the provisions of the laws relating to such landing;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

Chapter 30 Assaults

335 Common assault

Any person who unlawfully assaults another is guilty of a misdemeanour, and is liable, if no greater punishment is provided, to imprisonment for 3 years.

338A Assaults of member of crew on aircraft

Any person who while on board an aircraft unlawfully assaults a member of the crew of the aircraft or threatens such a member with any violence or detriment of any kind to be caused to the member or any other person on the aircraft by the offender or by any other person with the intention of affecting the performance by the member of the member's functions or duties in connection with the operation of the aircraft or with the intention of lessening the member's ability to perform those functions or duties is guilty of a crime and is liable to imprisonment for 14 years.

339 Assaults occasioning bodily harm

(1) Any person who unlawfully assaults another and thereby does the other person bodily harm is guilty of a crime, and is liable to imprisonment for 7 years.

(3) If the offender does bodily harm, and is or pretends to be armed with any dangerous or offensive weapon or instrument or is in company with 1 or more other person or persons, the offender is liable to imprisonment for 10 years.

340 Serious assaults

(1) Any person who—

(a) assaults another with intent to commit a crime, or with intent to resist or prevent the lawful arrest or detention of himself or herself or of any other person; or

(b) assaults, resists, or wilfully obstructs, a police officer while acting in the execution of the officer's duty, or any person acting in aid of a police officer while so acting; or

(c) unlawfully assaults any person while the person is performing a duty imposed on the person by law; or

(d) assaults any person because the person has performed a duty imposed on the person by law; or

(f) assaults any person in pursuance of any unlawful conspiracy respecting any manufacture, trade, business, or occupation, or respecting any person or persons concerned or employed in any manufacture, trade, business, or occupation, or the wages of any such person or persons; or

(g) unlawfully assaults any person who is 60 years or more; or

(h) unlawfully assaults any person who relies on a guide, hearing or assistance dog, wheelchair or other remedial device;

is guilty of a crime, and is liable to imprisonment for 7 years.

Examples of remedial device for paragraph (h)—

walking frame, caliper, walking stick and artificial limb

(2) A prisoner who unlawfully assaults a working corrective services officer is guilty of a crime, and is liable to imprisonment for 7 years.

(2AA) A person who—

(a) unlawfully assaults, or resists or wilfully obstructs, a public officer while the officer is performing a function of the officer's office; or

Example—

A person unlawfully assaults an authorised officer under the *Child Protection Act 1999* while the officer is investigating an allegation of harm to a child under that Act.

(b) assaults a public officer because the officer has performed a function of the officer's office;

commits a crime.

Maximum penalty—7 years imprisonment.

(2A) For subsection (1)(b), the circumstances in which a person assaults a police officer include, but are not limited to, circumstances in which the person bites, spits on or throws a bodily fluid or faeces at a police officer.

(3) In this section—

corrective services facility see the *Corrective Services Act 2006*, schedule 4.

corrective services officer see the *Corrective Services Act 2006*, schedule 4.

office includes appointment and employment.

prisoner see the *Corrective Services Act 2006*, schedule 4.

public officer includes—

(a) a member, officer or employee of a service established for a public purpose under an Act; and

Example of a service—

Queensland Ambulance Service established under the *Ambulance Service Act 1991*

(b) a health service employee under the *Health Services Act 1991*; and

(c) an authorised officer under the *Child Protection Act 1999*; and

(d) a transit officer under the *Transport Operations (Passenger Transport) Act 1994*.

working corrective services officer means a corrective services officer present at a corrective services facility in his or her capacity as a corrective services officer.

346 Assaults in interference with freedom of trade or work

Any person who assaults another with intent to hinder or prevent the other person from working at or exercising the other person's lawful trade, business, or occupation, or from buying, selling, or otherwise dealing, with any property intended for sale, commits a crime.

Maximum penalty—5 years imprisonment.

Chapter 32 Rape and sexual assaults

347 Definitions for ch 32

In this chapter—

consent see section 348.

penetrate does not include penetrate for a proper medical, hygienic or law enforcement purpose only.

348 Meaning of *consent*

(1) In this chapter, ***consent*** means consent freely and voluntarily given by a person with the cognitive capacity to give the consent.

(2) Without limiting subsection (1), a person's consent to an act is not freely and voluntarily given if it is obtained—

(a) by force; or

(b) by threat or intimidation; or

(c) by fear of bodily harm; or

(d) by exercise of authority; or

(e) by false and fraudulent representations about the nature or purpose of the act; or

(f) by a mistaken belief induced by the accused person that the accused person was the person's sexual partner.

349 Rape

(1) Any person who rapes another person is guilty of a crime.

Maximum penalty—life imprisonment.

(2) A person rapes another person if—

(a) the person has carnal knowledge with or of the other person without the other person's consent; or

(b) the person penetrates the vulva, vagina or anus of the other person to any extent with a thing or a part of the person's body that is not a penis without the other person's consent; or

(c) the person penetrates the mouth of the other person to any extent with the person's penis without the other person's consent.

(3) For this section, a child under the age of 12 years is incapable of giving consent.

350 Attempt to commit rape

Any person who attempts to commit the crime of rape is guilty of a crime, and is liable to imprisonment for 14 years.

351 Assault with intent to commit rape

Any person who assaults another with intent to commit rape is guilty of a crime, and is liable to imprisonment for 14 years.

352 Sexual assaults

(1) Any person who—

(a) unlawfully and indecently assaults another person; or

(b) procures another person, without the person's consent—

(i) to commit an act of gross indecency; or

(ii) to witness an act of gross indecency by the person or any other person;

is guilty of a crime.

Maximum penalty—10 years imprisonment.

(2) However, the offender is liable to a maximum penalty of 14 years imprisonment for an offence defined in subsection (1)(a) or (1)(b)(i) if the indecent assault or act of gross indecency includes bringing into contact any part of the genitalia or the anus of a person with any part of the mouth of a person.

(3) Further, the offender is liable to a maximum penalty of life imprisonment if—

(a) immediately before, during, or immediately after, the offence, the offender is, or pretends to be, armed with a dangerous or offensive weapon, or is in company with any other person; or

(b) for an offence defined in subsection (1)(a), the indecent assault includes the person who is assaulted penetrating the offender's vagina, vulva or anus to any extent with a thing or a part of the person's body that is not a penis; or

(c) for an offence defined in subsection (1)(b)(i), the act of gross indecency includes the person who is procured by the offender penetrating the vagina, vulva or anus of the person who is procured or another person to any extent with a thing or a part of the body of the person who is procured that is not a penis.

Chapter 33 Offences against liberty

354 Kidnapping

(1) Any person who kidnaps another person is guilty of a crime.

Maximum penalty—7 years imprisonment.

(2) A person kidnaps another person if the person unlawfully and forcibly takes or detains the other person with intent to gain anything from any person or to procure anything to be done or omitted to be done by any person.

354A Kidnapping for ransom

(1) Any person who—

(a) with intent to extort or gain anything from or procure anything to be done or omitted to be done by any person by a demand containing threats of detriment of any kind to be caused to any person, either by the offender or any other person, if the demand is not complied with, takes or entices away, or detains, the person in respect of whom the threats are made; or

(b) receives or harbours the said person in respect of whom the threats are made, knowing such person to have been so taken or enticed away, or detained;

is guilty of a crime which is called ***kidnapping for ransom***.

(2) Any person who commits the crime of kidnapping for ransom is liable to imprisonment for 14 years.

(3) If the person kidnapped has been unconditionally set at liberty without such person having suffered any grievous bodily harm, the offender is liable to imprisonment for 10 years.

(4) Any person who attempts to commit the crime of kidnapping for ransom is guilty of a crime and is liable to imprisonment for 7 years.

355 Deprivation of liberty

Any person who unlawfully confines or detains another in any place against the other person's will, or otherwise unlawfully deprives another of the other person's personal liberty, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

356 False certificates by officers charged with duties relating to liberty

Any person who—

(a) being required by law to give any certificate touching any matter by virtue whereof the liberty of any person may be affected, gives a certificate which, in any material particular, is to the person's knowledge false; or

(b) not being a person authorised by law to give such a certificate as aforesaid, gives such a certificate, and represents himself or herself to be a person authorised to give the same;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

357 Concealment of matters affecting liberty

Any person who—

(a) being required by law to keep any record touching any matter relating to any person in confinement, refuses or neglects to keep such record, or makes in such record an entry which, in any material particular, is to the person's knowledge false; or

(b) being required by law to give any information to any person touching any person in confinement, or to show to any person any person in confinement, or any place in which a person is confined—

(i) refuses or neglects to give such information, or to show such person or place, to any person to whom the person is so required to give the information or show the person or place; or

(ii) gives to any person to whom the person is so required to give it, information touching any such matter which, in any material particular, is to the person's knowledge false;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

358 Unlawful custody of particular persons

Any person who detains or assumes the custody of an involuntary patient under the *Mental Health Act 2000* or a forensic disability client under the *Forensic Disability Act 2011* contrary to the provisions of the laws relating to such persons is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

359 Threats

(1) A person (the ***first person***) who threatens to cause a detriment to a second person with intent to prevent or hinder any person (the ***other person***) other than the first person from doing any act which the other person is lawfully entitled to do, or with intent to compel the other person to do any act which the other person is lawfully entitled to abstain from doing, or with intent to cause public alarm or anxiety, commits a crime.

Maximum penalty—5 years imprisonment.

(2) The offender is liable to a maximum penalty of 10 years imprisonment if the threat is made to a law enforcement officer, or a person helping a law enforcement officer, when or because the officer is investigating the activities of a criminal organisation.

Chapter 33A Unlawful stalking

359A Definitions for ch 33A

In this chapter—

circumstances means the following circumstances—

(a) the alleged stalker's circumstances;

(b) the circumstances of the stalked person known, foreseen or reasonably foreseeable by the alleged stalker;

(c) the circumstances surrounding the unlawful stalking;

(d) any other relevant circumstances.

detriment includes the following—

(a) apprehension or fear of violence to, or against property of, the stalked person or another person;

(b) serious mental, psychological or emotional harm;

(c) prevention or hindrance from doing an act a person is lawfully entitled to do;

(d) compulsion to do an act a person is lawfully entitled to abstain from doing.

Examples of paragraph (c)—

A person no longer walks outside the person's place of residence or employment.

A person significantly changes the route or form of transport the person would ordinarily use to travel to work or other places.

Example of paragraph (d)—

A person sells a property the person would not otherwise sell.

property, of a person, means—

(a) property in which the person has an interest, whether or not the defendant also has an interest in the property; or

Editor's note—

Acts Interpretation Act 1954, section 36—

interest, in relation to land or other property, means—

(a) a legal or equitable estate in the land or other property; or

(b) a right, power or privilege over, or in relation to, the land or other property.

(b) property that is otherwise—

(i) used and enjoyed by the person; or

(ii) available for the person's use or enjoyment; or

(iii) in the person's care or custody; or

(iv) at the premises at which the person is residing.

stalked person see section 359B.

unlawful stalking see section 359B.

violence—

(a) does not include any force or impact within the limits of what is acceptable as incidental to social interaction or to life in the community; and

(b) against a person includes an act depriving a person of liberty; and

(c) against property includes an act of damaging, destroying, removing, using or interfering with the property.

359B What is unlawful stalking

Unlawful stalking is conduct—

(a) intentionally directed at a person (the ***stalked person***); and

(b) engaged in on any 1 occasion if the conduct is protracted or on more than 1 occasion; and

(c) consisting of 1 or more acts of the following, or a similar, type—

(i) following, loitering near, watching or approaching a person;

(ii) contacting a person in any way, including, for example, by telephone, mail, fax, email or through the use of any technology;

(iii) loitering near, watching, approaching or entering a place where a person lives, works or visits;

(iv) leaving offensive material where it will be found by, given to or brought to the attention of, a person;

(v) giving offensive material to a person, directly or indirectly;

(vi) an intimidating, harassing or threatening act against a person, whether or not involving violence or a threat of violence;

(vii) an act of violence, or a threat of violence, against, or against property of, anyone, including the defendant; and

(d) that—

(i) would cause the stalked person apprehension or fear, reasonably arising in all the circumstances, of violence to, or against property of, the stalked person or another person; or

(ii) causes detriment, reasonably arising in all the circumstances, to the stalked person or another person.

359C What is immaterial for unlawful stalking

(1) For section 359B(a), it is immaterial whether the person doing the unlawful stalking—

(a) intends that the stalked person be aware the conduct is directed at the stalked person; or

(b) has a mistaken belief about the identity of the person at whom the conduct is intentionally directed.

(2) For section 359B(a) and (c), it is immaterial whether the conduct directed at the stalked person consists of conduct carried out in relation to another person or property of another person.

(3) For section 359B(b), it is immaterial whether the conduct throughout the occasion on which the conduct is protracted, or the conduct on each of a number of occasions, consists of the same or different acts.

(4) For section 359B(d), it is immaterial whether the person doing the unlawful stalking intended to cause the apprehension or fear, or the detriment, mentioned in the section.

(5) For section 359B(d)(i), it is immaterial whether the apprehension or fear, or the violence, mentioned in the section is actually caused.

359D Particular conduct that is not unlawful stalking

Unlawful stalking does not include the following acts—

(a) acts done in the execution of a law or administration of an Act or for a purpose authorised by an Act;

(b) acts done for the purposes of a genuine industrial dispute;

(c) acts done for the purposes of a genuine political or other genuine public dispute or issue carried on in the public interest;

(d) reasonable conduct engaged in by a person for the person's lawful trade, business or occupation;

(e) reasonable conduct engaged in by a person to obtain or give information that the person has a legitimate interest in obtaining or giving.

359E Punishment of unlawful stalking

(1) A person who unlawfully stalks another person is guilty of a crime.

(2) A person who commits the crime of unlawful stalking is liable to a maximum penalty of imprisonment for 5 years.

(3) However, a person is liable to a maximum penalty of imprisonment for 7 years if, for any of the acts constituting the unlawful stalking, the person—

(a) uses or intentionally threatens to use, violence against anyone or anyone's property; or

(b) possesses a weapon within the meaning of the *Weapons Act 1990*; or

(c) contravenes or intentionally threatens to contravene an injunction or order imposed or made by a court or tribunal under a law of the Commonwealth or a State.

(4) Also, a person is liable to a maximum penalty of imprisonment for 10 years if any of the acts constituting the unlawful stalking are done when or because the officer is investigating the activities of a criminal organisation.

359F Court may restrain unlawful stalking

(1) This section applies on the hearing before a court of a charge against a person of unlawful stalking.

(2) Whether the person is found guilty or not guilty or the prosecution ends in another way, if the presiding judge or magistrate considers it desirable, the judge or magistrate may constitute the court to consider whether a restraining order should be made against the person.

(3) The judge or magistrate may act under subsection (2) on application by the Crown or an interested person or on the judge's or magistrate's own initiative.

(4) Also, if the restraining order proceeding is started before the Supreme Court or the District Court, the court may order the proceeding to be transferred to a Magistrates Court.

(5) If a court makes an order under subsection (4), the registrar of the court must send to the clerk of the relevant Magistrates Court a copy of the order and the record of proceedings of the

hearing of the charge and any application mentioned in subsection (3).

(6) The court hearing the restraining order proceeding may make a restraining order against the person in relation to any person or any property if it considers it desirable to do so having regard to the evidence given at the hearing of the charge and any application under subsection (3) and any further evidence the court may admit.

(7) A restraining order may be varied or revoked at any time by the court, and, if the order provides, by another court.

(8) A person who knowingly contravenes a restraining order commits an offence.

Maximum penalty—40 penalty units or 1 year's imprisonment.

(9) A restraining order may be made against a person whether or not another order is made against the person in the proceeding for the charge.

(10) A restraining order proceeding is not a criminal proceeding.

(11) A question of fact for a decision under subsection (2) and in a restraining order proceeding must be decided on the balance of probabilities.

(12) In this section—

charge means the charge of unlawful stalking mentioned in subsection (1).

restraining order against a person means any order considered appropriate for the purpose of prohibiting particular conduct, including, for example, contact for a stated period by the person with a stated person or the property of a stated person.

restraining order proceeding means a proceeding started under subsection (2).

Chapter 34 Offences relating to marriage and parental rights and duties

360 Bigamy

(1) Any person who—

(a) being married, goes through the form of marriage with any other person during the life of his or her wife or husband; or

(b) goes through the form of marriage with any person whom he or she knows to be married;

is guilty of a crime, and is liable to imprisonment for 7 years.

(2) It is a defence to a charge of either of the offences defined in this section to prove that at the time of committing the alleged offence the wife or husband of the person already married had been continually absent from him or her for the space of 7 years then last past, unless it is shown that the accused person knew that such wife or husband was living within that time.

361 Unlawful celebration of marriage

Any person who—

(a) celebrates, or attempts or professes to celebrate, the marriage of any person who, to the person's knowledge, is under the age of 18 years, and is not a widower or widow, without the written consent of some person authorised by law to give such consent, or with a written consent which, to the person's knowledge, is not given by a person authorised by law to give it; or

(b) celebrates, or attempts or professes to celebrate, any marriage contrary to the provisions of the laws relating to the solemnisation of marriage; or

(c) celebrates, or attempts or professes to celebrate, any marriage in any case in which any provision of those

laws has not been complied with, knowing that it has not been complied with; or

(d) induces, or attempts to induce, any person to celebrate the marriage of any person who is to the knowledge of the offender under the age of 18 years, and is not a widower or widow, without the consent mentioned in paragraph (a), or with a consent which, to the person's knowledge, is not given by a person authorised by law to give it, or to celebrate any marriage contrary to or without compliance with the laws relating to the solemnisation of marriage; or

(e) marries a person who is, to his or her knowledge, under the age of 18 years, and is not a widow or widower, without the consent mentioned in paragraph (a), or with a consent which, to his or her knowledge, is not given by a person authorised by law to give it;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

362 Unqualified persons procuring registration as persons qualified to celebrate marriages

Any person who, not being a person entitled to be registered under the laws relating to the solemnisation of marriage as a person authorised to celebrate marriages, and knowing that the person is not such a person, procures the person's name to be registered as a person so entitled, is guilty of a misdemeanour, and is liable to imprisonment for 2 years, and to a fine of $400.

363 Child-stealing

(1) Any person who, with intent to deprive any parent, guardian, or other person who has the lawful care or charge, of a child under the age of 16 years, of the possession of such child, or with intent to steal any article upon or about the person of any such child—

(a) forcibly or fraudulently takes or entices away, or detains, the child; or

(b) receives or harbours the child, knowing it to have been so taken or enticed away or detained;

is guilty of a crime, and is liable to imprisonment for 7 years.

(2) It is a defence to a charge of any of the offences defined in this section to prove that the accused person claimed in good faith a right to the possession of the child, or, in the case of a child whose parents were not married to each other at the time of its conception and have not since married each other, not being a child who has been adopted as aforesaid, is its mother or claimed in good faith to be its father.

(3) In this section—

corresponding parentage order means an order under a law of another State that provides for a parentage order similar to a parentage order under the *Surrogacy Act 2010*.

parent includes—

(a) for a child who has been legally adopted in Queensland or in another State—a person who has adopted the child; or

(b) for a child whose parentage has been transferred by a parentage order under the *Surrogacy Act 2010* or a corresponding parentage order—a person who is a parent of the child under the order;

but does not include a natural parent of the child.

363A Abduction of child under 16

(1) Any person who unlawfully takes an unmarried child under the age of 16 years out of the custody or protection of the child's father or mother, or other person having the lawful care or charge of the child, and against the will of the father, mother or other person, is guilty of a crime, and is liable to imprisonment for 7 years.

(2) It is immaterial that the offender believed the child to be of or above the age of 16 years.

(3) It is immaterial that the child was taken with the consent of or at the suggestion of the child.

364 Cruelty to children under 16

(1) A person who, having the lawful care or charge of a child under 16 years, causes harm to the child by any prescribed conduct that the person knew or ought reasonably to have known would be likely to cause harm to the child commits a crime.

Maximum penalty—7 years imprisonment.

(2) In this section—

harm, to a child, means any detrimental effect of a significant nature on the child's physical, psychological or emotional wellbeing, whether temporary or permanent.

prescribed conduct means—

(a) failing to provide the child with adequate food, clothing, medical treatment, accommodation or care when it is available to the person from his or her own resources; or

(b) failing to take all lawful steps to obtain adequate food, clothing, medical treatment, accommodation or care when it is not available to the person from his or her own resources; or

(c) deserting the child; or

(d) leaving the child without means of support.

364A Leaving a child under 12 unattended

(1) A person who, having the lawful care or charge of a child under 12 years, leaves the child for an unreasonable time without making reasonable provision for the supervision and care of the child during that time commits a misdemeanour.

Maximum penalty—3 years imprisonment.

(2) Whether the time is unreasonable depends on all the relevant circumstances.

Chapter 35 Criminal defamation

365 Criminal defamation

(1) Any person who, without lawful excuse, publishes matter defamatory of another living person (the ***relevant person***)—

(a) knowing the matter to be false or without having regard to whether the matter is true or false; and

(b) intending to cause serious harm to the relevant person or any other person or without having regard to whether serious harm to the relevant person or any other person is caused;

commits a misdemeanour.

Maximum penalty—3 years imprisonment.

(2) In a proceeding for an offence defined in this section, the accused person has a lawful excuse for the publication of defamatory matter about the relevant person if, and only if, subsection (3) applies.

(3) This subsection applies if the accused person would, having regard only to the circumstances happening before or at the time of the publication, have had a relevant defence for the publication if the relevant person had brought civil proceedings for defamation against the accused person.

(4) The prosecution has the burden of negativing the existence of a lawful excuse if, and only if, evidence directed to establishing the excuse is first adduced by or on behalf of the accused person.

(5) Whether the matter complained of is capable of bearing a defamatory meaning is a question of law.

(6) Whether the matter complained of does bear a defamatory meaning is a question of fact.

(7) A person can not be prosecuted for an offence defined in this section without the consent of the director of public prosecutions.

(8) In this section—

defamatory has the meaning that it has in the law of tort (as modified by the *Defamation Act 2005*) relating to defamation.

modified statutory defence of justification means the defence stated in the *Defamation Act 2005*, section 25 as if that section provided that it is a defence to the publication of defamatory matter if the defendant proves that—

(a) the defamatory imputations carried by the matter of which the relevant person complains are substantially true; and

(b) it was for the public benefit that the publication should be made.

publish has the meaning that it has in the law of tort (as modified by the *Defamation Act 2005*) relating to defamation.

relevant defence means—

(a) a defence available under the *Defamation Act 2005* other than—

(i) the statutory defence of justification; or

(ii) the statutory defence of failure to accept reasonable offer; or

(b) the modified statutory defence of justification; or

(c) a defence available other than under the *Defamation Act 2005*, including under the general law.

statutory defence of failure to accept reasonable offer means the defence stated in the *Defamation Act 2005*, section 18(1).

statutory defence of justification means the defence stated in the *Defamation Act 2005*, section 25.

Part 6 Offences relating to property and contracts

Division 1 Stealing and like offences

Chapter 36 Stealing

390 Things capable of being stolen

Anything that is the property of any person is capable of being stolen if it is—

(a) moveable; or

(b) capable of being made moveable, even if it is made moveable in order to steal it.

391 Definition of *stealing*

(1) A person who fraudulently takes anything capable of being stolen, or fraudulently converts to the person's own use or to the use of any other person anything capable of being stolen, is said to steal that thing.

(2) A person who takes or converts anything capable of being stolen is deemed to do so fraudulently if the person does so with any of the following intents, that is to say—

(a) an intent to permanently deprive the owner of the thing of it;

(b) an intent to permanently deprive any person who has any special property in the thing of such property;

(c) an intent to use the thing as a pledge or security;

(d) an intent to part with it on a condition as to its return which the person taking or converting it may be unable to perform;

(e) an intent to deal with it in such a manner that it can not be returned in the condition in which it was at the time of the taking or conversion;

(f) in the case of money—an intent to use it at the will of the person who takes or converts it, although the person may intend to afterwards repay the amount to the owner.

(2AA) In this section—

special property includes any charge or lien upon the thing in question, and any right arising from or dependent upon holding possession of the thing in question, whether by the person entitled to such right or by some other person for the other person's benefit.

(2A) A person who has taken possession of anything capable of being stolen in such circumstances that the thing thereupon is not identifiable is deemed to have taken or converted the thing fraudulently notwithstanding that the property in the thing has passed to the person if, at the time the person transports the thing away, the person has not discharged or made arrangements with the owner or previous owner of the thing for discharging the person's indebtedness in respect of the thing.

(2B) The presumption provided for by subsection (2A) is rebuttable.

(3) The taking or conversion may be fraudulent, although it is effected without secrecy or attempt at concealment.

(4) In the case of conversion, it is immaterial whether the thing converted is taken for the purpose of conversion, or whether it is at the time of the conversion in the possession of the person who converts it.

(4A) It is also immaterial that the person who converts the property is the holder of a power of attorney for the disposition of it, or is otherwise authorised to dispose of the property.

(5) When a thing converted has been lost by the owner and found by the person who converts it, the conversion is not deemed to be fraudulent if at the time of the conversion the person taking or converting the thing does not know who is the owner, and believes, on reasonable grounds, that the owner can not be discovered.

(6) The act of stealing is not complete until the person taking or converting the thing actually moves it or otherwise actually deals with it by some physical act.

(7) In this section—

owner includes the owner, any part owner, or any person having possession or control of, or a special property in, the thing in question.

392 Special cases

(1) When a wild animal in the enjoyment of its natural liberty has been killed by any person, the taking of the dead body of the animal by that person, or by any person acting under the person's orders, before it has been reduced into actual possession by the owner of the land on which the animal was killed or on which it died, is not deemed to be stealing.

(2) When a factor or agent pledges or gives a lien on any goods or document of title to goods entrusted to the factor or agent for the purpose of sale or otherwise for any sum of money not greater than the amount due to the factor or agent from his or her principal at the time of pledging or giving the lien, together with the amount of any bill of exchange or promissory note accepted or made by the factor or agent for or

on account of his or her principal, such dealing with the goods or document of title is not deemed to be stealing.

393 Funds etc. held under direction

(1) When a person receives, either alone or jointly with another person, any money or valuable security, or a power of attorney for the sale, mortgage, pledge, or other disposition, of any property, whether capable of being stolen or not, with a direction in either case that such money or any part thereof, or any other money received in exchange for it, or any part thereof, or the proceeds or any part of the proceeds of such security, or of such mortgage, pledge, or other disposition, shall be applied to any purpose or paid to any person specified in the direction, such money and proceeds are deemed to be the property of the person from whom the money, security, or power of attorney, was received until the direction has been complied with.

(2) However, if the person receiving the money, security or power of attorney, and the person from whom the person receives it ordinarily deal with each other on such terms that in the absence of any special direction all money paid to the former on account of the latter would be properly treated as an item in a debtor and creditor account between them, the former can not be charged with stealing the money or any such proceeds unless the direction is in writing.

394 Funds etc. received by agents for sale

When a person receives, either alone or jointly with another person, any property from another on terms authorising or requiring the person to sell it or otherwise dispose of it, and requiring the person to pay or account for the proceeds of the property, or any part of such proceeds, or to deliver anything received in exchange for the property, to the person from whom it is received, or some other person, then the proceeds of the property, and anything so received in exchange for it, are deemed to be the property of the person from whom the

property was so received, until they have been disposed of in accordance with the terms on which the property was received, unless it is a part of those terms that the proceeds (if any) shall form an item in a debtor and creditor account between the person and the person to whom the person is to pay them or account for them, and that the relation of debtor and creditor only shall exist between them in respect thereof.

395 Money received for another

When a person receives, either alone or jointly with another person, any money on behalf of another, the money is deemed to be the property of the person on whose behalf it is received, unless the money is received on the terms that it shall form an item in a debtor and creditor account, and that the relation of debtor and creditor only shall exist between the parties in respect of it.

396 Stealing by persons having an interest in the thing stolen

When any person takes or converts anything capable of being stolen, under such circumstances as would otherwise amount to stealing, it is immaterial that the person has a special property or interest therein, or that the person is the owner of the thing taken or converted subject to some special property or interest of some other person therein; or that the person is lessee of the thing, or that the person is 1 of 2 or more joint owners of the thing; or that the person is a director or officer of a corporation or company or society who are the owners of it.

398 Punishment of stealing

Any person who steals anything capable of being stolen is guilty of a crime, and is liable, if no other punishment is provided, to imprisonment for 5 years.

Punishment in special cases

1 Stealing wills

If the thing stolen is a testamentary instrument, whether the testator is living or dead, the offender is liable to 14 years imprisonment.

2 Stealing stock

(1) If the thing stolen is 1 or more animals and the offender is sentenced to pay a fine, the fine must be at least the following amount for each animal—

(a) if the animal's value is determined under a regulation under section 450F—that value or $1000, whichever is higher;

(b) otherwise—$1000.

(2) Subclause (1) applies whether the person is sentenced to pay the fine in addition to, or instead of, imprisonment.

(3) Subclause (1) applies whether the person is liable to imprisonment for 5 years or a longer period under this section.

(4) In this clause—

animal means an animal that is stock.

4 Stealing from the person—stealing goods in transit etc.

If the offence is committed under any of the circumstances following, that is to say—

(a) if the thing is stolen from the person of another;

(b) if the thing is stolen in a dwelling, and its value exceeds $1000, or the offender at or immediately before or after the time of stealing uses or threatens to use violence to any person in the dwelling;

(c) if the thing is stolen from any kind of vehicle or place of deposit used for the conveyance or custody of goods in transit from 1 place to another;

(d) if the thing is stolen from a vehicle which is in distress or wrecked or stranded;

(e) if the thing is stolen from a public office in which it is deposited or kept;

(f) if the offender, in order to commit the offence, opens any locked room, box, or other receptacle, by means of a key or other instrument;

the offender is liable to imprisonment for 10 years.

5 Stealing by persons in the public service

If the offender is a person employed in the public service, and the thing stolen is the property of Her Majesty, or came into the possession of the offender by virtue of the offender's employment, the offender is liable to imprisonment for 10 years.

6 Stealing by clerks and servants

If the offender is a clerk or servant, and the thing stolen is the property of the offender's employer, or came into the possession of the offender on account of the offender's employer, the offender is liable to imprisonment for 10 years.

7 Stealing by directors or officers of companies

If the offender is a director or officer of a corporation or company, and the thing stolen is the property of the corporation or company, the offender is liable to imprisonment for 10 years.

8 Stealing by agents etc.

If the thing stolen is any of the things following, that is to say—

(a) property which has been received by the offender with a power of attorney for the disposition thereof;

(b) money received by the offender with a direction that the same should be applied to any purpose or paid to any person specified in the direction;

(c) the whole or part of the proceeds of any valuable security which has been received by the offender with a direction that the proceeds thereof should be applied to any purpose or paid to any person specified in the direction;

(d) the whole or part of the proceeds arising from any disposition of any property which have been received by the offender by virtue of a power of attorney or other authority for the disposition of the property received by the offender with a direction that such proceeds should be applied to any purpose or paid to any person specified in the direction;

the offender is liable to imprisonment for 10 years.

9 Stealing property valued at more than $5000

If the thing stolen is property, including an animal that is stock, and its value is more than $5000, the offender is liable to imprisonment for 10 years.

10 Stealing by tenants or lodgers

If the thing stolen is a fixture or chattel let to the offender to be used by him or her with a house or lodging, and its value exceeds $1000, the offender is liable to imprisonment for 10 years.

11 Stealing after previous conviction

If the offender, before committing the offence, had been convicted upon indictment of any of the indictable offences defined in this division, or had been twice previously summarily convicted of an offence punishable on summary conviction under this division, whether each of the convictions was in respect of an offence of the same character or not, the offender is liable to imprisonment for 10 years.

12 Stealing of a vehicle

If the thing stolen is a vehicle the offender is liable to imprisonment for 14 years.

13 Stealing by looting

If—

(a) the offence is committed during a natural disaster, civil unrest or an industrial dispute; or

(b) the thing stolen is left unattended by the death or incapacity of the person in possession of the property;

the offender is liable to imprisonment for 10 years.

14 Stealing firearm for use in another indictable offence

If—

(a) the thing stolen is a firearm; and

(b) the offender steals the firearm intending that it be used by anyone to commit an indictable offence;

the offender is liable to imprisonment for 14 years.

15 Stealing firearm or ammunition

If the thing stolen is a firearm or ammunition, the offender is liable to imprisonment for 10 years.

Chapter 37 Offences analogous to stealing

399 Fraudulent concealment of particular documents

A person who, with intent to defraud, conceals the whole or part of—

(a) a register or record kept by lawful authority; or

(b) a document recording title to property; or

(c) a testamentary instrument (whether the testator is living or dead);

commits a crime.

Maximum penalty—

(a) if the offence is committed in relation to a document recording title to property—3 years imprisonment; or

(b) otherwise—14 years imprisonment.

403 Severing with intent to steal

Any person who makes anything moveable with intent to steal it is guilty of a crime, and is liable to the same punishment as if the person had stolen the thing after it became moveable.

406 Bringing stolen goods into Queensland

Any person who, having at any place not in Queensland obtained any property by any act which if it had been done in Queensland would have constituted the crime of stealing, and which is an offence under the laws in force in the place where it was done, brings such property into Queensland, or has it in the person's possession in Queensland, is guilty of a crime, and is liable to the same punishment as if the person had stolen it in Queensland; but so that the punishment does not exceed that which would be incurred for the same act under the laws in force in the place where the act by which the person obtained the property was done.

408A Unlawful use or possession of motor vehicles, aircraft or vessels

(1) A person who—

(a) unlawfully uses any motor vehicle, aircraft or vessel without the consent of the person in lawful possession thereof; or

(b) has in the person's possession any motor vehicle, aircraft or vessel without the consent of the person in lawful possession thereof with intent to deprive the owner or person in lawful possession thereof of the use and possession thereof either temporarily or permanently;

is guilty of a crime and is liable to imprisonment for 7 years.

(1A) If the offender uses or intends to use the motor vehicle, aircraft or vessel for the purpose of facilitating the commission of an indictable offence, the offender is liable to imprisonment for 10 years.

(1B) If the offender—

(a) wilfully destroys, damages, removes or otherwise interferes with the mechanism (or part thereof) or other part of or equipment attached to the motor vehicle, aircraft or vessel; or

(b) intends to destroy, damage, remove or otherwise interfere with the mechanism (or part thereof) or other part of or equipment attached to the motor vehicle, aircraft or vessel;

the offender is liable to imprisonment for 12 years.

(1C) It is a defence to a charge of an offence defined in subsections (1) to (1B) to prove that the accused person had the lawful consent of the owner of the motor vehicle, aircraft or vessel to its use or possession by the accused person.

(2) This section applies without prejudice to any provision of any other Act relating to the unlawful use or possession of motor vehicles, aircraft or vessels save that an offender shall not be

liable to be convicted under both this section and such other provision in respect of any one and the same unlawful use or possession of any motor vehicle, aircraft or vessel.

(3) In this section—

vessel means every kind of vessel designed for use on or in water, not propelled exclusively by oars.

408C Fraud

(1) A person who dishonestly—

(a) applies to his or her own use or to the use of any person—

(i) property belonging to another; or

(ii) property belonging to the person, or which is in the person's possession, either solely or jointly with another person, subject to a trust, direction or condition or on account of any other person; or

(b) obtains property from any person; or

(c) induces any person to deliver property to any person; or

(d) gains a benefit or advantage, pecuniary or otherwise, for any person; or

(e) causes a detriment, pecuniary or otherwise, to any person; or

(f) induces any person to do any act which the person is lawfully entitled to abstain from doing; or

(g) induces any person to abstain from doing any act which that person is lawfully entitled to do; or

(h) makes off, knowing that payment on the spot is required or expected for any property lawfully supplied or returned or for any service lawfully provided, without having paid and with intent to avoid payment;

commits the crime of fraud.

(2) An offender guilty of the crime of fraud is liable to imprisonment for 5 years save in any of the following cases when the offender is liable to imprisonment for 12 years, that is to say—

(a) if the offender is a director or member of the governing body of a corporation, and the victim is the corporation;

(b) if the offender is an employee of another person, and the victim is the other person;

(c) if any property in relation to which the offence is committed came into the possession or control of the offender subject to a trust, direction or condition that it should be applied to any purpose or be paid to any person specified in the terms of trust, direction or condition or came into the offender's possession on account of any other person;

(d) if the property, or the yield to the offender from the dishonesty, or the detriment caused, is of a value of $30000 or more.

(3) For the purposes of this section—

(a) ***property***, without limiting the definition of property in section 1, includes credit, service, any benefit or advantage, anything evidencing a right to incur a debt or to recover or receive a benefit, and releases of obligations; and

(b) a person's act or omission in relation to property may be dishonest even though—

(i) he or she is willing to pay for the property; or

(ii) he or she intends to afterwards restore the property or to make restitution for the property or to afterwards fulfil his or her obligations or to make good any detriment; or

(iii) an owner or other person consents to doing any act or to making any omission; or

(iv) a mistake is made by another person; and

(c) a person's act or omission in relation to property is not taken to be dishonest, if when the person does the act or makes the omission, he or she does not know to whom the property belongs and believes on reasonable grounds that the owner can not be discovered by taking reasonable steps, unless the property came into his or her possession or control as trustee or personal representative; and

(d) persons to whom property belongs include the owner, any joint or part owner or owner in common, any person having a legal or equitable interest in or claim to the property and any person who, immediately before the offender's application of the property, had control of it; and

(e) ***obtain*** includes to get, gain, receive or acquire in any way; and

(f) if a person obtains property from any person or induces any person to deliver property to any person it is immaterial in either case whether the owner passes or intends to pass ownership in the property or whether he or she intends to pass ownership in the property to any person.

408D Obtaining or dealing with identification information

(1) A person who obtains or deals with another entity's identification information for the purpose of committing, or facilitating the commission of, an indictable offence commits a misdemeanour.

Maximum penalty—3 years imprisonment.

(1A) A person who possesses equipment for the purpose of committing, or facilitating the commission of, an offence against subsection (1), commits a misdemeanour.

Maximum penalty—3 years imprisonment.

(2) For subsection (1), it is immaterial whether the other entity is alive or dead, or exists or does not exist, or consents or does not consent to the obtaining or dealing.

(3) When a court is sentencing a person for an offence against subsection (1), the court may order that the court's certificate be issued to the other entity stating the offence, the entity's name and anything else the court considers relevant for the entity's benefit.

(4) The order may be made on the court's own initiative or on application by the entity or the prosecutor.

(5) If the person is sentenced on a plea of guilty, the certificate may be given to the entity immediately.

(6) If subsection (5) does not apply, the certificate must not be given to the entity until the later of the following—

(a) the end of any period allowed for appeal against conviction;

(b) if an appeal is started—the end of any proceedings on the appeal.

(7) In this section—

dealing, with identification information, includes supplying or using the information.

digital signature means encrypted electronic or computer data intended for the exclusive use of a particular person as a means of identifying himself or herself as the sender of an electronic communication.

identification information, of another entity, means information about, or identifying particulars of, the entity that is capable of being used, whether alone or in conjunction with other information, to identify or purportedly identify the entity.

Examples for an entity that is an individual—

- information about the individual or the individual's relatives including name, address, date of birth, marital status and similar information

- the individual's driver licence or driver licence number
- the individual's passport or passport number
- anything commonly used by an individual to identify himself or herself, including a digital signature
- the individual's financial account numbers, user names and passwords
- a series of numbers or letters (or a combination of both) intended for use as a means of personal identification
- any data stored or encrypted on the individual's credit or debit card
- biometric data relating to the individual
- the individual's voice print
- a false driver licence or other false form of identification for a fictitious individual

Examples for an entity that is a body corporate—

- the body corporate's name
- the body corporate's ABN
- the body corporate's financial account numbers
- any data stored or encrypted on a credit or debit card issued to the body corporate

obtaining, identification information, includes possessing or making the information.

408E Computer hacking and misuse

(1) A person who uses a restricted computer without the consent of the computer's controller commits an offence.

Maximum penalty—2 years imprisonment.

(2) If the person causes or intends to cause detriment or damage, or gains or intends to gain a benefit, the person commits a crime and is liable to imprisonment for 5 years.

(3) If the person causes a detriment or damage or obtains a benefit for any person to the value of more than $5000, or intends to commit an indictable offence, the person commits a crime and is liable to imprisonment for 10 years.

(4) It is a defence to a charge under this section to prove that the use of the restricted computer was authorised, justified or excused by law.

(5) In this section—

benefit includes a benefit obtained by or delivered to any person.

computer means all or part of a computer, computer system or computer network and includes, for example, all external devices connected to the computer in any way or capable of communicating with each other as part of a system or network.

controller means a person who has a right to control the computer's use.

damage includes—

(a) damage to any computer hardware or software; and

(b) for information—any alteration, addition, removal or loss of, or other damage to, information.

detriment includes any detriment, pecuniary or otherwise, to any person.

information includes data, file, document, or computer language or coding.

restricted computer means a computer for which—

(a) a device, code or a particular sequence of electronic impulses is necessary in order to gain access to or to use the computer; and

(b) the controller—

(i) withholds or takes steps to withhold access to the device, or knowledge of the code or of the sequence or of the way of producing the code or the sequence, from other persons; or

(ii) restricts access or takes steps to restrict access to the device or knowledge of the code or of the

sequence, or to the way of producing the sequence, to a person or a class of person authorised by the controller.

use, of a restricted computer, includes accessing or altering any information stored in, or communicate information directly or indirectly to or from, the restricted computer, or cause a virus to become installed on or to otherwise affect, the computer.

Chapter 38 Stealing with violence—extortion by threats

409 Definition of *robbery*

Any person who steals anything, and, at or immediately before or immediately after the time of stealing it, uses or threatens to use actual violence to any person or property in order to obtain the thing stolen or to prevent or overcome resistance to its being stolen, is said to be guilty of ***robbery***.

411 Punishment of robbery

(1) Any person who commits the crime of robbery is liable to imprisonment for 14 years.

(2) If the offender is or pretends to be armed with any dangerous or offensive weapon or instrument, or is in company with 1 or more other person or persons, or if, at or immediately before or immediately after the time of the robbery, the offender wounds or uses any other personal violence to any person, the offender is liable to imprisonment for life.

412 Attempted robbery

(1) Any person who assaults any person with intent to steal anything, and, at or immediately before or immediately after the time of the assault, uses or threatens to use actual violence to any person or property in order to obtain the thing intended to be stolen, or to prevent or overcome resistance to its being stolen, is guilty of a crime, and is liable to imprisonment for 7 years.

(2) If the offender is or pretends to be armed with any dangerous or offensive weapon or instrument, or is in company with 1 or more other person or persons, the offender is liable to imprisonment for 14 years.

(3) If the offender is armed with any dangerous or offensive weapon, instrument or noxious substance, and at or immediately before or immediately after the time of the assault the offender wounds, or uses other personal violence to, any person by the weapon, instrument or noxious substance, the offender is liable to imprisonment for life.

413 Assault with intent to steal

Any person who assaults any person with intent to steal anything is guilty of a crime, and is liable to imprisonment for 3 years.

414 Demanding property with menaces with intent to steal

Any person who, with intent to steal anything, demands it from any person with threats of any injury or detriment of any kind to be caused to the other person, either by the offender or by any other person, if the demand is not complied with, is guilty of a crime, and is liable to imprisonment for 3 years.

415 Extortion

(1) A person (the ***demander***) who, without reasonable cause, makes a demand—

(a) with intent to—

(i) gain a benefit for any person (whether or not the demander); or

(ii) cause a detriment to any person other than the demander; and

(b) with a threat to cause a detriment to any person other than the demander;

commits a crime.

Maximum penalty—

(a) if carrying out the threat causes, or would be likely to cause, serious personal injury to a person other than the offender—life imprisonment; or

(b) if carrying out the threat causes, or would be likely to cause, substantial economic loss in an industrial or commercial activity conducted by a person or entity other than the offender (whether the activity is conducted by a public authority or as a private enterprise)—life imprisonment; or

(c) otherwise—14 years imprisonment.

(2) It is immaterial that—

(a) the demand or threat is made in a way ordinarily used to inform the public rather than a particular person; or

(b) the threat does not specify the detriment to be caused; or

(c) the threat does not specify the person to whom the detriment is to be caused or specifies this in a general way; or

Example—

a threat to cause a detriment to the public or any members of the public

(d) the detriment is to be caused by someone other than the demander.

(3) A reference to making a demand includes causing someone to receive a demand.

(4) A reference to a threat to cause a detriment to any person other than the demander includes a statement that gives rise to a threat of detriment to the other person.

(5) A prosecution for an offence in which it is intended to rely on a circumstance of aggravation mentioned in paragraph (a) or (b) of the penalty can not be commenced without the consent of the Attorney-General.

(6) In this section—

threat includes a statement that may reasonably be interpreted as a threat.

417A Taking control of aircraft

(1) Any person who unlawfully either directly or indirectly takes or exercises control of any aircraft is guilty of a crime and is liable to imprisonment for 7 years.

(2) If another person not being an accomplice of the offender is on board the aircraft the offender is liable to imprisonment for 14 years.

(3) If the offender at or immediately before or immediately after the time of taking or exercising such control uses or threatens to use actual violence to any person or property in order to take or exercise control of the aircraft or to prevent or overcome resistance to such control being taken or exercised or is armed with any dangerous or offensive weapon or instrument or is in company with one or more other person or persons or takes or exercises such control by any fraudulent representation trick device or other means the offender is liable to imprisonment for life.

Chapter 39 Burglary—housebreaking—and like offences

418 Definitions

(1) A person who breaks any part, whether external or internal, of a dwelling or any premises, or opens, by unlocking, pulling, pushing, lifting, or any other means whatever, any door, window, shutter, cellar, flap, or other thing, intended to close or cover an opening in a dwelling or any premises, or an opening giving passage from one part of a dwelling or any premises to another, is said to break the dwelling or premises.

(2) A person is said to enter a dwelling or premises as soon as any part of the person's body or any part of any instrument used by the person is within the dwelling or premises.

(3) A person who obtains entrance into a dwelling or premises by means of any threat or artifice used for that purpose, or by collusion with any person in the dwelling or premises, or who enters any chimney or other aperture of the dwelling or premises permanently left open for any necessary purpose, but not intended to be ordinarily used as a means of entrance, is deemed to have broken and entered the dwelling or premises.

(4) In this chapter—

premises includes—

(a) a building or structure and a part of a building or structure other than a dwelling; and

(b) a tent, caravan, or vehicle; and

(c) any similar place.

419 Burglary

(1) Any person who enters or is in the dwelling of another with intent to commit an indictable offence in the dwelling commits a crime.

Maximum penalty—14 years imprisonment.

(2) If the offender enters the dwelling by means of any break, he or she is liable to imprisonment for life.

(3) If—

(a) the offence is committed in the night; or

(b) the offender—

(i) uses or threatens to use actual violence; or

(ii) is or pretends to be armed with a dangerous or offensive weapon, instrument or noxious substance; or

(iii) is in company with 1 or more persons; or

(iv) damages, or threatens or attempts to damage, any property;

the offender is liable to imprisonment for life.

(4) Any person who enters or is in the dwelling of another and commits an indictable offence in the dwelling commits a crime.

Maximum penalty—imprisonment for life.

421 Entering or being in premises and committing indictable offences

(1) Any person who enters or is in any premises with intent to commit an indictable offence in the premises commits a crime.

Maximum penalty—10 years imprisonment.

(2) Any person who enters or is in any premises and commits an indictable offence in the premises commits a crime.

Maximum penalty—14 years imprisonment.

(3) If the offender gains entry to the premises by any break and commits an indictable offence in the premises, he or she is liable to imprisonment for life.

425 Possession of things used in connection with unlawful entry

(1) Any person who is found under any of the circumstances following, that is to say—

(a) being armed with any dangerous or offensive weapon or instrument, or a noxious substance, and being so armed with intent to break or enter a dwelling or premises, and to commit an indictable offence therein;

(b) having in his or her possession anything intended for use in or in connection with the commission of an offence defined in section 419 or 421;

(c) having in the person's possession by night without lawful excuse, the proof of which lies on the person, any instrument of housebreaking;

(d) having in the person's possession by day any such instrument with intent to commit an indictable offence;

(e) having his or her face masked or blackened or being otherwise disguised, with intent to commit an indictable offence;

is guilty of a crime, and is liable to imprisonment for 3 years.

(2) If the offender has been previously convicted of a crime relating to property, the offender is liable to imprisonment for 7 years.

427 Unlawful entry of vehicle for committing indictable offence

(1) A person who unlawfully enters another person's vehicle with intent to commit an indictable offence commits a crime.

Maximum penalty—10 years imprisonment.

(2) If—

(a) the offence is committed in the night; or

(b) the offender—

(i) uses or threatens to use actual violence; or

(ii) is or pretends to be armed with a dangerous or offensive weapon, instrument or noxious substance; or

(iii) is in company with 1 or more persons; or

(iv) damages, or threatens or attempts to damage, any property;

the offender is liable to imprisonment for 14 years.

Chapter 40 Other fraudulent practices

427A Obtaining property by passing valueless cheques

(1) Any person who—

(a) obtains from any other person any chattel, money, valuable security, credit, benefit or advantage by passing a cheque that is not paid on presentation for payment; or

(b) passes a cheque in the discharge or attempted discharge of any debt, liability or obligation, which cheque is not paid on presentation for payment;

is guilty of a misdemeanour and is liable to imprisonment for 2 years.

(2) It is a defence to a charge of an offence defined in this section to prove that the accused person—

(a) had reasonable grounds for believing that the cheque would be paid in full on presentation for payment; and

(b) had no intent to defraud.

(3) The fact that at the time when the cheque was passed there were some funds to the credit of the account on which the cheque was drawn is not of itself a defence to a charge of an offence defined in this section.

430 Fraudulent falsification of records

Any person who with intent to defraud—

(a) makes a false entry in any record; or

(b) omits to make an entry in any record; or

(c) gives any certificate or information that is false in a material particular; or

(d) in any way falsifies, destroys, alters or damages any record; or

(e) produces or makes use of any record the person knows is false in a material particular;

commits a crime.

Maximum penalty—10 years imprisonment.

431 False accounting by public officer

Any person who, being an officer charged with the receipt, custody, or management of any part of the public revenue or property, knowingly furnishes any false statement or return of any money or property received by the person or entrusted to the person's care, or of any balance of money or property in the person's possession or under the person's control, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

Chapter 41 Receiving property stolen or fraudulently obtained and like offences

432 What is *tainted property* for ch 41

(1) In this chapter—

tainted property means—

(a) a thing that has been obtained by way of an act constituting an indictable offence; or

(b) if tainted property mentioned in paragraph (a) is converted into other property—any of the other property; or

(c) if tainted property mentioned in paragraph (a) is mortgaged, pledged or exchanged for other property—any of the proceeds of the mortgage, pledge, or exchange.

(2) However, a thing stops being ***tainted property*** after a person acquires a lawful title to it.

433 Receiving tainted property

(1) A person who receives tainted property, and has reason to believe it is tainted property, commits a crime.

Maximum penalty—

(a) if the property was obtained by way of an act constituting a crime—14 years imprisonment; or

(b) if the property is a firearm or ammunition—14 years imprisonment; or

(c) if the offender received the property while acting as a pawnbroker or dealer in second hand goods, under a licence or otherwise—14 years imprisonment; or

(d) otherwise—7 years imprisonment.

(2) For the purpose of proving the receiving of anything it is sufficient to show that the accused person has, either alone or jointly with some other person, had the thing in his or her possession, or has aided in concealing it or disposing of it.

435 Taking reward for recovery of property obtained by way of indictable offences

If—

(a) a thing is obtained by way of any act constituting an indictable offence; and

(b) a person dishonestly receives, or dishonestly agrees to receive, any benefit on an agreement or understanding that the person will help anyone to recover the thing;

then, unless the person has used all due diligence to cause the offender to be brought to trial for the offence, the person commits a crime.

Maximum penalty—7 years imprisonment.

Chapter 42A Secret commissions

442A Definitions

(1) In this chapter—

advice given or words to the like effect includes every report, certificate, statement, and suggestion intended to influence the person to whom the same is made or given, and every influence deliberately or expressly exercised by one person over another.

agent includes any corporation, firm, or person acting or having been acting, or desirous or intending to act, for or on behalf of any corporation, firm, or person, whether as agent, partner, co-owner, clerk, servant, employee, banker, broker, auctioneer, architect, clerk of works, charterer, master mariner, purser, or any member of the crew of a vessel, engineer, barrister, solicitor, legal practitioner, conveyancer, surveyor, buyer, salesperson, supervisor, trustee, official assignee, executor, administrator, liquidator, trustee in bankruptcy or of a deed of assignment, receiver, director, manager, or other officer or member of the committee or governing body of any corporation, club, partnership, or association, or in any other capacity, either alone or jointly

with any other corporation, firm, or person, and whether in the person's own name or in the name of the person's principal or otherwise, and also includes a Minister of the Crown, and a person serving under the Crown or a Minister of the Crown, or corporation representing the Crown, and a person serving under any local government, harbour board, water authority, or any other local or public body constituted by or under any Act.

contract includes contract of sale or of employment, or any other contract whatever including an order for any commodity.

court means the Supreme Court or a judge thereof, or magistrate or justices having jurisdiction with respect to an offence against this chapter.

in relation to his or her principal's affairs or business implies the additional words 'whether within the scope of his or her authority or course of his or her employment as agent or not'.

person having business relations with the principal includes the Crown, a Minister of the Crown, or corporation representing the Crown, or any local government, harbour board, water authority, or any other local or public body constituted by or under any Act; also every corporation, firm, or other person, whether as principal or agent, carrying on or having carried on or desirous or intending to carry on any negotiation or business with any principal, or engaged or interested or having been engaged or interested in the performance of any contract with or in the execution of any work or business for or in the supply of any goods or chattels to any principal; and also includes any agent or employee of the Crown, a Minister of the Crown, or corporation representing the Crown, or of any local government, harbour board, water authority, or any other local or public body constituted by or under any Act, or of any such corporation, firm, or other person.

principal includes a corporation, firm, or other person for or on behalf of whom the agent acts, has acted, or is desirous or

intending to act; the term also includes the Crown, a Minister of the Crown, or corporation representing the Crown, or any local government, harbour board, water authority, or any other local or public body constituted by or under any Act for or on behalf of whom the agent acts, has acted, or is desirous or intending to act.

solicit any valuable consideration and ***valuable consideration solicited***, and words to the like effect, shall be construed with the following directions, namely, that every agent who diverts, obstructs, gives untruthful reports, or interferes with the proper course of business or manufacture, or impedes or obstructs, or fails to use due diligence in the prosecution of any negotiation or business with the intent to obtain the gift of any valuable consideration from any other person interested in the said negotiation or business, or with intent to injure any such person, shall be deemed to have solicited a valuable consideration from a person having business relations with the principal of such agent.

trustee includes the public trustee, an executor, administrator, liquidator, official assignee, or trustee in bankruptcy, receiver, administrator appointed under the *Guardianship and Administration Act 2000*, person having power to appoint a trustee, or person entitled to obtain probate of the will or letters of administration to the estate of a deceased person, or any other person occupying a fiduciary position.

valuable consideration includes any real or personal property; also money, loan, office, place, employment, agreement to give employment, benefit, or advantage whatsoever, and any commission or rebate, payment in excess of actual value of the goods or service, deduction or percentage, bonus or discount, or any forbearance to demand any moneys or moneys' worth or valuable thing; also some detriment, loss or responsibility given, suffered, or taken, or the refraining from carrying out or doing something which lawfully should be done; and the acceptance of any of the said things shall be deemed the receipt of a valuable consideration.

The offer of any valuable consideration includes any offer of any agreement or promise to give, and every holding out of any expectation of valuable consideration.

The receipt of any valuable consideration includes any acceptance of any agreement, promise, or offer to give, or of any holding out of any expectation of valuable consideration.

Prohibition of indirect acts

(2) Any act or thing prohibited by this chapter is prohibited whether done directly or indirectly by the person mentioned or by or through any other person.

442B Receipt or solicitation of secret commission by an agent

Any agent who corruptly receives or solicits from any person for himself or herself or for any other person any valuable consideration—

(a) as an inducement or reward for or otherwise on account of doing or forbearing to do, or having done or forborne to do, any act in relation to his or her principal's affairs or business; or

(b) the receipt or any expectation of which would in any way tend to influence the agent to show, or to forbear to show, favour or disfavour to any person in relation to his or her principal's affairs or business;

commits a crime.

442BA Gift or offer of secret commission to an agent

Any person who corruptly gives or offers to any agent any valuable consideration—

(a) as an inducement or reward for or otherwise on account of the agent doing or forbearing to do, or having done or forborne to do, any act in relation to his or her principal's affairs or business; or

(b) the receipt or any expectation of which would in any

way tend to influence the agent to show, or to forbear to show, favour or disfavour to any person in relation to his or her principal's affairs or business;

commits a crime.

442C Secret gifts received by parent, spouse, child, partner etc. of agent

(1) Any valuable consideration received or solicited by any parent, spouse, or child of any agent, or by his or her partner, clerk, or employee, from any person having business relations with the principal of such agent, shall be deemed to have been received or solicited by the agent unless it be proved that the valuable consideration was so received or solicited without the consent, knowledge, or privity of the agent.

Secret gifts to parent, spouse, child, partner etc. of agent

(2) Any valuable consideration—

(a) given or offered to any parent, spouse, or child of any agent, or to his or her partner, clerk, or employee, and so given or offered with the consent, knowledge, or privity of the agent; or

(b) given or offered, at the agent's request, to any person by any person having business relations with the principal of such agent;

shall be deemed to have been given or offered to the agent.

442D False or misleading receipt or account

Any person who with intent to deceive or defraud the principal gives to any agent, or any agent who receives or uses or gives to the principal any receipt, invoice, account, or document in respect of which or in relation to a dealing transaction or matter in which the principal is interested, and which—

(a) contains any statement which is false or erroneous or defective in any important particular, or contains an overcharge or is in any way likely to mislead the principal; or

(b) omits to state explicitly and fully the fact of any commission, percentage, bonus, discount, rebate, repayment, gratuity, or deduction having been made, given, or allowed, or agreed to be made, given, or allowed;

commits a crime.

442E Secret commission for advice given

Whenever any advice is given by one person to another, and such advice is in any way intended or likely to induce or influence the person advised—

(a) to enter into a contract with any third person; or

(b) to appoint or join with another in the appointment, or to vote for or to aid in obtaining the election or appointment, or to authorise or join with another in authorising the appointment of any third person as trustee, director, manager, or official;

and any valuable consideration is, without the assent of the person advised, given by such third person to the person giving the advice, the gift or receipt of the valuable consideration is a crime; but this subsection shall not apply when the person giving the advice was, to the knowledge of the person advised, the agent of such third person, or when the valuable consideration was not given in respect of such advice.

442EA Offer or solicitation of secret commission in return for advice given or to be given

Any offer or solicitation of a valuable consideration in respect of any advice given, or to be given, by one person to another with a view to induce or influence the person advised—

(a) to enter into a contract with the person offering or solicited; or

(b) to appoint or join with another in appointing, or to vote for or to aid in obtaining the election or appointment, or to authorise or join with another in authorising the appointment of the person offering or solicited as trustee, director, manager, or official;

and with the intent that the gift or receipt of such valuable consideration is not to be made known to the person advised, is a crime; but this subsection shall not apply when such first mentioned person is the agent of the person offering or solicited.

442F Secret commission to trustee in return for substituted appointment

Any person who offers or gives any valuable consideration to a trustee, or any trustee who receives or solicits any valuable consideration for himself or herself or for any other person, without the assent of the persons beneficially entitled to the estate or of a judge of the Supreme Court, as an inducement or reward for appointing or having appointed, or for joining or having joined with another in appointing, or for authorising or having authorised, or for joining or having joined with another in authorising, any person to be appointed in the person's stead or instead of the person and any other person as trustee, commits a crime.

442G Liability of director etc. acting without authority

Any director, manager, or officer of a company, or any officer or member of the crew of any vessel, or any person acting for

another, who knowingly takes part in or is in any way privy to doing, or attempts to do, any act or thing without authority which, if authorised, would be in contravention of any of the provisions of this chapter, commits a crime.

442I Penalty on conviction

Any person guilty of a crime against any of the provisions of this chapter is—

(a) liable, if a corporation, to a penalty of 3400 penalty units, and if an individual, to 7 years imprisonment; and

(b) in addition, liable to be ordered to pay to such person and in such manner as the court directs the amount or value, according to the estimation of the court, of any valuable consideration received or given by the person, or any part thereof, and such order shall be enforceable in the same manner as an order of the court.

442J Court may order withdrawal of trifling or technical cases

If in any prosecution under this chapter it appears to the court that the offence charged is, in the particular case, of a trifling or merely technical nature, or that in the particular circumstances it is inexpedient to proceed to a conviction, the court may in its discretion, and for reason stated on the application of the accused, dismiss the case; but the court may, if it thinks fit, make the order mentioned in section 442I.

442K Witness giving answers criminating himself or herself

(1) A person who is called as a witness in any proceeding under this chapter shall not be excused from answering any question relating to any offence against this chapter on the ground that the answer thereto may criminate or tend to criminate the person.

(2) An answer to a question in any such proceeding shall not, except in the said proceeding or in the case of any prosecution

for perjury in respect of such answer, be in any proceeding, civil or criminal, admissible in evidence against the person so answering.

442L Certificate to witness

(1) A witness in any proceeding under this chapter who, in the judgment of the court, answers truly all questions which the witness is required by the court to answer shall be entitled to receive a certificate from the court stating that such witness has so answered.

Stay of proceedings against such witness

(2) When a person has received a certificate as aforesaid, and any criminal proceeding is at any time instituted against the person in respect of the offence which was in question in the proceeding in which the said person was called as a witness, the court having cognisance of the case shall, on proof of the certificate and of the identity of the offence in question in the 2 cases, stay the proceedings.

442M Custom of itself no defence

(1) In any prosecution under this chapter it does not amount to a defence to show that the receiving, soliciting, giving, or offering of any valuable consideration therein mentioned or referred to is customary in any trade, business, or calling.

Burden of proof that gift not secret commission

(2) If in any prosecution under this chapter it is proved that any valuable consideration has been received or solicited by an agent from or given or offered to an agent by any person having business relations with the principal, without the assent of the principal, the burden of proving that such valuable consideration was not received, solicited, given, or offered in contravention of any of the provisions of this chapter shall be on the accused.

Consent to prosecution

(3) No prosecution under this chapter shall be commenced without the consent of a Crown Law Officer.

Chapter 44 Offences analogous to stealing relating to animals

Chapter division 1 Offences relating to animals generally

444A Killing animals with intent to steal

(1) Any person who kills any animal capable of being stolen with intent to steal the skin or carcass, or any part of the skin or carcass, is guilty of a crime, and is liable to the same punishment as if the person had stolen the animal.

(2) If the offender is sentenced to pay a fine in addition to, or instead of, imprisonment, the fine shall be not less than $200 or, where in respect of the animal in question a value is determined in accordance with the provisions of the regulations made pursuant to section 450F, not less than that value, whichever is the higher amount, for every animal killed.

(3) However, the fine imposed in respect of the offence shall not exceed $50000.

444B Using registered brands with criminal intention

(1) Any person who, with intent to facilitate the commission of a crime, brands or marks any animal with a registered brand or registered mark without the permission of the owner of the brand or mark is guilty of a misdemeanour, and is liable to imprisonment for 5 years.

(2) If the offender is sentenced to pay a fine in addition to, or instead of, imprisonment, the fine shall be not less than $200 or, where in respect of the animal in question a value is determined in accordance with the provisions of the regulations made pursuant to section 450F, not less than that value, whichever is the higher amount, for every animal branded or marked.

(3) However, the fine imposed in respect of the offence shall not exceed $50000.

Chapter division 2 Offences relating to stock

445 Unlawfully using stock

(1) Any person who unlawfully uses an animal that is stock, without the consent of the person in lawful possession thereof, is guilty of a misdemeanour and is liable to imprisonment for 5 years, or to a fine of not less than $200 or, where in respect of the animal in question a value is determined in accordance with the provisions of the regulations made pursuant to section 450F, of not less than that value, whichever is the higher amount, for every animal so used.

(2) However, the fine imposed in respect of the offence shall not exceed $50000.

(3) Without in any wise limiting the meaning of the term ***unlawfully uses***, such term shall, for the purposes of this section, also mean and include the unlawful possession, by any person, of any animal that is stock, without the consent of the person in lawful possession thereof, and with intent to deprive the owner or person in lawful possession thereof of the use and/or possession of the animal, either temporarily or permanently.

(4) It is a defence to a charge of an offence defined in this section to prove that the accused person had the lawful consent of the owner to the use or possession by the person of the animal in question.

446 Suspicion of stealing stock

(1) When any animal that is stock is suspected, on reasonable grounds, to have been stolen, any person in whose possession or custody the animal or the skin or carcass, or any part of the skin or carcass, of the animal so suspected to have been stolen, is found, is guilty of a misdemeanour, unless the person proves that the person came lawfully by the thing in question; and the person is liable to imprisonment for 5 years or to a fine of not less than $200 or, where in respect of the animal in question a value is determined in accordance with the provisions of the regulations made pursuant to section 450F, of not less than that value, whichever is the higher amount, for every animal or skin or carcass or part of skin or carcass so found.

(2) However, the fine imposed in respect of the offence shall not exceed $50000.

(3) It is a defence to a charge of the offence defined in this section to prove that the accused person came lawfully by the thing in question.

447 Illegal branding

(1) Any person who, knowing that the person is not the owner of an animal that is stock, brands or marks it, or knowingly permits it to be branded or marked, with the person's registered brand or the person's registered mark, is guilty of a misdemeanour, and is liable to imprisonment for 5 years or to a fine of not less than $200 or, where in respect of the animal in question a value is determined in accordance with the provisions of the regulations made pursuant to section 450F, of not less than that value, whichever is the higher amount, for every animal so branded or marked.

(2) However, the fine imposed in respect of the offence shall not exceed $50000.

448 Defacing brands

(1) Any person who—

(a) alters, defaces, or otherwise renders undistinguishable, any registered brand or registered mark on an animal that is stock; or

(b) knowingly permits any such act to be done by any person over whom the person has control;

is guilty of a misdemeanour, and is liable to imprisonment for 5 years or to a fine of not less than $200 or, where in respect of the animal in question a value is determined in accordance with the provisions of the regulations made pursuant to section 450F, of not less than that value, whichever is the higher amount, for every animal with respect to which the act is done.

(2) However, the fine imposed in respect of the offence shall not exceed $50000.

448A Having in possession stock with defaced brand

(1) Any person in whose possession or custody any animal that is stock on which any registered brand or registered mark has been altered, defaced, or otherwise rendered indistinguishable, or reasonably suspected to have been altered, defaced, or otherwise rendered indistinguishable, is found, is guilty of a misdemeanour, unless the person proves that the person came lawfully by the animal in question; and the person is liable to imprisonment for 5 years or to a fine of not less than $200 or, where in respect of the animal in question a value is determined in accordance with the provisions of the regulations made pursuant to section 450F, of not less than that value, whichever is the higher amount, for every animal so found.

(2) However, the fine imposed in respect of the offence shall not exceed $50000.

(3) It is a defence to a charge of the offence defined in this section to prove that the accused person came lawfully by the animal in question.

Chapter division 3 Arrest

450A Arrest without warrant

A person found committing any of the offences defined in chapter division 2 may be arrested without warrant by the owner of the property in question or the owner's servant or by any person authorised by such owner or servant.

450B Warrant in first instance

A justice may issue a warrant in the first instance for the arrest of any person charged with any of the offences defined in chapter division 2.

Chapter 44A Special provisions in respect of offences relating to stock

450D Definition for ch 44A

In this chapter—

animal means any animal that is stock.

450E Animals not tendered in certain cases

(1) Subject to subsection (6), where—

(a) an animal connected with a charge is in the possession or under the control of a police officer; and

(b) the person charged does not claim ownership of the animal; and

(c) the owner of the animal is desirous of slaughtering the animal or selling or consigning it for slaughter at a time prior to the tendering of it as an exhibit in connection with the charge; and

(d) photographs or tapes, films or any other means of visual reproduction of the animal and of any brand or other mark of identification are available for tendering as exhibits in connection with the charge and arrangements are made, between the police officer investigating the charge and the owner, for the hide or skin or any marked ear or any other part of the animal to be available for tendering as an exhibit in connection with the charge;

it is not necessary for the animal to be further kept in the possession or under the control of a police officer to be tendered as an exhibit in connection with the charge and, with the prior consent of a Crown Law Officer, it may be returned to the owner.

(2) The arrangements referred to in subsection (1)(d) shall include an undertaking from the owner that—

(a) in a case of slaughter of the animal by the owner—the owner shall—

(i) slaughter the animal within 14 days of it being returned to the owner; and

(ii) within 14 days of slaughter, make available to the police officer investigating the charge the hide or skin or any marked ear or any other part of the animal that is to be available for tendering as an exhibit in connection with the charge and in the meantime comply with any requirement of the police officer in relation to the security or preservation thereof; or

(b) in a case of sale or consignment by the owner of the animal for slaughter—the owner shall require of the

purchaser as a condition of sale or of the consignee, as the case may be, that—

(i) the animal shall be slaughtered within 14 days of it being sold or received by the consignee; and

(ii) within 14 days of slaughter, the hide or skin or any marked ear or any other part of the animal that is to be available for tendering as an exhibit in connection with the charge shall be made available to the police officer investigating the charge and that in the meantime any requirement of the police officer in relation to the security or preservation thereof shall be complied with.

(3) Subject to subsection (6), where—

(a) an animal connected with a charge is in the possession or under the control of a police officer; and

(b) the ownership of the animal is disputed by 2 or more persons 1 of whom may be, but need not be, the person charged; and

(c) the persons claiming ownership together with all persons claiming any interest in the animal of whom the police officer investigating the charge is aware agree in writing to the animal being slaughtered on their behalf or sold or consigned on their behalf for slaughter at a time prior to the tendering of it as an exhibit in connection with the charge; and

(d) photographs or tapes, films or any other means of visual reproduction of the animal and of any brand or other mark of identification are available for tendering as exhibits in connection with the charge and arrangements are made, between the police officer investigating the charge and the persons referred to in paragraph (c) as claiming ownership or an interest, for the hide or skin or any marked ear or any other part of the animal to be available for tendering as an exhibit in connection with the charge;

it is not necessary for the animal to be further kept in the possession or under the control of a police officer to be tendered as an exhibit in connection with the charge and, with the prior consent of a Crown Law Officer, it may be handed over to a person nominated in the writing referred to in paragraph (c).

(4) The arrangements referred to in subsection (3)(d) shall include an undertaking from the persons referred to in subsection (3)(c) as claiming ownership of or an interest in the animal (***the said persons***) that—

(a) in a case of the animal being slaughtered on behalf of the said persons—the said persons shall—

(i) cause the animal to be slaughtered within 14 days of it being handed over to the person nominated as referred to in subsection (3); and

(ii) within 14 days of slaughter, cause to be made available to the police officer investigating the charge the hide or skin or any marked ear or any other part of the animal that is to be available for tendering as an exhibit in connection with the charge and in the meantime cause any requirement of the police officer in relation to the security or preservation thereof to be complied with; or

(b) in a case of the animal being sold or consigned on behalf of the said persons for slaughter—the said persons shall require of the purchaser as a condition of sale or of the consignee, as the case may be, that—

(i) the animal shall be slaughtered within 14 days of it being sold or received by the consignee; and

(ii) within 14 days of slaughter, the hide or skin or any marked ear or any other part of the animal that is to be available for tendering as an exhibit in connection with the charge shall be made available to the police officer investigating the charge and that in the meantime any requirement of the police

officer in relation to the security or preservation thereof shall be complied with.

(5) Where in the circumstances referred to in subsection (1) or (3) the animal in question is not tendered as an exhibit in proceedings in connection with the charge and—

(a) photographs or tapes, films or any other means of visual reproduction as aforesaid and any hide, skin, ear or any other part of the animal as aforesaid are tendered in such proceedings; or

(b) photographs or tapes, films or any other means of visual reproduction as aforesaid are tendered in such proceedings and evidence is given therein showing that although arrangements were made as aforesaid for the tendering as an exhibit of the hide or skin or ear or any other part of the animal, the hide or skin or ear or other part is nevertheless no longer available for so tendering;

objection shall not be taken (or if taken shall not be allowed) to the receipt in evidence of any of them the photographs or tapes, films or any other means of visual reproduction, hide, skin, ear or other part of the animal as evidence of—

(c) the existence at the material time of the animal; or

(d) in the case of photographs or tapes, films or any other means of visual reproduction—the condition at the material time of the animal; or

(e) any brand or other mark or feature of identification at the material time on or with respect to the animal.

(6) An animal shall not be returned or handed over under this section in any case where a Crown Law Officer is of the opinion that its production for tender as an exhibit is or is likely to be necessary or that in the circumstances of the case it is desirable that it be produced for tender as an exhibit.

450F Animal valuers and valuations

(1) This section is applicable in every case in which a provision of this Code relates the amount of a fine to the value of an animal determined in accordance with the provisions of the regulations made pursuant to this section.

(2) The chief executive may appoint a person as an animal valuer.

(3) The Governor in Council may make regulations, not inconsistent with the provisions of this Code, for or with respect to the following—

(a) terms and conditions of appointment of animal valuers;

(b) qualifications, eligibility and experience of persons to be animal valuers;

(c) fees and allowances payable to animal valuers;

(d) appointment of animal valuers according to districts;

(e) constitution of districts in relation to the appointment of animal valuers;

(f) valuation of animals by animal valuers in districts for which they are appointed and in other districts, and circumstances in which valuations in other districts shall or may be made;

(g) the selection, constitution and operation of panels of animal valuers, including method of selection of panels in districts and by whom animal valuers to constitute panels selected;

(h) the selection of tribunals of animal valuers from panels to make valuations of animals, including method of selection and by whom animal valuers to constitute tribunals selected;

(i) the constitution and operation of tribunals, including the number of animal valuers constituting a tribunal;

(j) functions and duties of animal valuers;

(k) the keeping of a register of animal valuers;

(l) method of determination of valuation of animals in cases where animals available for inspection and in cases where animals not available for inspection and, in the latter case, use of hides, skins, ears, photographs or tapes, films or any other means of visual reproduction, books, records and comparable prices for comparable animals;

(m) method of determination of valuation of animals where animal valuers constituting tribunal are not in agreement as to value;

(n) procedures in relation to meetings of tribunals and making of valuations of animals in conjunction with court proceedings and adjournments of proceedings;

(o) identification of animals by tribunals;

(p) issue and use of valuation certificates with respect to valuation of animals;

(q) form of valuation certificates;

(r) regulating matters and procedures relating to the initiation of the making of valuations of animals, times within which valuations are to be made in relation to any proceedings, adjournments of proceedings in connection with the making of animal valuations, use of valuation certificates in proceedings and receipt of valuation certificates as evidence in proceedings;

(s) sufficiency of evidence of value of animals by tender of valuation certificates in proceedings until contrary value is proved, determination of value where contrary value is so proved, and application of such determined value;

(t) facilitation of proof of—

(i) appointments of animal valuers; and

(ii) districts to which animal valuers are appointed or in which they may make animal valuations; and

(iii) selection of animal valuers to panels and tribunals; and

(iv) signatures of animal valuers;

(u) such other matters as may be convenient for the operation of this section and its application in accordance with subsection (1) or that may be necessary or expedient to achieve the objects and purposes with respect to such operation and application.

450G Identification of animals and return to owners prior to tender in certain cases

Where—

(a) an animal connected with a charge is in the possession or under the control of a police officer; and

(b) the ownership of the animal is not in dispute; and

(c) the owner of the animal is desirous of the animal being returned to the owner at a time prior to the tendering of it as an exhibit in connection with the charge; and

(d) the owner gives an undertaking in writing to produce the animal for the purpose of its tender as an exhibit in connection with the charge when required to so produce it; and

(e) a Crown Law Officer is of the opinion that in the circumstances of the case the animal may be returned to the owner prior to the tendering of it as an exhibit;

the animal may be so returned to the owner provided it is first inspected by a tribunal of animal valuers and, in the presence of the tribunal and as an aid to identification—

(f) there is branded or marked on the animal by the police officer in whose possession or under whose control it is or by some other person acting under the officer's instructions a brand or mark identifying it as an animal held as an exhibit; and

(g) photographs or tapes, films or any other means of visual reproduction of the animal are taken or made.

450H Licence disqualification where commission of offence facilitated by licence or use of vehicle

(1) Where a person is convicted of an offence under section 398 (where the offence relates to the stealing of an animal), 444A, 444B, 445, 446, 447, 448, 448A or 468 and the court or magistrate is satisfied that the commission of the offence by that person was facilitated by the holding by the person of a driver licence or by the use by the person of a motor vehicle, the court or magistrate may order and direct in addition to any sentence that may be passed or penalty that may be imposed that the offender shall, from the date of conviction, be disqualified absolutely from holding or obtaining a driver licence to operate a motor vehicle or be so disqualified for such period as the court or magistrate shall specify in the order.

(2) A copy of the order shall be transmitted to the chief executive of the department in which the *Transport Operations (Road Use Management) Act 1995* is administered by the officer or clerk having custody of the records of the court wherein the conviction was recorded.

(3) In this section—

driver licence includes any driving licence or driving permit deemed to be equivalent in Queensland to and accepted in lieu of a driver licence for the purpose of authorising the holder thereof to drive in Queensland any vehicle of the type or class to the driving of which the driving licence or driving permit is applicable.

(4) Nothing contained in this section limits the operation of any other provision of any Act under which the court or magistrate is empowered to do any act or thing in respect of the driving, or the driver licence, of any offender.

450I Forfeiture in cases of conviction for offences under specified sections

(1) Where a person is convicted of an offence under section 398 (where the offence relates to the stealing of an animal), 444A,

444B, 445, 446, 447, 448, 448A or 468, the court or magistrate may order to be forfeited to Her Majesty any vehicle, vessel, animal, equipment or other property or thing used in connection with or to facilitate the commission of the offence of which the person has been convicted.

(2) Anything forfeited to Her Majesty pursuant to this section shall be dealt with or disposed of in such manner as the Attorney-General directs.

Division 2 Injuries to property

Chapter 45 Definitions

458 Unlawful acts

(1) An act which causes injury to the property of another, and which is done without the owner's consent, is unlawful unless it is authorised or justified or excused by law.

(2) For section 469, punishment in special cases, clause 11, the destruction or damage by a person of property fixed in a cemetery or at a crematorium is unlawful unless the person is acting—

(a) with the owner's consent; or

(b) with the lawful consent of the entity (if any) responsible for managing and administering the cemetery or crematorium; or

(c) in the reasonable belief that lawful consent mentioned in paragraph (b) has been given.

(3) It is immaterial that the person who does the injury is in possession of the property injured, or has a partial interest in it, or an interest in it as joint or part owner or owner in common.

(4) A person is not criminally responsible for an injury caused to property by the use of such force as is reasonably necessary for the purpose of defending or protecting himself, herself, or any other person, or any property, from injury which the person believes, on reasonable grounds, to be imminent.

459 Acts done with intent to defraud

(1) When an act which causes injury to property, and which would be otherwise lawful, is done with intent to defraud any person, it is unlawful.

(2) When an act which causes injury to property is done with intent to defraud any person, it is immaterial that the property in question is the property of the offender.

Chapter 46 Offences

461 Arson

(1) Any person who wilfully and unlawfully sets fire to any of the things following, that is to say—

(a) a building or structure;

(b) a motor vehicle, train, aircraft or vessel;

(c) any stack of cultivated vegetable produce, or of mineral or vegetable fuel;

(d) a mine, or the workings, fittings, or appliances of a mine;

is guilty of a crime, and is liable to imprisonment for life.

(2) It is immaterial whether or not a thing mentioned in subsection (1)(a) or (b) is complete.

462 Endangering particular property by fire

A person who wilfully and unlawfully sets fire to anything situated so that a thing mentioned in section 461(1)(a) to (d) is likely to catch fire from it commits a crime.

Maximum penalty—14 years imprisonment.

463 Setting fire to crops and growing plants

Any person who wilfully and unlawfully sets fire to any of the things following, that is to say—

(a) a crop of cultivated vegetable produce, whether standing or cut;

(b) a crop of hay or grass, whether the natural or indigenous product of the soil or not, and whether under cultivation or not, and whether standing or cut;

(c) any standing trees, saplings, or shrubs, whether indigenous or cultivated;

(d) any heath, gorse, furze, or fern;

is guilty of a crime, and is liable to imprisonment for 14 years.

467 Endangering the safe use of vehicles and related transport infrastructure

(1) A person who, with intent to prejudice the safe use of a vehicle or related transport infrastructure or to injure property in a vehicle or related transport infrastructure, does anything that endangers, or is likely to endanger, the safe use of the vehicle or related transport infrastructure commits a crime.

Maximum penalty—life imprisonment.

(2) In this section—

do anything, for a person who has a duty to do the thing, includes omit to do the thing.

in includes on.

related transport infrastructure includes a road, railway, runway, station, airport, terminal, wharf, jetty or other structure used by a vehicle to travel or by persons using a vehicle to travel.

468 Injuring animals

(1) Any person who wilfully and unlawfully kills, maims, or wounds, any animal capable of being stolen is guilty of an indictable offence.

(2) If the animal in question is stock, the offender is guilty of a crime, and is liable to imprisonment for 7 years.

(3) In any other case the offender is guilty of a misdemeanour, and is liable to imprisonment for 2 years, or, if the offence is committed by night, to imprisonment for 3 years.

(4) If the offender (whether guilty of a crime or a misdemeanour) kills or maims the animal and is sentenced to pay a fine in addition to, or instead of imprisonment, the fine shall be not less than 4 penalty units or, where in respect of the animal in question a value is determined in accordance with the provisions of the regulations made pursuant to section 450F, not less than that value, whichever is the higher amount, for every animal killed or maimed.

(5) However, the fine imposed in respect of the offence shall not exceed 500 penalty units.

469 Wilful damage

(1) Any person who wilfully and unlawfully destroys or damages any property is guilty of an offence which, unless otherwise stated, is a misdemeanour, and the person is liable, if no other punishment is provided, to imprisonment for 5 years.

(2) For this section, other than punishment in special cases, clause 11, the destruction or damage of property that is a thing mentioned in section 566(11) is presumed to be done without the owner's consent until the contrary is proved.

(3) For this section, punishment in special cases, clause 11, the destruction or damage of property is, until the contrary is proved, presumed to be done—

(a) without the owner's consent; and

(b) if the property is fixed in a cemetery or at a crematorium—

(i) without the lawful consent of the entity (if any) responsible for managing and administering the cemetery or crematorium; and

(ii) not in the reasonable belief that lawful consent mentioned in subparagraph (i) has been given.

Punishment in special cases

1 Destroying or damaging premises by explosion

If—

(a) the property in question is premises; and

(b) the destruction or damage is caused by an explosion; and

(c) either—

(i) anyone is in or on the premises when the explosion happens; or

(ii) the destruction or damage actually endangers anyone's life;

the offender commits a crime.

Maximum penalty—life imprisonment.

2 Sea walls and other property

If—

(a) the property in question is—

(i) a bank or wall of the sea or inland water; or

(ii) a work relating to a port or inland water; and

(b) the destruction or damage causes an actual danger of inundation or of damage to land or a building;

the offender commits a crime.

Maximum penalty—life imprisonment.

3 Wills and registers

If the property in question is a testamentary instrument, whether the testator is living or dead, or a register which is authorised or required by law to be kept for authenticating or recording the title to any property, or for recording births, baptisms, marriages, deaths, or burials, or a copy of any part of any such register which is required by law to be sent to any public officer, the offender is guilty of a crime, and is liable to imprisonment for 14 years.

4 Wrecks

If the property in question is a vessel in distress, or wrecked, or stranded, or anything which belongs to such a vessel, the offender is guilty of a crime, and is liable to imprisonment for 7 years.

5 Railways

If the property in question is any part of a railway, or any work connected with a railway, the offender is guilty of a crime, and is liable to imprisonment for 14 years.

6 Aircraft

If the property in question is an aircraft or anything whatever either directly or indirectly connected with the guidance

control or operation of an aircraft, the offender is guilty of a crime, and is liable to imprisonment for 14 years.

7 Other things of special value

If—

(a) the property in question—

(i) is a vessel, whether complete or not; and

(ii) is destroyed or rendered useless; or

(b) the property in question—

(i) is a light, beacon, buoy, mark or signal; and

(ii) is used for navigation or for the guidance of sailors; or

(c) the property in question is—

(i) a bank or wall of the sea or inland water; or

(ii) a work relating to a port or inland water; or

(d) the property in question—

(i) is a manufacturing or agricultural machine or another thing used, or intended for use, for manufacture or for performing a process connected with the preparation of agricultural produce; and

(ii) is destroyed or rendered useless; or

(e) the property in question is—

(i) a well or bore for water; or

(ii) the dam, bank, wall, or floodgate of a millpond or pool;

the offender commits a crime.

Maximum penalty—7 years imprisonment.

8 Deeds and records

If the property in question is a document which is deposited or kept in a public office, or which is evidence of title to any land or estate in land, the offender is guilty of a crime, and is liable to imprisonment for 7 years.

9 Graffiti

(1) If the property in question is in a public place, or is visible from a public place, and the destruction or damage is caused by—

(a) spraying, writing, drawing, marking or otherwise applying paint or another marking substance; or

(b) scratching or etching;

the offender commits a crime and is liable to imprisonment for 5 years.

(2) If the offence involves obscene or indecent representations, the offender is liable to imprisonment for 7 years.

(3) The court may—

(a) whether or not it imposes any other penalty for the offence, order the offender to perform community service under the *Penalties and Sentences Act 1992*, part 5, division 2, including for example, removing graffiti from property; and

(b) whether or not it imposes any penalty for the offence, order the offender to pay compensation to any person under the *Penalties and Sentences Act 1992*, part 3, division 4.

10 Educational institutions

(1) If the property in question is part of a school, education centre, college, university, or another educational institution, the offender commits a crime and is liable to imprisonment for 7 years.

(2) The court may—

(a) whether or not it imposes any other penalty for the offence, order the offender to perform community service work under the *Penalties and Sentences Act 1992*, part 5, division 2 including for example, cleaning or repairing any damaged property that is part of an educational institution; and

(b) whether or not it imposes any penalty for the offence, order the offender to pay compensation to any person under the *Penalties and Sentences Act 1992*, part 3, division 4.

11 Cemeteries etc.

(1) If the property in question is—

(a) a grave, vault, niche or memorial in a cemetery or at a crematorium; or

(b) a war memorial; or

(c) at a place of religious worship;

the offender commits a crime and is liable to imprisonment for 7 years.

(2) In this clause—

memorial, in a cemetery or at a crematorium, includes the following—

(a) a headstone;

(b) an inscribed plaque or commemorative plate;

(c) a monumental, ornamental or other structure;

(d) another thing erected or placed—

(i) to mark the site where human remains have been buried or placed; or

(ii) to commemorate a deceased person.

469A Sabotage and threatening sabotage

(1) A person who wilfully and unlawfully destroys or damages a public facility with intent to cause—

(a) major disruption to government functions; or

(b) major disruption to the use of services by the public; or

(c) major economic loss;

is guilty of a crime.

Maximum penalty—25 years imprisonment.

(2) A person who threatens to commit sabotage is guilty of a crime.

Maximum penalty—14 years imprisonment.

(3) For subsection (2), a person threatens to commit sabotage if—

(a) the person threatens to unlawfully destroy or damage a public facility; and

(b) the threat is made with the intention of inducing in someone else a belief that the threat will be carried out; and

(c) if the threat were to be carried out, the threatened destruction or damage would be likely to cause—

(i) major disruption to government functions; or

(ii) major disruption to the use of services by the public; or

(iii) major economic loss.

(4) A person can not be prosecuted for an offence against subsection (1) or (2) without a Crown Law Officer's consent.

(5) In this section—

damage, a public facility, includes disrupt the operation or use of the facility.

government entity means—

(a) the State; or

(b) a State instrumentality, agency, authority or entity; or

(c) a corporate entity established by an Act or that is of a description of a corporate entity provided for by an Act that, in either case, collects revenues or raises funds under the authority of an Act; or

(d) a government owned corporation; or

(e) another State, the Commonwealth, a local government or a local government of another State; or

(f) another entity performing a government function.

government functions means functions of the State, another State, the Commonwealth, a local government or a local government of another State.

public facility means any of the following, whether publicly or privately owned—

(a) premises or another place occupied by a government entity;

(b) a public infrastructure facility, including—

(i) infrastructure for a water or sewerage service; and

(ii) a facility for supplying energy or fuel to the public; and

(iii) a facility for a telecommunication system; and

(iv) roads, railways, equipment, vehicles and other infrastructure for public transport; and

(v) other infrastructure for a community service;

(c) a public place.

470 Attempts to destroy property by explosives

Any person who, unlawfully, and with intent to destroy or damage any property, puts any explosive substance in any place whatever, is guilty of a crime, and is liable to imprisonment for 14 years.

470A Unlawful deposition of explosive or noxious substances

(1) Any person who wilfully and unlawfully throws, leaves down, or otherwise deposits any explosive or noxious substance in any place whatsoever under such circumstances that it may cause injury to any person or damage to the property of any person, is guilty of a misdemeanour and is liable to imprisonment for 2 years.

(2) The offender may be arrested without warrant.

471 Damaging mines

(1) A person who unlawfully and with intent to damage a mine—

(a) damages a mine; or

Example—

obstructing the working of a mine by running water into the mine or into an underground passage leading into the mine

(b) interferes with equipment or infrastructure, whether complete or not, connected or used with a mine;

commits a crime.

Maximum penalty—7 years imprisonment.

(2) In this section—

damage, a mine, includes obstruct the working of the mine.

equipment includes machinery, appliance, cable and apparatus.

infrastructure means a road, building or other structure.

interfere, with equipment or infrastructure, means detrimentally interfere with its effective or efficient operation.

472 Interfering with marine signals

Any person who wilfully and unlawfully removes, defaces, or renders invisible, any light, beacon, buoy, mark, or signal, used for purposes of navigation, or for the guidance of sailors,

or unlawfully attempts to remove, deface, or render invisible, any such thing, is guilty of a crime, and is liable to imprisonment for 7 years.

473 Interfering with navigation works

Any person who—

(a) wilfully and unlawfully removes or disturbs any fixed object or materials used for securing a bank or wall of the sea, or of a river, canal, aqueduct, reservoir, or inland water, or for securing any work which appertains to a port, harbour, dock, canal, aqueduct, reservoir, or inland water, or which is used for purposes of navigation or lading or unlading goods; or

(b) unlawfully does any act with intent to obstruct the carrying on, completion, or maintenance, of the navigation of a navigable river or canal, and thereby obstructs such carrying on, completion, or maintenance;

is guilty of a crime, and is liable to imprisonment for 7 years.

474 Communicating infectious diseases to animals

Any person who wilfully and unlawfully causes, or is concerned in causing, or attempts to cause, any infectious or contagious disease to be communicated to or among any animal or animals capable of being stolen, is guilty of a crime, and is liable to imprisonment for life.

475 Travelling with infected animals

Any person who causes any animal which is infected with an infectious or contagious disease to travel, or, being the owner or 1 of 2 or more joint owners of any animal which is infected with an infectious or contagious disease, permits or connives at the travelling of any such animal, contrary to the provisions of any statute relating to infected animals of that kind, is guilty of a crime, and is liable to imprisonment for 7 years.

477 Obstructing railways

Any person who, by any unlawful act, or by any intentional omission to do any act which it is the person's duty to do, causes any engine or vehicle in use upon a railway to be obstructed in its passage on the railway, is guilty of a misdemeanour, and is liable to imprisonment for 2 years.

478 Sending letters threatening to burn or destroy

Any person who, knowing the contents of the document, causes any person to receive any document threatening that any building or vessel, whether complete or not, or any stack of cultivated vegetable produce, or any such produce that is in or under a building, shall be burnt or destroyed, is guilty of a crime, and is liable to imprisonment for 7 years.

479 Arrest without warrant

Any person found committing a misdemeanour defined in this chapter may be arrested without warrant by the owner of the property injured or the owner's employee or a person authorised by the owner or employee.

Division 3 Forgery and like offences—personation

Chapter 48 Forgery in general—definitions

484 Definitions

In this division—

bank note includes any negotiable instrument issued by or on behalf of any person or corporation in any part of the world,

or issued by the authority of any state, prince, or government, and intended to be used as equivalent to money, either immediately on issue or at any time afterwards, and also includes a bank bill or bank post bill.

document does not include trademarks on articles of commerce.

seal includes any stamp, die, or other thing, of whatever material, from which an impression can be taken by means of pressure or of ink, or by any other means.

Chapter 49 Punishment of forgery and like offences

488 Forgery and uttering

(1) A person who, with intent to defraud—

(a) forges a document; or

(b) utters a forged document;

commits a crime.

Maximum penalty—

(a) if the document is a valuable security, insurance policy, testamentary instrument (whether the testator is living or dead) or registration document or is evidence of an interest in land—14 years imprisonment; or

(b) if the document is a power of attorney, contract or document kept or issued by lawful authority other than a document mentioned in paragraph (a)—7 years imprisonment; or

(c) otherwise—3 years imprisonment.

(2) Subsection (1) applies whether or not the document is complete and even though it is not, or does not purport to be, binding in law.

(3) In this section—

registration document means a document kept or issued by the registrar under the *Births, Deaths and Marriages Registration Act 2003* or an equivalent document kept or issued under a law of another jurisdiction, inside or outside Australia.

498 Falsifying warrants for money payable under public authority

Any person, who, being employed in the public service, knowingly and with intent to defraud makes out or delivers to any person a warrant for the payment of any money payable by public authority for a greater or less amount than that to which the person on whose behalf the warrant is made out is entitled is guilty of a crime, and is liable to imprisonment for 7 years.

499 Falsification of registers

(1) Any person who, having the actual custody of any register or record kept by lawful authority, knowingly permits any entry which, in any material particular, is to the person's knowledge false, to be made in the register or record is guilty of a crime, and is liable to imprisonment for 7 years.

(2) The offender can not be arrested without warrant.

500 Sending false certificate of marriage to registrar

Any person who signs or transmits to a person authorised by law to register marriages a certificate of marriage, or any document purporting to be a certificate of marriage, which, in any material particular, is to the person's knowledge false, is guilty of a crime, and is liable to imprisonment for 7 years.

501 False statements for the purpose of registers of births, deaths, and marriages

Any person who knowingly, and with intent to procure the same to be inserted in a register of births, deaths, or marriages, makes any false statement touching any matter required by law to be registered in any such register, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

501A Contradictory statements

If, on the trial for a person under section 501, the jury is satisfied—

(a) the accused has made 2 statements and 1 is irreconcilably in conflict with the other; and

(b) the accused made 1 of the statements knowing it to be false;

but the jury is unable to say which statement was falsely made, the jury may make a special finding to that effect and find the accused guilty of the offence.

502 Procuring or claiming unauthorised status

Any person who—

(a) by any false representation procures any authority authorised by any statute to issue certificates testifying that the holders thereof are entitled to any right or privilege, or to enjoy any rank or status, to issue to himself, herself or any other person any such certificate; or

(b) falsely represents to any person that the person has obtained any certificate issued by any such authority; or

(c) by any false representation procures himself, herself or any other person to be registered on any register kept by lawful authority as a person entitled to such a certificate,

or as a person entitled to any right or privilege, or to enjoy any rank or status;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

Chapter 51 Preparation for forgery

510 Instruments and materials for forgery

Any person who unlawfully—

(a) makes, or starts or prepares to make, a thing with intent to use it to forge a document; or

(b) possesses a thing with intent to use it to forge a document; or

(c) uses a thing to forge a document; or

(d) disposes of a thing that has been used to forge a document;

commits a crime.

Maximum penalty—14 years imprisonment.

Chapter 52 Personation

514 Personation in general

(1) Any person who, with intent to defraud any person, falsely represents himself or herself to be some other person, living or dead, real or fictitious, is guilty of an offence which, unless otherwise stated, is a misdemeanour, and the person is liable to imprisonment for 3 years.

(2) If the representation is that the offender is a person entitled by will or operation of law to any specific property, and the person commits the offence with intent to obtain such property or possession thereof, the person is guilty of a crime, and is liable to imprisonment for 14 years.

515 Falsely acknowledging deeds, recognisances etc.

Any person who, without lawful authority or excuse, the proof of which lies on the person, makes, in the name of any other person, before any court or person lawfully authorised to take such an acknowledgement, an acknowledgement of liability of any kind, or an acknowledgement of a deed or other instrument, is guilty of a crime, and is liable to imprisonment for 7 years.

Division 4 Offences connected with trade and breach of contract

Chapter 54 Other offences

533 Mixing uncertified with certified articles

When a mark has been attached to any article, or a certificate has been given with respect to any article, under the authority of any statute, for the purpose of denoting the quality of the article, or the fact that it has been examined or approved by or under the authority of some public body or public officer, any person who mixes with the article so marked or certified any other article which has not been so examined or approved, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

Part 7 Preparation to commit offences—conspiracy— accessories after the fact

Chapter 55 Attempts and preparation to commit offences

535 Attempts to commit indictable offences

(1) If a person attempts to commit a crime, the person commits a crime.

(2) If a person attempts to commit a misdemeanour, the person commits a misdemeanour.

536 Punishment of attempts to commit indictable offences

(1) A person who attempts to commit an indictable offence punishable by mandatory life imprisonment is liable, if no other punishment is provided, to life imprisonment.

(2) A person who attempts to commit an indictable offence punishable by life imprisonment but not mandatory life imprisonment is liable, if no other punishment is provided, to 14 years imprisonment.

(3) A person who attempts to commit any other indictable offence is liable, if no other punishment is provided, to a punishment equal to one-half of the greatest punishment to which an offender convicted of the offence is liable.

(4) In this section—

mandatory life imprisonment means a penalty of life imprisonment that can not be mitigated or varied under this Code or any other law.

538 Reduction of punishment

(1) When a person is convicted of attempting to commit an offence, if it is proved that the person desisted of the person's own motion from the further prosecution of the person's intention, without its fulfilment being prevented by circumstances independent of the person's will, the person is liable to one-half only of the punishment to which the person would otherwise be liable.

(2) If the punishment to which the person would otherwise be liable for the attempt is imprisonment for life, the greatest punishment to which the person is liable is imprisonment for 14 years.

539 Attempts to procure commission of criminal acts

(1) Any person who attempts to procure another—

(a) to do an act or make an omission in Queensland; or

(b) to do an act or make an omission outside Queensland;

being an act or omission of such a nature that, if the act were done or the omission made, an offence would thereby be committed—

(c) in the case referred to in paragraph (a)—under the laws of Queensland; or

(d) in the case referred to in paragraph (b)—under the laws in force in the place where the act or omission is proposed to be done or made;

whether by himself, herself or by the other person, is guilty of an offence of the same kind and is liable to the same punishment as if the person had attempted to do the same act or make the same omission in Queensland.

(1A) However, in the case referred to in subsection (1)(b), the punishment can not exceed that which the person would have incurred under the laws in force where the act or omission was proposed to be done or made, if the person had attempted to do the proposed act or make the proposed omission.

(2) Any person who, while out of Queensland, attempts to procure another to do an act or make an omission in Queensland of such a nature that, if the person had done the act or made the omission in Queensland, the person would have been guilty of an offence is guilty of an offence of the same kind and is liable to the same punishment as if the person had attempted to do the act or make the omission in Queensland.

540 Preparation to commit crimes with dangerous things

A person who makes, or knowingly has possession of, an explosive substance or other dangerous or noxious thing—

(a) with intent to commit a crime by using the thing; or

(b) to enable anyone to commit a crime by using the thing;

commits a crime.

Maximum penalty—3 years imprisonment.

Chapter 56 Conspiracy

541 Conspiracy to commit crime

(1) Any person who conspires with another to commit any crime, or to do any act in any part of the world which if done in Queensland would be a crime, and which is an offence under the laws in force in the place where it is proposed to be done, is guilty of a crime, and is liable, if no other punishment is provided, to imprisonment for 7 years; or, if the greatest punishment to which a person convicted of the crime in question is liable is less than imprisonment for 7 years, then to such lesser punishment.

(2) A prosecution for an offence defined in this section shall not be instituted without the consent of the Attorney-General.

542 Conspiracy to commit other offences

(1) Any person who conspires with another to commit any offence which is not a crime, or to do any act in any part of the world which if done in Queensland would be an offence but not a crime, and which is an offence under the laws in force in the place where it is proposed to be done, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

(2) A prosecution for an offence defined in this section shall not be instituted without the consent of the Attorney-General.

543 Other conspiracies

(1) Any person who conspires with another to effect any of the purposes following, that is to say—

(a) to prevent or defeat the execution or enforcement of any statute law;

(b) to cause any injury to the person or reputation of any person, or to depreciate the value of any property of any person;

(c) to prevent or obstruct the free and lawful disposition of any property by the owner thereof for its fair value;

(d) to injure any person in the person's trade or profession;

(e) to prevent or obstruct, by means of any act or acts which if done by an individual person would constitute an offence on the person's part, the free and lawful exercise by any person of the person's trade, profession, or occupation;

(f) to effect any unlawful purpose;

(g) to effect any lawful purpose by any unlawful means;

is guilty of a misdemeanour, and is liable to imprisonment for 3 years.

(2) A prosecution for an offence defined in this section shall not be instituted without the consent of the Attorney-General.

543A Industrial disputes

(1) Notwithstanding anything contained in section 543, no act done or omission made by any 2 or more persons in contemplation or furtherance of any industrial dispute, and no agreement or combination by any 2 or more persons to do any act or make any omission or to procure any act to be done or omission to be made in contemplation or furtherance of any industrial dispute, shall render any of such persons guilty of any offence if such act or omission when done or made by an individual person would not have rendered such person guilty of an offence.

(2) For the purposes of this section—

industrial dispute has the same meaning as in the *Industrial Relations Act 1999*.

Chapter 57 Accessories after the fact

544 Accessories after the fact to offences

(1) If a person becomes an accessory after the fact to a crime, the person commits a crime.

(2) If a person becomes an accessory after the fact to a misdemeanour, the person commits a misdemeanour.

(3) If a person becomes an accessory after the fact to a simple offence, the person commits a simple offence.

545 Punishment of accessories after the fact to offences

(1) A person who becomes an accessory after the fact to an indictable offence punishable by mandatory life imprisonment is liable, if no other punishment is provided, to life imprisonment.

(2) A person who becomes an accessory after the fact to an indictable offence punishable by life imprisonment but not mandatory life imprisonment is liable, if no other punishment is provided, to 14 years imprisonment.

(3) A person who becomes an accessory after the fact to any other indictable offence or a simple offence is liable, if no other punishment is provided, to a punishment equal to one-half of the greatest punishment to which an offender convicted of the offence is liable.

(4) In this section—

mandatory life imprisonment means a penalty of life imprisonment that can not be mitigated or varied under this Code or any other law.

Part 8 Procedure

Chapter 58 Arrest

545A Chapter does not apply to police officers

This chapter does not apply to a police officer.

546 Arrest without warrant generally

When an offence is such that the offender may be arrested without warrant generally—

(b) it is lawful for any person who is called upon to assist a police officer in the arrest of a person suspected of having committed the offence, and who knows that the person calling upon the person to assist is a police officer, to assist the officer, unless the person knows that there is no reasonable ground for the suspicion; and

(c) it is lawful for any person who finds another committing the offence to arrest the other person without warrant; and

(d) if the offence has been actually committed—it is lawful for any person who believes on reasonable ground that another person has committed the offence to arrest that person without warrant, whether that other person has committed the offence or not; and

(e) it is lawful for any person who finds another by night, under such circumstances as to afford reasonable grounds for believing that the other person is committing the offence, and who does in fact so believe, to arrest the other person without warrant.

547 Arrest without warrant in special cases

Where it is provided with respect to an offence that the offender may be arrested without warrant subject to certain conditions, the provisions of section 546 apply to the offence in question, subject to those conditions.

547A Arrest of persons found committing offences on aircraft

It is lawful for the person in command of an aircraft, on board the aircraft, and for persons acting with the person's authority to arrest or cause to be arrested without warrant any person whom the person finds committing, or whom on reasonable grounds the person suspects of having committed, or of having attempted to commit, or of being about to commit, an offence on or in relation to or affecting the use of the aircraft and for that purpose to use such force as the person or the person arresting believes, on reasonable grounds, to be necessary and is reasonable under the circumstances.

548 Arrest of persons found committing offences

(1) It is lawful for a justice to arrest without warrant any person whom the justice finds committing any indictable offence or committing any simple offence with respect to which it is provided that a person found committing it may be arrested without warrant.

(2) When it is provided with respect to an offence that a person found committing the offence may be arrested without warrant generally, it is lawful for any person who finds another committing the offence to arrest the other person without warrant.

(3) When it is provided with respect to an offence that a person found committing the offence may be arrested without warrant by a specified person, or specified persons, it is lawful for any such person who finds another committing the offence to arrest the other person without warrant.

549 Arrest of offender committing indictable offences by night

It is lawful for any person who finds another person by night committing any indictable offence to arrest the other person without warrant.

550 Arrest during flight

It is lawful for any person to arrest without warrant any other person whom the person believes, on reasonable grounds, to have committed an offence and to be escaping from, and to be freshly pursued by, some person whom, on reasonable grounds, the person believes to have authority to arrest the other person for that offence.

551 Arrest of persons offering stolen property for sale etc.

It is lawful for any person to whom another offers to sell, pawn, or deliver, any property, and who believes, on

reasonable grounds, that the property has been acquired by means of an offence with respect to which it is provided that a person found committing it may be arrested without warrant, to arrest that other person without warrant.

552 Duty of persons arresting

(1) It is the duty of a person who has arrested another upon a charge of an offence to take the other person forthwith before a justice to be dealt with according to law.

(2) However, it is sufficient for subsection (1) if the person immediately delivers the arrested person into the custody of a police officer.

(3) The police officer may receive the arrested person into custody.

Note—

See also section 137 for a relevant offence and the *Police Powers and Responsibilities Act 2000*, section 393 for the duties of the police officer.

Chapter 58A Indictable offences dealt with summarily

552A Charges of indictable offences that must be heard and decided summarily on prosecution election

(1) This section applies to a charge before a Magistrates Court of any of the following indictable offences—

(a) an offence against any of the following provisions—

- section 141
- section 142
- section 143

- section 340;

(b) any offence involving an assault, not being of a sexual nature or accompanied by an attempt to commit a crime, if the maximum term of imprisonment for which the defendant is liable is more than 3 years but not more than 5 years;

(c) the offence of counselling or procuring the commission of an offence mentioned in paragraph (a) or (b);

(d) the offence of attempting to commit an offence mentioned in paragraph (a);

(e) the offence of becoming an accessory after the fact to an offence mentioned in paragraph (a).

(2) A charge to which this section applies must be heard and decided summarily if the prosecution elects to have the charge heard and decided summarily.

(3) This section is subject to section 552D.

552B Charges of indictable offences that must be heard and decided summarily unless defendant elects for jury trial

(1) This section applies to a charge before a Magistrates Court of any of the following indictable offences—

(a) an offence of a sexual nature without a circumstance of aggravation if—

(i) the complainant was 14 years of age or over at the time of the alleged offence; and

(ii) the defendant has pleaded guilty; and

(iii) the maximum term of imprisonment for which the defendant is liable is more than 3 years;

(b) an offence against section 339(1);

(c) an offence involving an assault, other than an offence against section 339(1), if—

(i) the assault is—

(A) without a circumstance of aggravation; and

(B) is not of a sexual nature; and

(ii) the maximum term of imprisonment for which the defendant is liable is more than 3 years but not more than 7 years; and

(iii) a charge of the offence is not a charge to which section 552A applies;

(d) an offence against section 316A;

(e) an offence against section 328A(2);

(f) an offence against section 359E if the maximum term of imprisonment for which the defendant is liable is not more than 5 years;

(g) an offence against chapter 14, chapter division 2, if the maximum term of imprisonment for which the defendant is liable is more than 3 years;

(h) an offence against chapter 22A, if the maximum term of imprisonment for which the defendant is liable is more than 3 years;

(i) an offence against chapter 42A;

(j) the offence of counselling or procuring the commission of an offence mentioned in any of paragraphs (a) to (i);

(k) the offence of attempting to commit an offence mentioned in any of paragraphs (a) to (i), unless the offence is a relevant offence under section 552BA(4), definition *relevant offence*, paragraph (a);

(l) the offence of becoming an accessory after the fact to an offence mentioned in any of paragraphs (a) to (i), unless the offence is a relevant offence under section 552BA(4), definition *relevant offence*, paragraph (a).

(2) A charge to which this section applies must be heard and decided summarily unless the defendant informs the

Magistrates Court that he or she wants to be tried by jury.

(3) This section is subject to section 552D.

552BA Charges of indictable offences that must be heard and decided summarily

(1) This section applies to a charge before a Magistrates Court of any indictable offence against this Code if the offence is a relevant offence.

(2) A charge to which this section applies must be heard and decided summarily.

(3) This section is subject to section 552D.

(4) In this section—

relevant offence means—

(a) an offence against this Code, if the maximum term of imprisonment for which the defendant is liable is not more than 3 years; or

(b) an offence against part 6, other than—

(i) an offence mentioned in paragraph (a); or

(ii) an offence against chapter 42A; or

(iii) an offence that, under section 552BB, is an excluded offence.

552BB Excluded offences

(1) An offence is an ***excluded offence*** if the offence is—

(a) an offence against a provision listed in column 1 of the following table and—

(i) no relevant circumstance is listed for the provision in column 3; or

(ii) both of the following apply—

(A) 1 or more relevant circumstances are listed for the provision in column 3;

(B) at least 1 of the relevant circumstances, or the relevant circumstance if only 1 relevant circumstance is listed, applies in relation to the offence; or

(b) the offence of—

(i) counselling or procuring the commission of an offence that is an excluded offence under paragraph (a); or

(ii) attempting to commit an offence that is an excluded offence under paragraph (a), unless the offence is a relevant offence under section 552BA(4), definition *relevant offence*, paragraph (a); or

(iii) becoming an accessory after the fact to an offence that is an excluded offence under paragraph (a), unless the offence is a relevant offence under section 552BA(4), definition *relevant offence*, paragraph (a).

(2) Column 2 of the following table gives the headings of the provisions mentioned in column 1, and is for information only.

(3) In this section—

prescribed value means $30000.

Table of excluded offences

Column 1 Provision of Code	Column 2 Provision heading	Column 3 Relevant circumstance
section 398	Punishment of stealing	1 The offender is liable to 14 years imprisonment under clause 1, the value of the yield to the offender, or the detriment caused, because of the stealing of the testamentary instrument is equal to or more than the prescribed value and the offender does not plead guilty. 2 The total value of anything stolen, other than a testamentary instrument as mentioned in clause 1, and as provided for in the charge for the offence, is equal to or more than the prescribed value and the offender does not plead guilty. 3 The offender is liable to imprisonment under clause 14 and a charge for the indictable offence mentioned in clause 14(b) is to be heard and decided on indictment or would be required to be heard and decided on indictment if the charge were laid.
section 399	Fraudulent concealment of particular documents	The offender is liable to 14 years imprisonment, the value of the yield to the offender, or the detriment caused, because of the concealment is equal to or more than the prescribed value and the offender does not plead guilty.
section 403	Severing with intent to steal	The value of the thing made moveable is equal to or more than the prescribed value and the offender does not plead guilty.
section 406	Bringing stolen goods into Queensland	The value of the property is equal to or more than the prescribed value and the offender does not plead guilty.
section 408A	Unlawful use or possession of motor vehicles, aircraft or vessels	1 The value of the motor vehicle, aircraft or vessel is equal to or more than the prescribed value and the offender does not plead guilty.

Column 1 Provision of Code	Column 2 Provision heading	Column 3 Relevant circumstance
		2 The offender is liable to imprisonment for 10 years and a charge for the indictable offence mentioned in section 408A(1A) is to be heard and decided on indictment or would be required to be heard and decided on indictment if the charge were laid.
		3 The offender is liable to imprisonment for 12 years, the value of the destruction, damage, interference or detriment caused, or the value of the thing removed, (regardless of the value of the motor vehicle, aircraft or vessel involved) is equal to or more than the prescribed value and the offender does not plead guilty.
section 408C	Fraud	The value of the property, the yield to the offender or the detriment caused is equal to or more than the prescribed value and the offender does not plead guilty.
section 408E	Computer hacking and misuse	The offender is liable to imprisonment for 10 years, the value of the detriment or damage caused, or benefit obtained, is equal to or more than the prescribed value and the offender does not plead guilty.
chapter 38, other than sections 413 and 414	Stealing with violence—extortion by threats	
section 419(1)	Burglary	1 The offender is liable to imprisonment for life under section 419(3)(b)(i) or (ii).
		2 The offender is liable to imprisonment for life under section 419(3)(b)(iv), the value of any damage caused to property is equal to or more than the prescribed value and the offender does not plead guilty.

Column 1 Provision of Code	Column 2 Provision heading		Column 3 Relevant circumstance
section 419(4)	Burglary		A charge for the indictable offence mentioned in section 419(4) is to be heard and decided on indictment or would be required to be heard and decided on indictment if the charge were laid. For example, if the indictable offence committed in the dwelling entered by the offender is stealing, the total value of what is stolen is equal to or more than the prescribed value and the offender does not plead guilty to the stealing, a charge for the offence of stealing would be required to be heard and decided on indictment, and accordingly, the offence of entering the dwelling in contravention of section 419(4) would be an excluded offence.
section 421(2)	Entering or being in premises and committing indictable offences		A charge for the indictable offence mentioned in section 421(2) is to be heard and decided on indictment or would be required to be heard and decided on indictment if the charge were laid.
section 421(3)	Entering or being in premises and committing indictable offences	1	A charge for the indictable offence mentioned in section 421(3) is to be heard and decided on indictment or would be required to be heard and decided on indictment if the charge were laid.
		2	The value of any damage caused by the break is equal to or more than the prescribed value and the offender does not plead guilty.
section 427	Unlawful entry of vehicle for committing indictable offence	1	The offender is liable to imprisonment for 14 years under section 427(2)(b)(i) or (ii).
		2	The offender is liable to imprisonment for 14 years under section 427(2)(b)(iv), the value of any damage caused to property is equal to or more than the prescribed value and the offender does not plead guilty.

Column 1 Provision of Code	Column 2 Provision heading	Column 3 Relevant circumstance
section 430	Fraudulent falsification of records	The value of the yield to the offender because of the act or omission mentioned in section 430(a), (b), (c), (d) or (e), or the value of the detriment caused by that act or omission, is equal to or more than the prescribed value and the offender does not plead guilty.
section 433	Receiving tainted property	The value of the tainted property is equal to or more than the prescribed value and the offender does not plead guilty.
section 435	Taking reward for recovery of property obtained by way of indictable offences	The value of the benefit mentioned in section 435(b) is equal to or more than the prescribed value and the offender does not plead guilty.
chapter 44	Offences analogous to stealing relating to animals	The value of the animal the subject of the offence is equal to or more than the prescribed value and the offender does not plead guilty.
section 461	Arson	
section 462	Endangering particular property by fire	
section 463	Setting fire to crops and growing plants	
section 467	Endangering the safe use of vehicles and related transport infrastructure	
section 468	Injuring animals	The offender is liable to imprisonment for 7 years, the value of the animal the subject of the offence is equal to or more than the prescribed value and the offender does not plead guilty.
section 469	Wilful damage	The offender is liable to punishment under clause 1 (Destroying or damaging premises by explosion), 2 (Sea walls and other property), 5 (Railways), 6 (Aircraft) or 7 (Other things of special value).

Column 1 Provision of Code	Column 2 Provision heading	Column 3 Relevant circumstance
section 469A	Sabotage and threatening sabotage	
section 470	Attempts to destroy property by explosives	
section 471	Damaging mines	The value of the damage or interference caused is equal to or more than the prescribed value and the offender does not plead guilty.
section 472	Interfering with marine signals	The value of any damage or detriment directly attributable to the commission of the offence, including, for example, economic loss arising from disruption to shipping, is equal to or more than the prescribed value and the offender does not plead guilty.
section 473	Interfering with navigation works	The value of any damage or detriment directly attributable to the commission of the offence, including, for example, economic loss arising from disruption to shipping, is equal to or more than the prescribed value and the offender does not plead guilty.
section 474	Communicating infectious diseases to animals	The value of the animal or animals the subject of the offence is equal to or more than the prescribed value and the offender does not plead guilty.
section 488	Forgery and uttering	The offender is liable to 7 years or 14 years imprisonment, the value of the yield to the offender, or the detriment caused, involved in the forgery or uttering is equal to or more than the prescribed value and the offender does not plead guilty.
section 498	Falsifying warrants for money payable under public authority	The value of the yield to the offender, or the detriment caused, involved in the making out or delivering of the warrant is equal to or more than the prescribed value and the offender does not plead guilty.

Column 1 Provision of Code	Column 2 Provision heading	Column 3 Relevant circumstance
section 514	Personation in general	The offender is liable to imprisonment for 14 years, the value of the property mentioned in section 514(2) is equal to or more than the prescribed value and the offender does not plead guilty.

552C Constitution of Magistrates Court

(1) A Magistrates Court that summarily deals with an indictable offence under this chapter must be constituted by—

(a) a magistrate; or

(b) justices appointed under subsection (3) for the place at which the Magistrates Court is being held.

(2) Jurisdiction of the justices mentioned in subsection (1)(b) is limited to an offence—

(a) that is dealt with on a plea of guilty; and

(b) that the justices consider they may adequately punish by the imposition of a penalty not more than the maximum penalty they may impose under section 552H; and

(c) for an offence involving property—that involves property, or property damage or destruction, of a value not more than $2500.

(3) For subsection (1)(b), the Attorney-General may by gazette notice appoint a justice for a place specified in the gazette notice.

(4) A justice appointed under subsection (3) must be a justice of the peace (magistrates court) who the Attorney-General is satisfied has appropriate qualifications.

(5) A gazette notice may only specify a place appointed for holding a Magistrates Court—

(a) that is within a local government area of an indigenous local government under the *Local Government Act 2009*; or

(b) that the Attorney-General considers is remote.

(6) The *Justices of the Peace and Commissioners for Declarations Act 1991*, section 29(4)(a) is subject to subsections (1) to (3).

Editor's note—

Justices of the Peace and Commissioners for Declarations Act 1991, section 29(4)(a)—

(4) A justice of the peace (magistrates court), in the exercise of any power to constitute a court for the purpose of a proceeding is limited to—

(a) the hearing and determination of a charge of a simple offence or a regulatory offence pursuant to proceedings taken under the *Justices Act 1886* in a case where the defendant pleads guilty;

Justices Act 1886, section 4—

simple offence means any offence (indictable or not) punishable, on summary conviction before a Magistrates Court, by fine, imprisonment, or otherwise.

552D When Magistrates Court must abstain from jurisdiction

(1) A Magistrates Court must abstain from dealing summarily with a charge under section 552A, 552B or 552BA if satisfied, at any stage, and after hearing any submissions by the prosecution and defence, that because of the nature or seriousness of the offence or any other relevant consideration the defendant, if convicted, may not be adequately punished on summary conviction.

(2) A Magistrates Court must abstain from dealing summarily with a charge under section 552BA if satisfied, on an application made by the defence, that because of exceptional circumstances the charge should not be heard and decided summarily.

Examples of exceptional circumstances—

1 There is sufficient connection between the offence the subject of the charge, and other offences allegedly committed by the defendant and to be tried on indictment, to allow all the offences to be tried together.

2 There is an important issue of law involved.

3 An issue of general community importance or public interest is involved, or the holding of a trial by jury is justified in order to establish contemporary community standards.

(3) If the court abstains from jurisdiction, the proceeding for the charge must be conducted as a committal proceeding.

552E Charge may be heard and decided where defendant arrested or served

Without limiting the places a charge may be heard summarily under section 552A, 552B or 552BA, the charge may also be heard and decided at a place appointed for holding magistrates courts within the district in which the accused person was arrested on the charge or served with the summons for the charge under the *Justices Act 1886*.

552F Time for prosecution

If a Magistrates Court hears and decides a charge summarily under section 552A, 552B or 552BA, the Magistrates Court has jurisdiction despite the time that has elapsed from the time when the matter of complaint of the charge arose.

552G Value of property affecting jurisdiction to be decided by Magistrates Court

For section 552BB, the value of property or of damage to property is the value as decided by the Magistrates Court.

552H Maximum penalty for indictable offences dealt with summarily

(1) A person is liable on summary conviction under section 552A, 552B or 552BA to a maximum penalty of—

(a) if the Magistrates Court is constituted by a magistrate, other than a magistrate performing functions as a drug court magistrate under the *Drug Court Act 2000*—100 penalty units or 3 years imprisonment; or

(b) if the Magistrates Court is constituted by a magistrate performing functions as a drug court magistrate under the *Drug Court Act 2000*—

(i) if the consent mentioned in section 20(2) of that Act has been obtained—100 penalty units or 4 years imprisonment; or

(ii) otherwise—100 penalty units or 3 years imprisonment; or

(c) if the Magistrates Court is constituted by justices under section 552C(1)(b)—100 penalty units or 6 months imprisonment.

(2) However, in no case may the person be punished more than if the offence had been dealt with on indictment.

552I Procedure under section 552B

(1) This section applies to any charge for an offence to which section 552B applies.

(2) If the defendant is not legally represented, the Magistrates Court is required—

(a) to state the substance of the charge to the defendant; and

(b) to explain to the defendant that he or she is entitled to be tried by a jury and is not obliged to make any defence; and

(c) to ask the defendant whether he or she wants the charge to be dealt with summarily.

(3) Whether or not the defendant is legally represented, unless the defendant informs the Magistrates Court that he or she wants to be tried by a jury, the Magistrates Court must ask whether the defendant is guilty or not guilty of the offence.

(4) If the defendant says 'guilty' the Magistrates Court must convict.

(5) If the defendant says 'not guilty' the Magistrates Court must hear the defence.

(6) After the defendant enters a plea, the Magistrates Court must then deal with the charge summarily.

(7) Unless a defendant's criminal history is admissible in evidence, the Magistrates Court must not have any regard to the defendant's criminal history—

(a) before receiving a plea of guilty or making any decision of guilt; or

(b) for deciding whether the defendant may be adequately punished on summary conviction.

552J Appeals against decision to decide charge summarily

(1) This section applies if a person is summarily convicted or sentenced under section 552A, 552B or 552BA.

(2) The grounds on which the person may appeal include that the Magistrates Court erred by deciding the conviction or sentence summarily.

(3) The grounds on which the Attorney-General may appeal against sentence include that the Magistrates Court erred by deciding the sentence summarily.

(4) On an appeal against sentence relying on a ground that the Magistrates Court erred by proceeding summarily, the court deciding the appeal may, if it decides to vary the sentence, impose the sentence the court considers appropriate up to the maximum sentence that could have been imposed if the matter had been dealt with on indictment.

Chapter 59 Jurisdiction—preliminary proceedings—bail

553 Jurisdiction

The jurisdiction of courts of justice with respect to the trial of offenders is set forth in the laws relating to the constitution and jurisdiction of those courts respectively.

554 Preliminary proceedings on charges of indictable offences

The practice and procedure relating to the examination and committal for trial of persons charged with indictable offences are set forth in the laws relating to justices of the peace, their powers and authorities.

557 Place of trial

(1) A person charged with committing an offence may be tried in any jurisdiction within which any act or omission or event which is an element of the offence takes place.

(2) A person charged with stealing any property may also be tried in any jurisdiction within which the person has the stolen property in the person's possession.

(3) A person charged with stealing anything while employed in the public service may also be tried in any jurisdiction within which the person is arrested or is in custody.

(4) A person charged with an offence which involves the receiving of any property by the person may also be tried in any jurisdiction within which the person has the property in the person's possession.

(5) A person charged with forging anything, or with uttering any false document or writing or anything counterfeit, may also be tried in any jurisdiction within which the person is arrested or is in custody.

(6) A person who is charged with counselling or procuring the commission of an offence, or with becoming an accessory after the fact to an offence, may also be tried in any jurisdiction within which the principal offender might be tried.

(7) A person who is charged with an offence committed out of Queensland, and who may lawfully be tried in Queensland, may be tried in any jurisdiction within which the person is arrested or is in custody.

(8) If a person is charged with committing an offence for which the person may lawfully be tried in Queensland and it is uncertain where the offence was committed, the person may be tried in any jurisdiction within which the person is arrested or is in custody.

(9) A person charged with committing an offence can be tried with the person's consent in any jurisdiction.

558 Persons brought before wrong court

(1) If on the trial of a person charged with any offence before any court it appears that the person is not properly triable before that court under any of the provisions of section 557, the person is not by reason thereof entitled to be acquitted, but the court may, at the request of the accused person, discharge the jury from giving a verdict, and direct that the person be tried before some proper court, and may remand the person for trial accordingly.

(2) If the person does not make such request, the trial is to proceed, and the verdict and judgment have the same effect in all respects as if the court had originally had jurisdiction to try the accused person.

(3) This section does not affect the right of an accused person to plead to the jurisdiction of a court.

559 Change of place of trial

(1) When a person has been committed for trial for an indictable offence at a court held at any place, whether the person has been granted bail or not, the Supreme Court or a judge thereof may, on the application of the Crown or of the accused person, and upon good cause shown order that the trial shall be held at some other place, either before the same court or before some other court of competent jurisdiction, at a time to be named in the order.

(2) When an indictment has been presented against any person in the Supreme Court or a Circuit Court, the court may, on the application of the Crown or the accused person, order that the trial shall be held at some place other than that named in the margin of the indictment and at a time to be named in the order.

(3) An application for a change of the place of trial for an indictable offence shall be granted if based upon the facts—

(a) that the accused person has been committed for trial for another indictable offence at a court held at any other place or that an indictment has been presented to a court held at any other place charging the accused person with another offence; and

(b) that the charge for the offence in respect of which the application is made and the charge for the offence referred to in paragraph (a) could have been joined in the same indictment, had the offences been committed at the same place;

unless good cause is shown for not granting the application.

(4) When an order is made under the provisions of this section, the consequences are the same in all respects, and with regard to all persons, as if the accused person had been committed for trial at the place named in the order and at the sittings named therein; and, if the person has been granted bail, the undertakings as to bail are to be deemed to be enlarged to that time and place accordingly.

Chapter 60 Indictments

559A Definition for ch 60

In this chapter—

DPP presenter means a person, other than a Crown prosecutor, appointed or employed in, or engaged by, the Office of the Director of Public Prosecutions who is authorised in writing by the director of public prosecutions to present an indictment for the director.

560 Presenting indictments

(1) When a person charged with an indictable offence has been committed for trial and it is intended to put the person on trial for the offence, the charge is to be reduced to writing in a document which is called an indictment.

(2) The indictment is to be signed and presented to the court by a Crown Law Officer, a Crown prosecutor or some other person appointed in that behalf by the Governor in Council.

(3) If a person has been committed for trial for an indictable offence that may be tried in the District Court, a Crown Law Officer or a Crown prosecutor may present the indictment to either the Supreme Court or District Court.

(4) In deciding the court to which the indictment is to be presented, the Crown Law Officer or Crown prosecutor must have regard to—

(a) the complexity of the case; and

(b) the seriousness of the alleged offence; and

(c) any particular importance attaching to the case; and

(d) any other relevant consideration.

(5) Also, if an indictment is signed by a person authorised to sign the indictment under this section, a DPP presenter may present the indictment to the court stated in the indictment.

560A Place where indictment is presented

(1) An indictment may be presented to the court at the place of trial named in the margin of the indictment (the ***place of trial***) or at another place.

(2) If an indictment is presented to the court at a place other than the place of trial—

(a) the indictment is taken to have been presented to the court at the place of trial; and

(b) anything that may be done by, or in relation to, the court at the place of trial may also be done by, or in relation to, the court at the other place; and

Example—

An application under section 590AA may be made to, and dealt with by, the court at the other place or at the place of trial.

(c) as soon as practicable after the indictment is presented, the proper officer of the court at the other place must transfer the indictment to the court at the place of trial.

561 Ex officio indictments

(1) A Crown Law Officer may sign and present an indictment in any court of criminal jurisdiction against any person for any indictable offence, whether the accused person has been committed for trial or not.

(2) A Crown prosecutor or a person appointed by the Governor in Council to sign and present indictments in any court of criminal jurisdiction may sign and present an indictment in that court against any person for any indictable offence within the jurisdiction of the court, whether the accused person has been committed for trial or not and against any person for an indictable offence who with the person's prior consent has been committed for trial or for sentence for an offence before that court.

(3) Also, if an indictment is signed by a person authorised to sign the indictment under this section, a DPP presenter may present the indictment to the court stated in the indictment.

562 Arrest of person charged in ex officio indictment

When an indictment has been presented against a person who is not in custody, and has not been committed for trial or held to bail to attend to be tried upon the charge set forth in the indictment, or who does not appear to be tried upon the charge set forth in the indictment, a judge of the court in which the indictment is presented may issue a warrant under the judge's hand to arrest the accused person and bring the person before a justice of the peace; and the justice before whom the person is brought may commit the person to prison until the person can be tried on the indictment, or may, in a proper case, grant bail.

563 Nolle prosequi

(1) A Crown Law Officer may inform any court, by writing under the officer's hand, that the Crown will not further proceed upon any indictment, or in relation to any charge contained in any indictment, then pending in the court.

(2) A Crown prosecutor or a person appointed by the Governor in Council to present indictments in any court of criminal jurisdiction may inform that court, by signed writing, that the Crown will not further proceed upon any indictment, or in relation to any charge contained in any indictment, then pending in that court.

(3) When such information is given to the court the accused person is to be discharged from any further proceedings upon that indictment or charge.

564 Form of indictment

(1) An indictment is to be intituled with the name of the court in which it is presented, and must, subject to the provisions hereinafter contained, set forth the offence with which the accused person is charged in such a manner, and with such particulars as to the alleged time and place of committing the offence, and as to the person (if any) alleged to be aggrieved, and as to the property (if any) in question, as may be necessary to inform the accused person of the nature of the charge.

(2) If any circumstance of aggravation is intended to be relied upon, it must be charged in the indictment.

(3) It is sufficient to describe an offence in the words of this Code or of the statute defining it.

(4) The place of trial is to be named in the margin of the indictment.

565 General rules applicable to indictments

The following rules are applicable to all indictments—

(a) any document or other thing may be described by any name or designation by which it is usually known, and any document may be described by its purport without setting out a copy or facsimile of the whole or any part of it;

(b) a trademark may be described by that name, and any other mark may be described in any way which will indicate its nature, without setting out a copy or facsimile of it;

(c) it is not necessary to set forth the value of anything mentioned in an indictment unless the value is an essential element of the offence;

(d) it is not necessary to set forth the means or instrument by which any act is done, unless the means or instrument are an essential element of the offence;

(e) it is not necessary to set forth any particulars as to any person or thing which need not be proved, nor any other matter which need not be proved.

566 Particular indictments

(1) In an indictment for an offence relating to giving information or a document that a person knows is false or misleading, it is enough to state the information or document was 'false or misleading' to the person's knowledge, without specifying whether it was false or whether it was misleading.

(2) In an indictment for an offence which relates to taking or administering an oath or engagement, or to giving false testimony or to making a false statement on solemn declaration or otherwise, or to procuring the giving of false testimony or the making of a false statement, it is not necessary to set forth the words of the oath or engagement or testimony or statement, but it is sufficient to set forth the purport thereof, or so much of the purport as is material.

(3) In an indictment for an offence which relates to giving false testimony, or procuring or attempting to procure the giving of false testimony, it is not necessary to allege the jurisdiction of the court or tribunal before which the false testimony was given, or intended or proposed to be given.

(5) In an indictment in which it is necessary to mention money, such money may be described simply as money, without specifying any particular form of money.

(5A) Such an averment, so far as regards the description of the property, will be sustained by proof that the offender obtained or dealt with anything which is included in the term 'money', or any portion of the value, in such a manner as to constitute the offence, although the thing was delivered to the offender in order that some part of the value thereof should be returned to the person who delivered the same or to some other person, and has been returned accordingly.

(6) In an indictment in which it is necessary to mention any co-owners of property it is sufficient to name 1 of such persons, adding the words 'and another' or 'and others', as the case may be, and to state that the property belonged to the person so named and another or others, as the case may be.

(7) In an indictment against a man for an offence committed by him with respect to his wife's separate property, the property may be alleged to be the property of the wife.

(8) In an indictment for an offence relating to any property of a company which is authorised to sue and be sued in the name of a public officer, the property may be alleged to be the property of the public officer.

(9) In an indictment for an offence relating to any property which by any statute is to be deemed to be the property of any officer of any institution, the property in question may be alleged to be the property of the officer of the institution for the time being by the officer's name of office.

(10) In an indictment for an offence relating to a testamentary instrument, it is not necessary to allege that the instrument is the property of any person.

(11) In an indictment for an offence relating to anything fixed in a square, street or cemetery or at a crematorium, or in a place dedicated to public use or ornament, or to anything in or taken from a public office, it is not necessary to allege that the thing in respect of which the offence is committed is the property of any person.

(12) In an indictment for an offence relating to a document which is evidence of title to land or an estate in land, the document may be described as being evidence of the title of the person or some 1 of the persons having an estate in the land to which the document relates, the land or some part thereof being described in some manner sufficient to identify it.

(13) In an indictment for stealing a chattel or fixture let to the offender, the chattel or fixture may be described as the property of the person who actually let it to hire.

(14) In an indictment against a person employed in the public service for an offence committed with respect to anything which came into the person's possession by virtue of the person's employment, the thing in question may be described as the property of Her Majesty.

(15) In an indictment for an offence respecting any property (whether within the meaning of section 1 or section 408C), if it is uncertain to which of 2 or more persons the property belonged at the time when the offence was committed, the property may be described as being the property of one or other of such persons, naming each of them, but without specifying which of them; and the indictment will be sustained, so far as regards the allegation of ownership, upon proof that at the time when the offence was committed the property belonged to one or other of such persons without ascertaining which of them.

(16) In an indictment for the offence of obtaining or inducing the delivery of anything dishonestly, or of attempting to commit, or to procure the commission of, any such offence, it is not necessary to mention the owner of the property in question.

(17) In an indictment for an offence which involves any fraud or fraudulent pretence, it is not necessary to set forth the details of the fraud or pretence or trick or device.

567 Joinder of charges

(1) Except as otherwise expressly provided, an indictment must charge 1 offence only and not 2 or more offences.

(2) Charges for more than 1 indictable offence may be joined in the same indictment against the same person if those charges are founded on the same facts or are, or form part of, a series of offences of the same or similar character or a series of offences committed in the prosecution of a single purpose.

(3) Where more than 1 offence is charged in the same indictment, each offence charged shall be set out in the indictment in a separate paragraph called a ***count*** and the several statements

of the offences may be made in the same form as in other cases without any allegation of connection between the offences.

(4) Counts shall be numbered consecutively.

568 Cases in which several charges may be joined

(1) In an indictment against a person for stealing property the person may be charged and proceeded against on 1 charge even though—

(a) the property belongs to the same person or to different persons; or

(b) the property was stolen over a space of time; or

(c) different acts of stealing took place at different times, whether or not the different acts can be identified.

(2) In an indictment against a trustee to whom the *Trust Accounts Act 1973* applies, for stealing money, the trustee may be charged and proceeded against for the amount of a general deficiency notwithstanding that such general deficiency is made up of any number of specific sums of money, such sums being the property of different persons, the taking, destruction or conversion of which extended over any space of time.

(2A) For subsection (2), the reference to a trustee to whom the *Trust Accounts Act 1973* applies includes a legal practitioner associate of a law practice, within the meaning of the *Legal Profession Act 2007*, if part 3.3 of the *Legal Profession Act 2007* applies to the law practice.

(3) In an indictment against a person for fraud the person may be charged and proceeded against on 1 charge even though—

(a) any number of specific frauds of the same type has been committed, whether or not each specific act of fraud can be identified; or

(b) the frauds have extended over any space of time; or

(c) property applied belongs to different persons, and has come into the possession or control of the accused person at different times and subject to different trusts, directions, conditions, or duties to account; or

(d) the property, benefit, detriment or inducement belongs to or is caused to different persons.

(4) In an indictment against a person for receiving property the person may be charged and proceeded against on 1 charge even though—

(a) the property belongs to different persons; or

(b) the property was received over a space of time; or

(c) different acts of receiving took place at different times, whether or not the different acts can be identified.

(5) In an indictment against a person for forgery or uttering the person may be charged and proceeded against on 1 charge even though—

(a) any number of separate forgeries or utterings has been committed, whether or not the separate acts of forgery or uttering can be identified; or

(b) the forgeries or utterings have extended over any space of time; or

(c) there was an intent to defraud one or more than one person.

(5A) In an indictment against a person for obtaining or dealing with identification information under section 408D, the person may be charged and proceeded against on 1 charge even though—

(a) the identification information relates to different entities; or

(b) the identification information was obtained or dealt with over a space of time; or

(c) different acts of obtaining or dealing with the identification information took place at different times, whether or not the different acts can be identified.

(6) Any 2 or all of the following charges may be joined in the same indictment (a ***subsection (6) indictment***)—

(a) entering or being in a dwelling or premises and stealing property in the dwelling or premises;

(b) stealing all or part of property the subject of the indictment;

(c) receiving all or part of property the subject of the indictment having reason to believe the property is stolen.

(7) If a subsection (6) indictment is preferred against a person, the person may, according to the evidence, be convicted of the offence mentioned in subsection (6)(a), the offence mentioned in subsection (6)(b) or the offence mentioned in subsection (6)(c).

(8) If a subsection (6) indictment is preferred against 2 or more persons—

(a) all or any of them may, according to the evidence, be convicted of the offence mentioned in subsection (6)(a), the offence mentioned in subsection (6)(b) or the offence mentioned in subsection (6)(c); or

(b) 1 or more of them may, according to the evidence, be convicted of 1 of the offences and the other or others of them may be convicted of another of the offences, or of 1 or the other of the other offences.

(9) However, if the jury finds specially—

(a) that a person charged on a subsection (6) indictment—

(i) entered or was in a dwelling or premises and stole property in the dwelling or premises; or

(ii) stole all or part of property the subject of the indictment; or

(iii) received all or part of property the subject of the indictment having reason to believe the property to have been stolen; or

(b) that a person charged on a subsection (6) indictment committed 1 of any 2 of the offences mentioned in paragraph (a);

but can not say which of the offences (the ***alternative offences***) was committed by the person, the trial judge must enter a conviction against the person for 1 of the alternative offences in accordance with subsection (10).

(10) For subsection (9), the trial judge must enter a conviction for the following offence—

(a) if the same maximum penalty is provided for the alternative offences, the alternative offence decided by the trial judge;

(b) if a particular maximum penalty is provided for 1 of the alternative offences and the same lower maximum penalty is provided for the other alternative offences, 1 of the other alternative offences decided by the trial judge;

(c) otherwise, the alternative offence for which the lowest or lower maximum penalty is provided.

(11) Any number of persons charged with committing or with procuring the commission of the same offence, although at different times, or of being accessories after the fact to the same offence, although at different times, and any number of persons charged with receiving, although at different times, any property which has been obtained by means of a crime or misdemeanour, or by means of an act which if it had been done in Queensland would be a crime or misdemeanour and which is an offence under the laws in force in the place where it was done, or any part of any property so obtained, may be charged with substantive offences in the same indictment, and may be tried together notwithstanding that the principal offender or the person who so obtained the property is not included in the same indictment, or is not amenable to justice.

(12) Any number of persons charged with committing different or separate offences arising substantially out of the same facts or out of closely related facts so that a substantial part of the

facts is relevant to all the charges may be charged in the same indictment and tried together.

569 Accessories

A person who counsels or procures another person to commit an offence, or who aids another person in committing an offence, or who does or omits to do any act for the purpose of enabling or aiding another person to commit the offence, or who becomes an accessory after the fact to an offence, may be charged in the same indictment with the principal offender, and may be tried with the principal offender or separately, or may be indicted and tried separately, whether the principal offender has or has not been convicted, or is or is not amenable to justice.

570 Statement of previous conviction

In an indictment for an offence charged to have been committed after a conviction for any offence, it is sufficient, after charging the subsequent offence, to state the substance and effect of the indictment or complaint, and the conviction, for the previous offence, and the time and place of such conviction.

571 Formal defects

(1) An indictment is not open to objection by reason of the designation of any person by a name of office or other descriptive appellation instead of by the person's proper name, nor for omitting to state the time at which the offence was committed, unless the time is an essential element of the offence, nor for stating imperfectly the time at which the offence was committed, nor for stating the offence to have been committed on an impossible day, or on a day that never happened or has not yet happened.

(2) An objection to an indictment for a formal defect apparent on its face must be taken by motion to quash the indictment before the jury is sworn, and not afterwards.

572 Amendment of indictments

(1) If, on the trial of a person charged with an indictable offence, there appears to be a variance between the indictment and the evidence, or it appears that any words that ought to have been inserted in the indictment have been omitted, or any count that ought to have been included in the indictment has been omitted, or that any words that ought to have been omitted have been inserted, the court may, if it considers that the variance, omission, or insertion, is not material to the merits of the case, and that the accused person will not be prejudiced thereby in the person's defence on the merits, order the indictment to be amended, so far as it is necessary, on such terms (if any) as to postponing the trial, and directing it to be had before the same jury or another jury, as the court may think reasonable.

(2) The indictment is thereupon to be amended in accordance with the order of the court.

(3) If the court is satisfied no injustice will be done by amending the indictment, the court may make the order at any time before, or at any stage of, the trial on the indictment, or after verdict.

(4) When an indictment has been amended, the trial is to proceed, at the appointed time, upon the amended indictment, and the same consequences ensue, in all respects and as to all persons, as if the indictment had been originally in its amended form.

(5) If it becomes necessary to draw up a formal record in any case in which an amendment has been made, the record is to be drawn up setting out the indictment as amended, and without taking any notice of the fact of the amendment having been made.

573 Particulars

The court may, in any case, if it thinks fit, direct particulars to be delivered to the accused person of any matter alleged in the indictment, and may adjourn the trial for the purpose of such delivery.

574 Summary convictions

The provisions of this chapter relating to indictments apply to complaints preferred against offenders upon their trial before justices in order to their summary conviction of an indictable offence.

Chapter 61 Effect of indictment

575 Offences involving circumstances of aggravation

Except as hereinafter stated, upon an indictment charging a person with an offence committed with circumstances of aggravation, the person may be convicted of any offence which is established by the evidence, and which is constituted by any act or omission which is an element of the offence charged, with or without any of the circumstances of aggravation charged in the indictment.

576 Indictment containing count of murder or manslaughter

(1) Upon an indictment against a person containing a count of the crime of murder, the person may be convicted on that count of the crime of manslaughter if that crime is established by the evidence but not on that count of any other offence than that with which the person is charged except as otherwise expressly provided.

(2) Upon an indictment against a person containing a count of the crime of manslaughter the person can not on that count be

convicted of any other offence except as otherwise expressly provided.

577 Charge of homicide of child

However, upon an indictment charging a person with the murder of any person, or with unlawfully killing any person, if upon the evidence it appears that the person alleged to have been killed was a child of which a female had recently been delivered, the accused person may be convicted of an offence defined in section 313 or 314, if any offence under either of those sections is established by the evidence.

578 Charge of offence of a sexual nature

(1) Upon an indictment charging a person with the crime of rape, the person may be convicted of any offence, if established by the evidence, defined in section 208, 210(1), 215, 216, 217(1), 218, 222 or 352.

(1A) On an indictment charging a person with the crime of unlawful sodomy under any part of section 208, the person may be convicted of any offence, if established by the evidence, defined in section 210(1), 216, 217, 218 or 352.

(2) Upon an indictment charging a person with having unlawful carnal knowledge with or of a child under the age of 16 years, the person may be convicted of any offence, if established by the evidence, defined in section 210(1), 217 or 218.

(3) Upon an indictment charging a person with unlawfully and indecently assaulting another, the person may be convicted of any offence, if established by the evidence, defined in section 210(1).

(4) Upon an indictment charging a person with incest or an attempt to commit incest, the person may be convicted of any offence, if established by the evidence, defined in section 208, 210(1), 215, 216, 217, 218, 349, 350 or 352.

(5) A person convicted of any offence pursuant to this section may be convicted of that offence with any circumstance of aggravation established by the evidence.

579 Charge of specific injury—charge of injury with specific intent

(1) Upon an indictment charging a person with an offence of which the causing of some specific result is an element, the person may be convicted of any offence which is established by the evidence, and of which an intent to cause that result, or a result of a similar but less injurious nature, is an element.

(2) Upon an indictment charging a person with an offence of which an intent to cause some specific result is an element, the person may be convicted of any offence which is established by the evidence and of which the unlawful causing of that result is an element.

580 Charge of injury to property

Upon an indictment charging a person with an offence of which destruction of property, or wilfully and unlawfully doing any specific damage to property, is an element, the person may be convicted of wilfully and unlawfully damaging the property, or of wilfully and unlawfully damaging the property in any lesser degree, if either of such offences is established by the evidence.

581 Offences of dishonesty

Upon an indictment charging a person with any of the offences following, that is to say—

(a) stealing, with or without a circumstance of aggravation;

(b) fraud, with or without a circumstance of aggravation;

(c) obtaining from any other person any chattel, money or valuable security by passing a cheque that is not paid on presentation for payment;

(d) unlawful use or possession of a vehicle, with or without a circumstance of aggravation;

(e) unlawfully receiving anything under section 433;

(f) counselling or procuring any other person to commit any of such offences;

the person may be convicted of any other of such offences committed with respect to the same property, if such other offence is established by the evidence.

582 Charge of procuring commission of offence or wrongful act

(1) Upon an indictment charging a person with procuring the commission of any offence, the person may be convicted of procuring the commission of any other offence of such a nature that a person may be convicted of it upon an indictment charging the person with committing the offence of which the accused person is alleged to have procured the commission.

(2) Upon an indictment charging a person with procuring another to do an act or make an omission of such a nature that if the accused person had done the act or made the omission, the person would have been guilty of an offence, the person may be convicted of procuring that other person to do any other act or make any other omission which is established by the evidence, and which is of such a nature that if the accused person had done that act or made that omission the person would have been guilty of an offence, such last-named offence being itself of such a nature that a person may be convicted of it upon an indictment charging the person with committing the offence of which the accused person would have been guilty if the person had done the act or made the omission which the person is alleged to have procured to be done or made.

583 Conviction for attempt to commit offence

(1) Upon an indictment charging a person with committing any offence, the person may be convicted of attempting to commit that offence, or of attempting to commit any other offence of which the person might be convicted upon the indictment.

(2) Upon an indictment charging a person with procuring the commission of any offence, the person may be convicted of attempting to procure the commission of that offence, or of attempting to procure the commission of any other offence of such a nature that a person may be convicted of it upon an indictment charging the person with committing the offence of which the accused person is alleged to have procured the commission.

(3) Upon an indictment charging a person with attempting to commit any offence, the person may be convicted of attempting to commit any other offence of such a nature that a person may be convicted of it upon an indictment charging the person with committing the offence which the accused person is alleged to have attempted to commit.

(4) Upon an indictment charging a person with attempting to procure the commission of any offence, the person may be convicted of attempting to procure the commission of any other offence of such a nature that a person may be convicted of it upon an indictment charging the person with committing the offence of which the accused person is alleged to have attempted to procure the commission.

(5) Upon an indictment charging a person with attempting to procure another to do an act or make an omission of such a nature that if the act had been done or the omission had been made, an offence would thereby have been committed the person may be convicted of attempting to procure that other person to do any other act or make any other omission of such a nature that if the act had been done or the omission had been made an offence would thereby have been committed, such last mentioned offence being itself of such a nature that a person may be convicted of it upon an indictment charging the person with doing the act or making the omission which the

accused person is alleged in the indictment to have attempted to procure that other person to do or make.

584 When evidence shows offence of similar nature

(1) If, on the trial of a person charged with any indictable offence, the evidence establishes that the person is guilty of another indictable offence of such a nature that upon an indictment charging the person with it the person might have been convicted of the offence with which the person is actually charged, the person may be convicted of the offence with which the person is so charged.

(2) A person so tried is not liable to be afterwards prosecuted for the offence so established by the evidence, unless the court before which the trial is had thinks fit to discharge the jury from giving any verdict, and to direct the accused person to be indicted for that offence; in which case the person may be dealt with in all respects as if the person had not been put upon trial for the offence with which the person is actually charged.

585 Effect of conviction

A person convicted under any of the provisions of sections 575 to 584 is liable to the same punishment as if the person had been convicted on an indictment charging the person with the offence of which the person is actually convicted.

586 Corrupt practices

If, on the trial of a person charged with an indictable offence relating to elections the evidence establishes that the person is not guilty of the offence charged, but is guilty of an offence relating to elections and punishable on summary conviction, the person may be convicted of such last mentioned offence, and is liable to the same punishment as if the person had been summarily convicted of that offence.

587 Illegal practices

If, on the trial of a person charged with an offence relating to elections and punishable on summary conviction, the evidence establishes that the person is guilty of an indictable offence relating to elections, the person is not entitled to have the charge dismissed if the evidence also establishes that the person did any act or acts such as to constitute the offence with which the person is actually charged.

588 Charge of stealing stock

If, on the trial of a person charged with stealing an animal that is stock, the evidence establishes that the person is not guilty of the offence charged, but is guilty of any of the offences following, that is to say—

(a) unlawfully using the animal without the consent of the owner, or of the person in lawful possession thereof;

(b) branding or marking the animal, or knowingly permitting it to be branded or marked, with the person's registered brand or registered mark, knowing that the person is not the owner of the animal;

(c) altering or defacing, or otherwise rendering undistinguishable, any registered brand or registered mark upon the animal;

(d) knowingly permitting any act as mentioned in paragraph (c) to be done by any person over whom the person has control;

the person may be convicted of the offence so established by the evidence, and is liable to the same punishment as if the person had been convicted of that offence.

588A Charges of stealing certain animals and of killing certain animals with intent to steal

(1) If on the trial of a person charged with stealing an animal that is stock the evidence establishes that the person is not guilty

of the offence charged but is guilty of the offence of killing an animal with intent to steal the skin or carcass or any part of the skin or carcass, the person may be convicted of the latter offence and is liable to the punishment prescribed in respect of that offence.

(2) If on the trial of a person charged with killing an animal with intent to steal the skin or carcass or any part of the skin or carcass the evidence establishes that the person is not guilty of the offence charged but is guilty of the offence of stealing an animal, the person may be convicted of the latter offence and is liable to the punishment prescribed in respect of that offence.

(3) A reference in this section to the offence of killing an animal with intent to steal the skin or carcass or any part of the skin or carcass is a reference to the offence of killing an animal with intent to steal the skin or, as the case may be, the carcass or, as the case may be, part of the skin or, as the case may be, part of the carcass.

589 Indictment for joint receiving

Upon an indictment charging 2 or more persons jointly with an offence of which the receiving of any property is an element, if the evidence establishes that 1 or more of them separately received any part or parts of the property under such circumstances as to constitute an offence, such 1 or more of the accused persons may be convicted of the offence or offences so established by the evidence.

Chapter 62 Trial—adjournment—pleas—practice

Chapter division 1 Bringing accused person to trial

590 Bringing accused to trial

(1) Subject to section 561, when a person charged with an indictable offence has been committed for trial and it is intended to put the person upon his or her trial for the offence, the director of public prosecutions or a Crown prosecutor must present the indictment no later than 6 months after the date on which the person was committed for trial.

(2) If—

(a) an indictment is not so presented; or

(b) it becomes apparent that evidence necessary to establish the offence is not going to be available; or

(c) the accused has absconded and is not likely to be found before the expiry of the period; or

(d) for any other reason it is impracticable to present the indictment;

the director of public prosecutions or a Crown prosecutor may apply to the court at any time before or after the expiry of the period for an extension of time within which to present an indictment.

(3) The court hearing the application may, if satisfied that good cause is shown and no miscarriage of justice is likely to result, grant the extension of time the court considers just.

(4) If an indictment is not presented before the expiry of the period or any extension of the period, the person is entitled to be discharged from the consequences of his or her committal.

Chapter division 2 Directions and rulings before trial

590AA Pre-trial directions and rulings

(1) If the Crown has presented an indictment before a court against a person, a party may apply for a direction or ruling, or a judge of the court may on his or her initiative direct the parties to attend before the court for directions or rulings, as to the conduct of the trial or any pre-trial hearing.

(2) Without limiting subsection (1) a direction or ruling may be given in relation to—

(a) the quashing or staying of the indictment; or

(b) the joinder of accused or joinder of charges; or

(ba) disclosure under chapter division 3 or 4; or

(c) the provision of a statement, report, proof of evidence or other information; or

(d) noting of admissions and issues the parties agree are relevant to the trial or sentence; or

(da) an application for trial by a judge sitting without a jury; or

(e) deciding questions of law including the admissibility of evidence and any step that must be taken if any evidence is not to be admitted; or

(f) ascertaining whether a defence of insanity or diminished responsibility or any other question of a psychiatric nature is to be raised; or

(g) the psychiatric or other medical examination of the accused; or

(h) the exchange of medical, psychiatric and other expert reports; or

(i) the reference of the accused to the Mental Health Court; or

(j) the date of trial and directing that a date for trial is not to be fixed until it is known whether the accused proposes to rely on a defence of insanity or diminished responsibility or any other question of a psychiatric nature; or

(k) the return of subpoenas; or

(l) the *Evidence Act 1977*, part 2, division 4A or 6; or

(m) encouraging the parties to narrow the issues and any other administrative arrangement to assist the speedy disposition of the trial.

(3) A direction or ruling is binding unless the judge presiding at the trial or pre-trial hearing, for special reason, gives leave to reopen the direction or ruling.

(4) A direction or ruling must not be subject to interlocutory appeal but may be raised as a ground of appeal against conviction or sentence.

590AAA Noncompliance with direction about disclosure

(1) If it appears to the court that a person (the ***directed person***) has not complied with a direction given under section 590AA(2)(ba), the court may order the directed person to file an affidavit, or give evidence in court, explaining and justifying the failure to comply.

(2) If the court requires the directed person to file an affidavit, a copy of the affidavit must be served on the person for whose benefit the direction was given (the ***affected person***).

(3) An order under subsection (1) may be made—

(a) on the court's own initiative; or

(b) on the application of the affected person.

(4) If the court is not satisfied the directed person's affidavit or evidence satisfactorily explains and justifies the noncompliance, the court may—

(a) adjourn the proceeding to allow enough time for—

(i) the directed person to comply with the direction; and

(ii) the affected person to consider anything disclosed under the direction and take any necessary further action; and

(b) if the court is satisfied that the noncompliance was unjustified, unreasonable or deliberate—make, in relation to the adjournment, an award in favour of the affected person of an amount of costs the court considers just and reasonable; and

(c) if an award of costs is made under paragraph (b)—fix a time for the amount to be paid.

(5) This section does not limit the court's power otherwise to deal with a failure to comply with a direction, including, for example, any power in the court to punish for contempt.

(6) The directed person is not excused from failing to file an affidavit or give evidence under this section on the ground that an affidavit or evidence explaining and justifying a failure to comply with the direction given under section 590AA(2)(ba) might tend to incriminate the directed person because the directed person would be required to admit to the failure to comply.

(7) However, the affidavit or evidence is not admissible against the directed person in a criminal proceeding or a proceeding for contempt.

(8) Subsection (7) does not stop the affidavit or evidence from being admissible against the person—

(a) in a perjury proceeding in relation to the affidavit or evidence; or

(b) for the purposes of making an order under subsection (4).

(9) In this section—

direction includes ruling.

perjury proceeding, in relation to an affidavit or evidence, means a proceeding in which the falsity or misleading nature of the affidavit or evidence is relevant.

Chapter division 3 Disclosure by the prosecution

Chapter subdivision A Preliminary provisions

590AB Disclosure obligation

(1) This chapter division acknowledges that it is a fundamental obligation of the prosecution to ensure criminal proceedings are conducted fairly with the single aim of determining and establishing truth.

(2) Without limiting the scope of the obligation, in relation to disclosure in a relevant proceeding, the obligation includes an ongoing obligation for the prosecution to give an accused person full and early disclosure of—

(a) all evidence the prosecution proposes to rely on in the proceeding; and

(b) all things in the possession of the prosecution, other than things the disclosure of which would be unlawful or contrary to public interest, that would tend to help the case for the accused person.

590AC Chapter division does not have particular consequences

(1) Nothing in this chapter division—

(a) requires disclosure that is unlawful under this or another law; or

(b) affects an accused person's right to anything under another law.

(2) Failure to comply with this chapter division in a proceeding does not affect the validity of the proceeding.

Chapter subdivision B Interpretation

590AD Definitions for ch div 3

In this chapter division—

affected child see the *Evidence Act 1977*, section 21AC.

arresting officer, for a person charged with an offence, means—

(a) the police officer who arrested the person or, if the person was not arrested, the police officer who brought the charge against the person; or

(b) at any time the person mentioned in paragraph (a) is unavailable, another police officer the police commissioner, or a delegate of the police commissioner, designates as the arresting officer for the person.

court means the court for the relevant proceeding.

criminal history of a person includes every finding of guilt, or acceptance of a plea of guilty, whether or not a conviction was recorded, other than a spent conviction.

Evidence Act section 93A device statement see section 590AFA.

exculpatory thing, in relation to an accused person, means reliable evidence of a nature to cause a jury to entertain a reasonable doubt as to the guilt of the accused person.

original evidence means a thing that may be tendered as an exhibit in a relevant proceeding.

possession of the prosecution see section 590AE.

prescribed summary trial means a summary trial of—

(a) a charge for an indictable offence that must be heard and decided summarily under section 552BA; or

(b) a charge for an indictable offence if, under section 552A, the prosecution has elected that the charge be heard and decided summarily; or

(c) a charge for an indictable offence to which section 552B applies unless the defendant has informed the Magistrates Court that he or she wants to be tried by jury; or

(d) a charge for an indictable offence against a provision of the *Drugs Misuse Act 1986*, if—

(i) under that Act, proceedings for the charge may be taken summarily; and

(ii) the prosecution has elected that proceedings for the charge be taken summarily; or

(e) a charge for an offence prescribed under a regulation for this definition.

prosecution means the person in charge of the prosecution or a person appearing for the prosecution.

relevant proceeding means—

(a) a committal proceeding; or

(b) a prescribed summary trial; or

(c) a trial on indictment.

sensitive evidence see section 590AF.

spent conviction means a conviction—

(a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and

(b) that is not revived as prescribed by section 11 of that Act.

statement of a person means—

(a) a statement signed by the person; or

(b) a statement of the person that is potentially admissible under the *Evidence Act 1977*, section 93A; or

(c) any other representation of fact, whether in words or otherwise, made by the person.

view includes listen to.

590AE Meaning of *possession of the prosecution*

(1) For a relevant proceeding, a thing is in the ***possession of the prosecution*** only if the thing is in the possession of the prosecution under subsection (2) or (3).

(2) A thing is in the possession of the prosecution if it is in the possession of the arresting officer or a person appearing for the prosecution.

(3) A thing is also in the possession of the prosecution if—

(a) the thing is in the possession of—

(i) for a prosecution conducted by the director of public prosecutions—the director; or

(ii) for a prosecution conducted by the police service—the police service; and

(b) the arresting officer or a person appearing for the prosecution—

(i) is aware of the existence of the thing; and

(ii) is, or would be, able to locate the thing without unreasonable effort.

590AF Meaning of *sensitive evidence*

(1) ***Sensitive evidence*** means anything containing or displaying an image of a person (the ***imaged person***)—

(a) that, disregarding the fact the thing was brought into existence, or is in the possession of the prosecution, for

the purpose of providing evidence of an offence, is obscene or indecent; or

(b) the disclosure of which to another person, without the imaged person's consent, would interfere with the imaged person's privacy.

Examples—

- a computer hard drive containing obscene or indecent images
- a photo of a naked rape victim taken to preserve evidence of the victim's condition at a particular time

(2) Child exploitation material under chapter 22, or material alleged to be child exploitation material, is ***sensitive evidence***.

590AFA Meaning of *Evidence Act section 93A device statement*

An ***Evidence Act section 93A device statement*** means a statement—

(a) made to a person investigating an alleged offence; and

(b) contained in—

(i) any disc, tape, sound track or other device mentioned in paragraph (e) of the definition *document* in the *Evidence Act 1977*, schedule 3 capable of reproducing sounds; or

(ii) any film, negative, tape or other device mentioned in paragraph (f) of the definition *document* in the *Evidence Act 1977*, schedule 3; and

(c) given in, or in anticipation of, a criminal proceeding about the alleged offence; and

(d) that is potentially admissible under the *Evidence Act 1977*, section 93A.

590AG Particular references to an accused person include references to a lawyer acting for the accused person

(1) A reference in this chapter division to giving or disclosing a thing to an accused person includes a reference to giving or disclosing the thing to a lawyer acting for the accused person.

(2) A reference in this chapter division to an accused person viewing a thing includes a reference to a lawyer acting for the accused person viewing the thing.

Chapter subdivision C Disclosure

590AH Disclosure that must always be made

(1) This section applies—

(a) without limiting the prosecution's obligation mentioned in section 590AB(1); and

(b) subject to section 590AC(1)(a) and chapter subdivision D.

(2) For a relevant proceeding, the prosecution must give the accused person each of the following—

(a) a copy of the bench charge sheet, complaint or indictment containing the charge against the person;

(b) a copy of the accused person's criminal history in the possession of the prosecution;

(c) a copy of any statement of the accused person in the possession of the prosecution;

(d) for each proposed witness for the prosecution who is, or may be, an affected child—a written notice naming the witness and describing why the proposed witness is, or may be, an affected child;

(e) for each proposed witness for the prosecution other than a proposed witness mentioned in paragraph (d)—

(i) a copy of any statement of the witness in the possession of the prosecution; or

Example—

a statement made by a proposed witness for the prosecution in an audio recording of an interview

(ii) if there is no statement of the witness in the possession of the prosecution—a written notice naming the witness;

(f) if the prosecution intends to adduce evidence of a representation under the *Evidence Act 1977*, section 93B, a written notice stating that intention and the matters mentioned in section 590C(2)(b) to (d);

(g) a copy of any report of any test or forensic procedure relevant to the proceeding in the possession of the prosecution;

Examples of a forensic procedure—

DNA, fingerprint or another scientific identification procedure

(h) a written notice describing any test or forensic procedure, including a test or forensic procedure that is not yet completed, on which the prosecution intends to rely at the proceeding;

(i) a written notice describing any original evidence on which the prosecution intends to rely at the proceeding;

(j) a copy of anything else on which the prosecution intends to rely at the proceeding;

(k) a written notice or copy of anything else in possession of the prosecution prescribed under a regulation.

590AI When mandatory disclosure must be made

(1) This section applies if—

(a) the prosecution must give an accused person a written notice or copy of a thing under section 590AH(2); or

(b) the prosecution must give an accused person a written notice of a thing under section 590AO(2) and, apart from section 590AO, the prosecution would have to give the accused person a copy of the thing under section 590AH(2); or

(c) the prosecution must give an accused person a written notice of a thing under section 590AOA(2) and, apart from section 590AOA, the prosecution would have to give the person a copy of the thing under section 590AH(2).

(2) The prosecution must give the accused person the written notice or copy—

(a) for a committal proceeding or prescribed summary trial—at least 14 days before the date set by the court for the commencement of the hearing of evidence; or

(b) for a trial on indictment—no more than 28 days after presentation of the indictment, or if the trial starts less than 28 days after presentation of the indictment, before evidence starts to be heard at the trial.

(3) Subsection (2) is not intended to discourage the prosecution from voluntarily giving the accused person the written notice or copy at a time before the latest time the subsection may be complied with.

Note—

An administrative arrangement made under section 706A (Development of administrative arrangements) might provide for the prosecution's agreement to a form of staged disclosure that will ensure an accused person is provided with at least part of the material that must be disclosed under section 590AH within a period stated in the arrangement that is shorter than the period stated in subsection (2).

(4) The court may, at any time, shorten the period mentioned in subsection (2)(a) or extend the period mentioned in subsection (2)(b).

(5) If the relevant proceeding is a committal proceeding, the court may set a date to have effect under subsection (2)(a) as the date for the commencement of hearing of evidence in the

proceeding even if, having regard to the *Justices Act 1886*, section 110A, it will or may be the case that no witness will appear at the proceeding to give oral evidence.

590AJ Disclosure that must be made on request

(1) This section applies—

(a) without limiting the prosecution's obligation mentioned in section 590AB(1); and

(b) subject to section 590AC(1)(a) and chapter subdivision D.

(2) For a relevant proceeding, the prosecution must, on request, give the accused person—

(a) particulars if a proposed witness for the prosecution is, or may be, an affected child; and

(b) a copy of the criminal history of a proposed witness for the prosecution in the possession of the prosecution; and

(c) a copy or notice of any thing in the possession of the prosecution that may reasonably be considered to be adverse to the reliability or credibility of a proposed witness for the prosecution; and

(d) notice of any thing in the possession of the prosecution that may tend to raise an issue about the competence of a proposed witness for the prosecution to give evidence in the proceeding; and

(e) a copy of any statement of any person relevant to the proceeding and in the possession of the prosecution but on which the prosecution does not intend to rely at the proceeding; and

(f) a copy or notice of any other thing in the possession of the prosecution that is relevant to the proceeding but on which the prosecution does not intend to rely at the proceeding.

(3) If the prosecution gives notice of a thing under subsection (2) that is not original evidence, the prosecution must advise the accused person that the thing may be viewed on request by the accused person at a stated place.

(4) In this section—

particulars means particulars of a matter alleged in the bench charge sheet, complaint or indictment containing the charge against the accused person.

590AK When requested disclosure must be made

(1) This section applies if—

(a) an accused person requests particulars or a copy or notice of a thing under section 590AJ(2); and

(b) either—

(i) the prosecution must give the accused person particulars or a copy or notice of the thing under section 590AJ(2); or

(ii) the prosecution must give the accused person written notice of the thing under section 590AO(2) and, apart from section 590AO, the prosecution would have to give the accused person a copy of the thing under section 590AJ(2); or

(iii) the prosecution must give the accused person written notice of the thing under section 590AOA(2) and, apart from section 590AOA, the prosecution would have to give the person a copy of the thing on request under section 590AJ(2).

(2) The prosecution must give the accused person the particulars, copy or notice as soon as practicable after the request is made.

590AL Ongoing obligation to disclose

(1) If the prosecution can not comply with a time requirement because the thing to be disclosed was not in the possession of

the prosecution in sufficient time, including, for example, because the thing did not exist at the time, the prosecution must disclose the thing to the accused person as soon as practicable after it comes into the possession of the prosecution.

(2) The obligation to disclose a thing, other than an exculpatory thing, to the accused person continues despite a failure to comply with a time requirement or subsection (1) until the prosecution ends, whether by the accused person being discharged, acquitted or convicted, or in another way.

(3) If a thing is an exculpatory thing, the obligation to disclose it to the accused person continues despite a failure to comply with a time requirement or subsection (1) until 1 of the following happens—

(a) the accused person is discharged or acquitted;

(b) the accused person dies.

(4) In this section—

time requirement means a requirement under section 590AI or 590AK.

590AM How disclosure may be made

(1) If a written notice or copy of a thing must or may be given to the accused person under this chapter division, it is sufficient for—

(a) a document advising that the written notice or copy of the thing is available for collection at a stated place to be served on the accused person—

(i) if a lawyer acts for the accused person—at the lawyer's address for service; or

(ii) otherwise—at the accused person's place of business, or residential address, last known to the prosecution; and

(b) the written notice or copy of the thing to be available for collection at the stated place.

(2) If notice of a thing must or may be given to the accused person under this chapter division, it is sufficient for notice to be given in a way the prosecution considers appropriate.

Example—

If the prosecution considers it appropriate, notice may be given by phone to the lawyer acting for the accused person or in writing made available under subsection (1).

Chapter subdivision D Limitations on disclosure

590AN Limit on disclosure of things accused person already has

The prosecution is not, for a relevant proceeding, required under this chapter division to give the accused person anything the accused person or a lawyer acting for the accused person already possesses or has already been given by the prosecution.

Example—

The prosecution is not required to give the accused person a copy of a complaint or indictment already given to the accused person or a copy of depositions already given to the accused person under section 705.

590AO Limit on disclosure of sensitive evidence

(1AA) This section does not apply to an Evidence Act section 93A device statement.

(1) The prosecution is not, for a relevant proceeding, required under this chapter division to give the accused person a copy of a thing the prosecution reasonably considers to be sensitive evidence other than as required under this section.

(2) If—

(a) apart from this section, the prosecution would have to give the accused person a copy of the thing; and

(b) the prosecution does not give the accused person a copy of the thing;

then the prosecution must give the accused person a written notice—

(c) describing the thing; and

(d) stating that the prosecution—

(i) considers the thing to be sensitive evidence; and

(ii) is not required to give the accused person a copy of the thing other than as required under this section; and

(e) if the thing is not original evidence, stating the place where the accused person may, on request, view the thing for the purposes of the relevant proceeding; and

(f) if the thing is original evidence, stating that the prosecution may, on request, allow an appropriate person to view and examine the thing for the purposes of the relevant proceeding at a stated place—

(i) under the supervision of the prosecution; and

(ii) subject to any other conditions the prosecution considers appropriate to ensure—

(A) the thing will only be viewed and examined for a legitimate purpose connected with the relevant proceeding; and

(B) there is no unauthorised reproduction or circulation of the thing; and

(C) the integrity of the thing is protected.

(3) If the thing is original evidence, the court may direct that the prosecution allow an appropriate person to view and examine the thing for the purposes of the proceeding subject to the conditions the court considers appropriate.

(4) The court may make the direction under subsection (3) only if the court is satisfied the terms of the direction can ensure—

(a) the thing will only be viewed and examined for a legitimate purpose connected with the relevant proceeding; and

(b) there is no unauthorised reproduction or circulation of the thing; and

(c) the integrity of the thing is protected.

(5) Also, the court may direct that the prosecution give the accused person a copy of the thing (whether or not the thing is original evidence).

(6) The court may make the direction under subsection (5) only if—

(a) the accused person satisfies the court a legitimate purpose is achieved by the accused person being given a copy of the thing; and

(b) the court is satisfied the terms of the direction can ensure there is no unauthorised reproduction or circulation of the thing.

(7) If, under subsection (5), the court directs the prosecution to give the accused person a copy of the thing, the court may also direct that the accused person return the copy of the thing to the prosecution within the period stated in the direction to the accused person.

(8) In this section—

appropriate person means—

(a) the accused person; or

(b) a lawyer acting for the accused person; or

(c) another person engaged by the accused person if the prosecution or court considers it is appropriate for the other person to view or examine the thing.

590AOA Evidence Act section 93A device statement

(1) The prosecution is not, for a relevant proceeding, required under this chapter division to give the accused person a copy of an Evidence Act section 93A device statement (the ***statement***) other than as required under this section.

(2) If—

(a) apart from this section, the prosecution would have to give the accused person a copy of the statement; and

(b) the prosecution does not give the accused person a copy of the statement;

then the prosecution must give the accused person a written notice—

(c) describing the statement; and

(d) stating that the prosecution—

(i) considers the statement to be an Evidence Act section 93A device statement; and

(ii) is not required to give the accused person a copy of the statement other than as required under this section; and

(e) stating the matters mentioned in subsection (3) or (6), whichever is applicable.

(3) If the accused person has a lawyer acting for him or her, the notice must state that the prosecution will give a lawyer acting for the accused person a copy of the statement (the ***copy***) on the following conditions—

(a) that the lawyer must not give the copy to the accused person or anyone else other than the following—

(i) a lawyer acting for the accused person or to whom the copy is referred for particular advice;

(ii) a person, other than a lawyer, to whom the copy is referred for particular expert advice;

(iii) an associate of the lawyer to the extent necessary for work to be done for the lawyer in relation to the relevant proceeding or a proceeding for a relevant charge in the ordinary practice of the law;

(b) that any lawyer acting for the accused person, other than the lawyer to whom the prosecution gives the copy, must not give the copy to the accused person or anyone else other than the persons mentioned in paragraph (a)(ii) or (a)(iii);

(c) that a person who is given the copy under paragraph (a) or (b), other than a lawyer mentioned in the paragraph, must not give the copy to the accused person or anyone else who is not a lawyer acting for the accused person;

(d) that the copy held by the lawyer to whom it was given by the prosecution, or held by anyone else to whom the copy has been given under this section—

(i) must not be copied; and

(ii) must be returned to the prosecution within 14 days after—

(A) the lawyer or other person stops being someone who may be given the copy under this section; or

Example—

A lawyer may stop acting for the accused person.

(B) the end of the proceedings for the relevant charge;

(e) that the copy may only be given to another person in accordance with the conditions mentioned in paragraphs (a) to (d) for a legitimate purpose connected with the relevant proceeding or a proceeding for a relevant charge.

(4) If the original statement is a visual image device and the copy to be given by the prosecution under the notice is only a sound

device, the court may direct the prosecution to give a copy that is a visual image device.

(5) The court may make a direction under subsection (4) only if it is satisfied the terms of the direction can ensure—

(a) the copy will only be viewed for a legitimate purpose connected with the relevant proceeding; and

(b) there is no unauthorised copying or circulation of the copy.

(6) If the accused person does not have a lawyer acting for him or her, the notice must state that—

(a) the prosecution will not give the statement (whether the original or copy) to the accused person; and

(b) the prosecution will, on request, allow an appropriate person to view the statement, either the original or a copy as stated in the notice for the purposes of the relevant proceeding at a stated place.

(7) If the prosecution refuses to accept a person, nominated by the accused person under paragraph (c) of the definition *appropriate person*, as an appropriate person for subsection (6)(b), the court may direct the prosecution to accept the person as an appropriate person for subsection (6)(b), subject to the conditions the court considers appropriate.

(8) The court may make the direction under subsection (7) only if the court is satisfied the terms of the direction can ensure—

(a) the statement will only be viewed for a legitimate purpose connected with the relevant proceeding; and

(b) there is no unauthorised copying or circulation of the statement; and

(c) if the original statement is to be viewed—the integrity of the statement is protected.

(9) A person who does an act mentioned in the *Evidence Act 1977*, section 93AA(1)(a) to (c) in contravention of a

condition imposed by a notice under subsection (3) or a direction under subsection (5) or (7)—

(a) does the act without authority; and

(b) commits an offence against that section.

(10) For subsection (3)(d)(i) or (8)(b), it is declared that the making of a transcript of the contents of the statement is not the making of a copy of the statement to which the *Evidence Act 1977*, section 93AA(1)(c) applies.

(11) In this section—

appropriate person means—

(a) the accused person; or

(b) a lawyer mentioned in the *Evidence Act 1977*, section 21O(4); or

(c) another person engaged by the accused person if the prosecution or court considers it is appropriate for the other person to view the thing.

Examples of persons prosecution may consider appropriate—

- interpreter
- expert

associate of a lawyer means an associate of the law practice, of the lawyer, as defined under the *Legal Profession Act 2007*, section 7(1)(a) or (c).

copy, of the statement, in subsections (3) and (6) means a copy of the original statement in the form of—

(a) a device of similar function to the original device containing a copy of the statement; or

(b) if the original statement is in the form of a visual image device—any sound device capable of reproducing a soundtrack of the visual image device;

and includes any additional copy provided by the prosecution for convenience.

end of proceedings, in relation to a relevant charge, means the latest of the following—

(a) if a trial is not conducted that disposes of the charge—the discharge, striking out, withdrawal, entry of nolle prosequi, quashing, staying or other event by which the proceedings end;

(b) if a trial is conducted that disposes of the charge—

(i) if the trial ends without a finding of guilt—the end of the trial; or

(ii) if the trial ends with a finding of guilt—the end of any period allowed for appeal against the finding of guilt; or

(iii) if an appeal is started against the finding of guilt—the end of the appeal and the end of any further proceedings.

Note—

This definition covers circumstances where a copy of a statement is held beyond committal to the resulting trial and beyond any mistrial or appeal to later trial.

relevant charge means the charge against the accused in the relevant proceeding, and includes any replacement or further charge arising out of the proceeding or the same, or same set of, circumstances.

sound device means a device mentioned in section 590AFA(b)(i).

visual image device means a device mentioned in section 590AFA(b)(ii).

590AP Limit on disclosure of witness contact details

(1) The prosecution is not, for a relevant proceeding, required under this chapter division to give the accused person a witness contact detail other than as required under this section.

(2) The prosecution must give the accused person a witness contact detail that is materially relevant as part of the evidence for the relevant proceeding.

Example 1—

If the alleged offence is breaking and entering a dwelling and a proposed witness was the occupant of the dwelling when the offence allegedly happened, the address of the proposed witness when the offence allegedly happened would be materially relevant as part of the evidence.

Example 2—

If the alleged offence is unlawful stalking involving contacting the stalked person by telephone, the telephone number of the stalked person when the offence allegedly happened would be materially relevant as part of the evidence.

(3) However, the court may direct that another witness contact detail be given to the accused person.

(4) The court may make the direction only if—

(a) the accused person satisfies the court a legitimate purpose is achieved by the witness contact detail being given to the accused person; and

(b) the court is satisfied that giving the detail is not likely to present a reasonably ascertainable risk to the welfare or protection of any person.

(5) A witness contact detail the prosecution is not required to give the accused person may be deleted from, or rendered illegible in, a thing that is to be disclosed to, or may be viewed by, the accused person.

(6) Although it is acknowledged that a person is not obliged to have contact with the defence, nothing in this section is intended to discourage the prosecution, at the request of the defence, from voluntarily passing on to a person a request from the defence that the person contact the defence.

(7) In this section—

witness contact details include details of the address and telephone and facsimile number of a proposed witness for the

prosecution or a person a copy of whose statement may be given to the accused person under section 590AJ(2)(e).

590AQ Limit on disclosure contrary to the public interest

(1) The prosecution is not, for a relevant proceeding, required under this chapter division to disclose to the accused person a thing, other than as required under this section, if the prosecution—

(a) considers the disclosure would be contrary to the public interest; and

(b) gives the accused person a written notice stating that the prosecution—

(i) considers the disclosure would be contrary to the public interest; and

(ii) is not required to disclose the thing to the accused person other than as required under this section.

(2) Without limiting subsection (1)(a), the prosecution is not required to disclose the thing to the accused person if—

(a) there are reasonable grounds for considering disclosure of the thing would—

(i) prejudice the security, defence or international relations of Australia; or

(ii) damage relations between the Commonwealth and a State or between 2 or more States; or

(iii) facilitate the commission of another offence; or

(iv) prejudice the prevention, investigation or prosecution of an offence; or

(v) prejudice the usefulness of surveillance or other detection methods; or

(vi) disclose, or enable a person to find out, the existence or identity of a confidential source of information relating to the enforcement or

administration of a law of the Commonwealth or a State; or

(vii) cause unlawful or dishonest interference with potential witnesses; or

(viii) prejudice the proper functioning of the government of the Commonwealth or a State; or

(b) disclosure of the thing to the accused person is prohibited by law.

Example for paragraph (b)—

disclosure of an informer's identity under the *Drugs Misuse Act 1986*, section 119

(3) However, unless disclosure to the accused person of the thing is prohibited by law, the court may direct that the thing be disclosed to the accused person.

(4) The court may make a direction only if the court is satisfied, on balance, that disclosing the thing to the accused person is not contrary to the public interest.

(5) In deciding whether to make a direction, the court may inform itself in any way it considers appropriate.

(6) Without limiting the matters the court may take into account in deciding whether to make a direction, the court must take into account the following matters—

(a) the importance of the thing in the relevant proceeding, including, for example, whether the thing is an exculpatory thing;

(b) the nature of the offence;

(c) the likely effect of disclosing the thing and how publication of the thing may be limited;

(d) whether the substance of the thing has already been published.

(7) In this section—

State includes a Territory.

Chapter subdivision E Viewing

590AR Viewing evidence that is not original evidence

If—

(a) advice is given under section 590AJ(3); or

(b) notice is given under section 590AO(2)(e) or 590AOA(6);

of a place where the accused person or appropriate person may, on request, view a thing, the prosecution must allow the accused person or appropriate person, on request, to view the thing at the place for the purposes of the relevant proceeding.

590AS Viewing particular evidence

(1) This section applies if a thing that is original evidence and that is not sensitive evidence or an Evidence Act section 93A device statement is disclosed to an accused person under section 590AH(2)(i) or 590AJ.

Editor's note—

For viewing of original evidence that is sensitive evidence, see section 590AO(2)(f), (3) and (4).

(2) The prosecution is not required to allow the accused person to view or examine the thing for the relevant proceeding other than as required under this section.

(3) The prosecution may, on request, allow an appropriate person to view or examine the thing for the purposes of the relevant proceeding—

(a) under the supervision of the prosecution; and

(b) subject to any other conditions the prosecution considers appropriate to protect the integrity of the thing.

(4) Also, the court may direct that the prosecution allow an appropriate person to view and examine the thing for the

purposes of the proceeding subject to the conditions the court considers appropriate to protect the integrity of the thing.

(5) The court may make the direction only if the court is satisfied the terms of the direction can ensure the integrity of the thing is protected.

(6) In this section—

appropriate person means—

(a) the accused person; or

(b) a lawyer acting for the accused person; or

(c) another person engaged by the accused person if the prosecution or court considers it is appropriate for the other person to view or examine the thing.

Chapter subdivision F Miscellaneous provisions

590AT Accused person may waive entitlement

(1) An accused person may waive any or all entitlements the accused person would otherwise have under this chapter division.

(2) The waiver must be in writing and be given to the prosecution.

590AU Court may waive requirement

A court may waive any requirement imposed by this chapter division in relation to a relevant proceeding if it is satisfied there is a good reason for waiving the requirement and that waiving the requirement will not result in a miscarriage of justice.

590AV Disclosure directions under particular provisions

(1) The court may make a disclosure direction on the court's own initiative or on an application made by the accused person.

(2) The court may make a disclosure direction on the conditions, whether about the circumstances of disclosure or otherwise, it considers appropriate.

(3) Without limiting subsection (2), the court may make a disclosure direction on condition that—

(a) partial disclosure only be made; or

(b) disclosure only be made to a lawyer acting for the accused person; or

(c) particular persons are excluded from the room in which the court is sitting for all or part of the proceedings; or

(d) reporting of the proceedings be limited in a particular way.

(4) In this section—

disclosure direction means a direction for a relevant proceeding under section 590AO, 590AOA, 590AP, 590AQ or 590AS.

590AW When issues about disclosure must be resolved

Any issue about compliance with this chapter division must, if possible, be resolved before evidence starts to be heard at the relevant proceeding.

590AX Unauthorised copying of sensitive evidence

(1) A person in possession of sensitive evidence for the purposes of a relevant proceeding commits an offence if, without authority, the person copies or permits a person to copy the sensitive evidence.

Maximum penalty—100 penalty units or 2 years imprisonment.

(2) A person has possession of sensitive evidence for the purposes of a relevant proceeding only if—

(a) the sensitive evidence was given to the person under this chapter division; or

(b) the sensitive evidence came into the person's possession directly or incidentally, including by an opportunity given, because the person is a public official.

(3) A person has authority only if the person copies or permits a person to copy sensitive evidence for a legitimate purpose connected with a proceeding.

(4) In this section—

public official includes—

(a) a police officer; and

(b) a person appointed, engaged or employed under the *Director of Public Prosecutions Act 1984*.

Chapter division 4 Disclosure by an accused person

590A Notice of alibi

(1) An accused person shall not upon the person's trial on indictment, without the leave of the court, adduce evidence in support of an alibi unless, before the expiration of the prescribed period, the person gives notice of particulars of the alibi.

(2) An accused person shall not upon the person's trial on indictment, without the leave of the court, call any other person to give evidence in support of an alibi unless—

(a) the notice under subsection (1) includes the name and address of the person or, if the name or address is not known to the accused person at the time the accused person gives the notice, any information in the accused person's possession that may be of material assistance in locating the person; or

(b) where the name or address is not included in the notice, the court is satisfied that the accused person, before giving the notice, took and thereafter continued to take all reasonable steps to secure that the name or address would be ascertained; or

(c) where the name or address is not included in the notice and the accused person subsequently discovers the name or address or receives other information that may be of material assistance in locating the person, the accused person gives notice forthwith of the name, address or, as the case may be, other information; or

(d) where the accused person is notified by or on behalf of the director of public prosecutions that the person has not been traced by the name or located at the address given, the accused person gives notice forthwith of any information then in the accused person's possession or subsequently received by the accused person that may be of material assistance in locating the person.

(3) The court shall not refuse leave under this section if it appears to the court that the accused person was not, upon the accused person's committal for trial, informed by the justices of the requirements of this section.

(4) Evidence tendered to disprove an alibi may, subject to a direction by the court, be given before or after evidence is given in support of the alibi.

(5) A notice purporting to be given under this section on behalf of the accused person by the person's solicitor shall, until the contrary is proved, be deemed to be given with the authority of the accused person.

(6) A notice under this section—

(a) shall be in writing; and

(b) shall be given to the director of public prosecutions; and

(c) shall be duly given if it is delivered to or left at the Office of the Director of Public Prosecutions or sent by

certified mail addressed to the director of public prosecutions at the director's office.

(7) In this section—

evidence in support of an alibi means evidence tending to show that by reason of the presence of the accused person at a particular place or in a particular area at a particular time the accused person was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission.

the prescribed period means the period of 14 days after the date of the committal for trial of the accused person.

590B Advance notice of expert evidence

(1) If an accused person intends to adduce expert evidence in relation to an issue in the person's trial, the person must—

(a) as soon as practicable—give the other parties to the trial written notice of the name of the expert, and any finding or opinion he or she proposes to adduce; and

(b) as soon as practicable before the trial date—give the other parties to the proceeding a copy of the expert report on which the finding or opinion is based.

(2) The directions judge under section 590AA or trial judge may fix times for compliance with subsection (1).

590C Advance notice of representation if person who made it is unavailable

(1) If an accused person intends to adduce evidence of a representation under the *Evidence Act 1977*, section 93B, the accused person must, as soon as practicable before the person's trial date, give each of the other parties to the trial written notice of the person's intention.

(2) The notice must state—

(a) the accused person intends to adduce evidence of a representation under the *Evidence Act 1977*, section 93B; and

(b) the name of the person with personal knowledge of an asserted fact who made a representation and the reason the person is unavailable to give evidence about the asserted fact; and

(c) the name of the person who saw, heard or otherwise perceived the representation; and

(d) details of the representation and the circumstances in which it was made.

(3) The directions judge under section 590AA or trial judge may fix a time for compliance with subsection (1).

Chapter division 4A Disclosure obligation directions

590D Purpose and scope of ch div 4A

(1) This chapter division makes particular provision for disclosure obligation directions.

(2) This chapter division does not affect—

(a) any other power a court has in relation to a failure to comply with a disclosure obligation, including, for example, to exclude evidence if it would be unfair to an accused person to admit the evidence; or

(b) any other action that may be taken against a party in relation to a failure to comply with a disclosure obligation.

(3) This chapter division does not limit the making of practice directions by the Chief Justice or Chief Judge about disclosure in a proceeding.

590E Definitions for ch div 4A

In this chapter division—

arresting officer has the same meaning it has in chapter division 3.

disclosure obligation means—

(a) the obligation of the prosecution, for the purposes of a relevant proceeding under chapter division 3, to comply with the requirements of that chapter division for disclosure, other than the obligation to comply with a disclosure direction as defined in section 590AV; or

(b) the obligation of an accused person to comply with requirements of chapter division 4 for disclosure.

disclosure obligation direction means a direction or ruling under section 590AA(2)(ba), to the extent it relates to compliance with a disclosure obligation.

party, to a proceeding, means—

(a) an accused person who is charged with an offence the subject of the proceeding; or

(b) the prosecution in relation to an offence the subject of the proceeding.

prosecution has the same meaning it has in chapter division 3.

590F Subject matter for disclosure obligation direction

(1) A disclosure obligation direction may provide for any of the following—

(a) whether a party to a proceeding has a disclosure obligation in relation to another party to the proceeding;

(b) requiring that a particular thing must be disclosed;

(c) allowing the court to inspect a particular thing to decide whether the court should further direct that a party has a disclosure obligation in relation to the thing;

(d) allowing the court to examine the arresting officer to decide whether the prosecution has a disclosure obligation in relation to a particular thing;

(e) requiring that the arresting officer file an affidavit to allow the court to decide whether the prosecution has a disclosure obligation in relation to a particular thing;

(f) allowing the accused person or a lawyer acting for the accused person to cross-examine the arresting officer on an affidavit mentioned in paragraph (e) to allow the court to decide whether the prosecution has a disclosure obligation in relation to a particular thing;

(g) how a disclosure obligation is to be complied with in a particular case;

(h) setting a timetable for compliance with a disclosure obligation.

(2) Subsection (1) does not limit section 590AA(2)(ba).

(3) The court may make a disclosure obligation direction on the conditions, whether about the circumstances of disclosure or otherwise, it considers appropriate.

(4) If a date is set for the commencement of the hearing of evidence in the proceeding, any examination or cross-examination allowed for in a disclosure obligation direction must be conducted before that date.

(5) If a person is examined by the court as provided for in subsection (1)(d), required to file an affidavit as provided for in subsection (1)(e) or cross-examined as provided for in subsection (1)(f), the person is not excused from failing to answer a question or file an affidavit on the ground that the answer or affidavit might tend to incriminate the person because the person would be required to admit to a failure to comply with a disclosure obligation.

(6) However, the answer or affidavit is not admissible against the person in a criminal proceeding, other than a perjury proceeding in relation to the answer or affidavit.

(7) In this section—

perjury proceeding, in relation to an answer or affidavit, means a proceeding in which the falsity or misleading nature of the answer or affidavit is relevant.

590G Application for disclosure obligation direction

(1) The procedures applying in relation to an application under section 590AA(1) by a party to a proceeding for a disclosure obligation direction are stated in the *Criminal Practice Rules 1999*, chapter 9A.

(2) To the greatest practicable extent, the procedures apply in addition to, and do not limit, the procedures applying under the *Criminal Practice Rules 1999*, chapter 9.

(3) The existence of the procedures mentioned in subsection (1) is not intended to stop either party to a proceeding from writing to, or otherwise communicating information to, the other party to resolve issues arising over a disclosure obligation.

Chapter division 5 Bringing on trial and ordering adjournment

591 Accelerating trial of persons not under committal

When an indictment is presented in any court against any person who has not been committed for trial or held to bail upon the charge set forth in the indictment, and the accused person is not brought to trial within a year after the indictment is presented, the court may, upon the application of the accused person or any of the accused persons, if more than 1, authorise the accused person to bring on the trial, and the accused person may bring on the trial accordingly, unless in the meantime the court is informed that the Crown will not further proceed upon the indictment.

592 Adjournment of trial

(1) The court to which a person has been committed or remanded for trial on indictment or before which an indictment is presented may, if it thinks fit, adjourn the trial and may remand the accused person accordingly.

(1A) A trial may be adjourned whether or not—

(a) the accused person is present; or

(b) the accused person has been called upon to plead to the indictment; or

(c) a jury has been sworn; or

(d) evidence has been given.

(2) The Crown shall, where it is proposed to make application for an adjournment in the absence of an accused person who is detained in a place of legal detention, notify in writing that accused person—

(a) that the application is to be made and the nature, date, time and place thereof; and

(b) that the accused person may furnish to the court a statement in writing in relation to the application; and

(c) that the accused person may be represented by counsel on the hearing of the application.

(3) For the purposes of this section—

adjourn the trial includes postpone the trial in a case where the accused person has not been called upon to plead to the indictment.

593 Directions as to trial upon adjournment

(1) Where the trial of a person charged or to be charged with an offence on indictment is adjourned, the court in open court may direct the trial to be held at a later sittings of the same court or before some other court of competent jurisdiction.

(1A) Upon a direction in the latter case, the indictment and other proceedings shall be transmitted by the proper officer of the court giving the direction to the proper officer of the court to which the accused person is remanded and the latter court has the same jurisdiction to try the accused person as if the person had been committed originally to be tried before it.

(2) Where the court directs a trial to be held at a later sittings of the same court, it shall at the same time pronounce the time and place for the commencement of the sittings to which the trial is adjourned.

593A Warrant to bring witness before court

(1) This section applies if an indictment has been presented against a person before a court.

(2) If the court is satisfied by evidence on oath that—

(a) a witness has evaded service of a subpoena; or

(b) a witness is likely to evade service of a subpoena;

the court may make an order for the issue of a warrant to bring the witness before the court at a time and place stated in the warrant.

Chapter division 6 Corporation as accused person

594A Presence in court and plea where accused person is a corporation

(1) Where an indictment is presented against a corporation in respect of an indictable offence, the corporation may be present in court by its representative and it may, on arraignment, enter a plea in writing by its representative.

(1A) Any plea so entered by the representative shall for all purposes be taken to be a plea entered by the corporation.

(2) If the corporation is not present in court by its representative or if, though it is so present, it does not enter a plea in writing by its representative, the court shall order a plea of not guilty to be entered on behalf of the corporation.

(2A) A plea so entered has the same effect as if it had been actually pleaded, and the trial of the corporation may proceed accordingly.

(3) In respect of a trial, any requirement by law that anything shall be done in the presence of the accused person or shall be read or said to or asked of the accused person shall, in the case of a corporation present in court by its representative, be construed as a requirement that that thing shall be done in the presence of the representative or read or said to or asked of the representative.

(3A) If the corporation is not present in court by its representative, it shall not be necessary for the thing to be done or read or said or asked.

(4) Where, in respect of a trial, anything is required to be done or said by the accused person personally, it may, in the case of a corporation present in court by its representative, be done or said by the representative, and anything so done or said shall for all purposes be taken to be done or said by the corporation.

(4A) Nothing contained in subsection (4) limits the provisions of subsection (1) or (1A) or the provisions of section 616.

(5) In this section—

representative means a person appointed by the corporation to represent it for the purposes of this section; but a person so appointed is not, by virtue only of being so appointed, qualified to act on behalf of the corporation before the court for any other purpose.

(6) A representative need not be appointed under the seal of the corporation; and a statement in writing purporting to be signed by a managing director of the corporation or by any other person (by whatever name called) having, or being one of the persons having, the management of the affairs of the

corporation to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this section shall be admissible without further proof as prima facie evidence that that person has been so appointed.

Chapter division 7 Applications by accused person about indictment

595 Delivery of copy of indictment

When an indictment is presented against any person, the court is required, upon the person's application, to order a copy of the indictment to be delivered to the person without fee.

596 Motion to quash indictment

(1) The accused person may before pleading apply to the court to quash the indictment on the ground that it is calculated to prejudice or embarrass the person in the person's defence to the charge, or that it is formally defective.

(2) Upon such motion the court may quash the indictment, or may order it to be amended in such manner as the court thinks just, or may refuse the motion.

597 Misnomer

If the accused person says that the person is wrongly named in the indictment, the court may, on being satisfied by affidavit or otherwise of the error, order the indictment to be amended.

Chapter division 8 Separate trials

597A Separate trials where 2 or more charges against the same person

(1) Where before a trial or at any time during a trial the court is of opinion that the accused person may be prejudiced or embarrassed in the person's defence by reason of the person's being charged with more than 1 offence in the same indictment or that for any other reason it is desirable to direct that the person should be tried separately for any 1 or more than 1 offence charged in an indictment the court may order a separate trial of any count or counts in the indictment.

(1AA) In considering potential prejudice, embarrassment or other reason for ordering separate trials under this provision in relation to alleged offences of a sexual nature, the court must not have regard to the possibility that similar fact evidence, the probative value of which outweighs its potentially prejudicial effect, may be the result of collusion or suggestion.

(1A) The court may discharge a jury sworn from giving a verdict on the count or counts directed to be tried separately.

(2) The procedure on the separate trial of a count shall be the same in all respects as if the count had been set out in a separate indictment.

(3) The court may adjourn a separate trial, remand the accused person and make such orders as to bail and otherwise as the court thinks fit.

(4) For the purposes of this section—

adjourn a separate trial includes postpone a separate trial in a case where the accused person has not been called upon to plead to a count in an indictment.

597B Separate trials

When 2 or more persons are charged in the same indictment, whether with the same offence or with different offences, the

court may, at any time during the trial, on the application of any of the accused persons, direct that the trial of the accused persons or any of them shall be had separately from the trial of the other or others of them, and for that purpose may, if a jury has been sworn, discharge the jury from giving a verdict as to any of the accused persons.

Chapter division 9 Pleas

597C Accused person to be called on to plead to indictment

(1) On the presentation of the indictment or at any later time, the accused person is to be informed in open court of the offence with which he or she is charged, as set forth in the indictment, and is to be called upon to plead to the indictment, and to say whether he or she is guilty or not guilty of the charge.

(2) If the indictment contains more than one count, a plea to any number of counts may, with the consent of the accused person, be taken at one and the same time on the basis that the plea to one count will be treated as a plea to any number of similar counts on the same indictment.

(3) The trial is deemed to begin and the accused person is deemed to be brought to trial when the person is so called upon.

(4) The court may allow anything that must or may be done in relation to the arraignment of the accused person to be done over an audiovisual link or audio link, if the prosecutor and the accused person agree to the use of the link.

(5) For subsection (4), anything done, for the accused person's arraignment, over an audiovisual link or audio link between the person and the court sitting in open court is taken to be done in open court.

(6) The provisions of the *Evidence Act 1977* relating to the use of an audiovisual link or audio link in criminal proceedings apply for, and are not limited by, subsection (4).

598 Pleas

(1) If the accused person does not apply to quash the indictment or move for a separate trial of any count or counts of the indictment, the person must either plead to it, or demur to it on the ground that it does not disclose any offence cognisable by the court.

(2) If the accused person pleads, the person may plead either—

(a) that the person is guilty of the offence charged in the indictment, or, with the consent of the Crown, of any other offence of which the person might be convicted upon the indictment; or

(b) that the person is not guilty; or

(c) that the person has already been convicted upon an indictment on which the person might have been convicted of the offence with which the person is charged, or has already been convicted of an offence of which the person might be convicted upon the indictment; or

(d) that the person has already been acquitted upon an indictment on which the person might have been convicted of the offence with which the person is charged, or has already been acquitted upon indictment of an offence of which the person might be convicted upon the indictment; or

(e) that the person has already been tried and convicted or acquitted of an offence committed or alleged to be committed under such circumstances that the person can not under the provisions of this Code be tried for the offence charged in the indictment; or

(f) that the person has received the Royal pardon for the offence charged in the indictment; or

(g) that the court has no jurisdiction to try the person for the offence.

(3) Two or more pleas may be pleaded together, except that the plea of guilty can not be pleaded with any other plea to the same charge.

(4) An accused person may plead and demur together.

599 Defence of justification for defamation to be specially pleaded

A person charged with the offence defined in section 365, who sets up as a defence the modified statutory defence of justification within the meaning of that section, must plead that defence specially, and may plead it with any other plea, except the plea of guilty.

600 Persons committed for sentence

(1) When a person has been committed by a justice for sentence for an offence, the person is to be called upon to plead to the indictment in the same manner as other persons, and may plead either that the person is guilty of the offence charged in the indictment or, with the consent of the Crown, of any other offence of which the person might be convicted upon the indictment.

(2) If the person pleads not guilty, the court, upon being satisfied that the person duly admitted before the justice that the person was guilty of the offence charged in the indictment, is to direct a plea of guilty to be entered, notwithstanding the person's plea of not guilty.

(3) A plea so entered has the same effect as if it had been actually pleaded.

(4) If the court is not so satisfied, or if, notwithstanding that the accused person pleads guilty, it appears to the court upon examination of the depositions of the witnesses that the person has not in fact committed the offence charged in the indictment or any other offence of which the person might be convicted upon the indictment, the plea of not guilty is to be

entered, and the trial is to proceed as in other cases when that plea is pleaded.

(5) A person who has been committed for sentence may plead any of the other pleas mentioned in section 598.

601 Standing mute

(1) If an accused person, on being called upon to plead to an indictment, will not plead or answer directly to the indictment, the court may, if it thinks fit, order a plea of not guilty to be entered on behalf of the accused person.

(2) A plea so entered has the same effect as if it had been actually pleaded.

602 Plea of autrefois convict or autrefois acquit

In a plea that the accused person has already been convicted or acquitted, it is sufficient to state that the accused person has been lawfully convicted or acquitted, as the case may be, of the offence charged in the indictment, or of the other offence of which the person alleges that the person has been convicted or acquitted, and, in the latter case, to describe the offence by any term by which it is commonly known.

603 Trial on plea to the jurisdiction

Upon a plea to the jurisdiction of the court, the court is to proceed to satisfy itself in such manner and upon such evidence as it thinks fit, whether it has jurisdiction or not, and may ascertain the fact by the verdict of a jury or otherwise.

604 Trial by jury

(1) Subject to chapter division 9A and subsection (2), if the accused person pleads any plea or pleas other than the plea of guilty, a plea of autrefois acquit or autrefois convict or a plea to the jurisdiction of the court, the person is by such plea,

without any further form, deemed to have demanded that the issues raised by such plea or pleas shall be tried by a jury, and is entitled to have them tried accordingly.

(2) Issues raised by a plea of autrefois acquit or autrefois convict must be tried by the court.

605 Demurrer

(1) When an accused person demurs only and does not plead any plea, the court is to proceed to hear and determine the matter forthwith.

(2) If the demurrer is overruled, the accused person is to be called upon to plead to the indictment.

(3) When an accused person pleads and demurs together, it is in the discretion of the court whether the plea or demurrer shall be first disposed of.

(4) No joinder in demurrer is necessary.

613 Want of understanding of accused person

(1) If, when the accused person is called upon to plead to the indictment, it appears to be uncertain, for any reason, whether the person is capable of understanding the proceedings at the trial, so as to be able to make a proper defence, a jury of 12 persons, to be chosen from the panel of jurors, are to be empanelled forthwith, who are to be sworn to find whether the person is so capable or no.

(2) If the jury find that the accused person is capable of understanding the proceedings, the trial is to proceed as in other cases.

(3) If the jury find that the person is not so capable they are to say whether the person is so found by them for the reason that the accused person is of unsound mind or for some other reason which they shall specify, and the finding is to be recorded, and the court may order the accused person to be discharged, or may order the person to be kept in custody in such place and

in such manner as the court thinks fit, until the person can be dealt with according to law.

(4) A person so found to be incapable of understanding the proceedings at the trial may be again indicted and tried for the offence.

Chapter division 9A Trial by judge alone

614 Application for order

(1) If an accused person is committed for trial on a charge of an offence or charged on indictment of an offence, the prosecutor or the accused person may apply to the court for an order (***no jury order***) that the accused person be tried by a judge sitting without a jury.

(2) The application must be made under section 590AA before the trial begins.

(3) If the identity of the trial judge is known to the parties when the application is decided, a no jury order may be made only if the court is satisfied there are special reasons for making it.

(4) Subsection (3) does not limit section 615 or any other restriction on making a no jury order imposed by this chapter division.

(5) The court may inform itself in any way it considers appropriate in relation to the application.

(6) For subsection (2), the trial begins when the jury panel attends before the court.

615 Making a no jury order

(1) The court may make a no jury order if it considers it is in the interests of justice to do so.

(2) However, if the prosecutor applies for the no jury order, the court may only make the no jury order if the accused person consents to it.

(3) If the accused person is not represented by a lawyer, the court must be satisfied that the accused person properly understands the nature of the application.

(4) Without limiting subsection (1), (2) or (3), the court may make a no jury order if it considers that any of the following apply—

(a) the trial, because of its complexity or length or both, is likely to be unreasonably burdensome to a jury;

(b) there is a real possibility that acts that may constitute an offence under section 119B would be committed in relation to a member of a jury;

(c) there has been significant pre-trial publicity that may affect jury deliberations.

(5) Without limiting subsection (1), the court may refuse to make a no jury order if it considers the trial will involve a factual issue that requires the application of objective community standards including, for example, an issue of reasonableness, negligence, indecency, obscenity or dangerousness.

615A More than 1 charge or accused person

(1) If an accused person is charged with 2 or more charges that are to be tried together, the court must not make a no jury order in relation to 1 of the charges unless the court also makes a no jury order in relation to each other charge.

(2) If 2 or more accused persons are to be tried together, the court must not make a no jury order in relation to 1 of the accused persons unless the court also makes a no jury order in relation to each other accused person.

(3) To remove any doubt, it is declared that—

(a) each of the accused persons must consent to the making of the no jury order; and

(b) the making of an order for a separate trial under section 597A or the giving of a direction about the separate trial of an accused person under section 597B does not prevent the making of a no jury order.

615B Law and procedure to be applied

(1) In a trial by a judge sitting without a jury, the judge must apply, so far as is practicable, the same principles of law and procedure as would be applied in a trial before a jury.

(2) In a trial by a judge sitting without a jury, the judge may view a place or thing.

(3) If an Act or the common law—

(a) requires information or a warning or instruction to be given to the jury in particular circumstances; or

(b) prohibits a warning from being given to a jury in particular circumstances;

the judge in a trial by a judge sitting without a jury must take the requirement or prohibition into account if the circumstances arise in the course of the trial.

615C Judge's verdict and judgment

(1) In a trial by a judge sitting without a jury—

(a) the judge may make any findings and give any verdict that a jury could have made or given if the trial had been before a jury; and

(b) any finding or verdict of the judge has, for all purposes, the same effect as a finding or verdict of a jury.

(2) Without limiting subsection (1), chapter 67 applies with all necessary changes in relation to a person to be tried, being tried, or tried by a judge sitting without a jury in the same way as it applies to persons tried by a judge sitting with a jury.

(3) The judgment of the judge in a trial by a judge sitting without a jury must include the principles of law that he or she has applied and the findings of fact on which he or she has relied.

(4) The validity of the proceeding is not affected by a trial judge's failure to comply with subsection (3).

615D Particular proceedings excluded from application

This chapter division does not apply to—

(a) a trial on indictment before a Childrens Court judge; or

Note—

See also *Youth Justice Act 1992*, part 6.

(b) a trial on indictment of any offence against a law of the Commonwealth.

615E References to trial by jury

(1) In an Act, a reference to the trial of a person by jury, however expressed, includes, unless the contrary intention appears, a reference to the trial of the person by a judge sitting without a jury under this chapter division.

(2) In an Act, a reference to a jury in the trial of a person, however expressed, includes, unless the contrary intention appears, a reference to a judge sitting without a jury under this chapter division.

Chapter division 10 Appearances and fair conduct

616 Defence by counsel

(1) Every person charged with an offence is entitled to make the person's defence at the person's trial and to have the witnesses examined and cross-examined by the person's counsel.

(2) In this section—

counsel includes any person entitled to audience as an advocate.

617 Presence of accused

(1) Subject to this section the trial must take place in the presence of the accused person.

(2) If an accused person so conducts himself or herself as to render the continuance of the proceedings in the person's presence impracticable, the court may order the person to be removed and may direct the trial to proceed in the person's absence.

(3) Where 2 or more accused persons are charged in the 1 indictment, if it is made to appear to the court that any of them is unable to be present by reason of the person's illness or infirmity, the court may permit the person to be absent during the whole or any part of the trial if it is satisfied—

(a) that the interests of the accused person will not be prejudiced by the trial proceeding in the person's absence; and

(b) that the interests of justice require that the trial should proceed in the person's absence.

(4) The court may in any case permit a person charged with a misdemeanour to be absent during the whole or any part of the trial on such conditions as it thinks fit.

(5) If an accused person absents himself or herself during the trial without leave, the court may direct a warrant to be issued to arrest the person and bring the person before the court forthwith.

617A Juries

The law respecting the qualifications of jurors and the summoning of jurors to attend for the trial of persons charged

with indictable offences, and the challenges allowed to such persons, is set forth in the laws relating to juries and jurors.

Chapter division 11 Trial of issues

618 Evidence in defence

At the close of the evidence for the prosecution the proper officer of the court shall ask the accused person whether the person intends to adduce evidence in the person's defence.

619 Speeches by counsel

(1) Before any evidence is given at the trial of an accused person the counsel for the Crown is entitled to address the jury for the purpose of opening the evidence intended to be adduced for the prosecution.

(2) If the accused person or any of the accused persons, if more than 1, is defended by counsel, and if such counsel or any of such counsel says that the accused person does not intend to adduce evidence, the counsel for the Crown is entitled to address the jury a second time for the purpose of summing up the evidence already given against such accused person or persons for whom evidence is not intended to be adduced.

(3) At the close of the evidence for the prosecution the accused person, and each of the accused persons, if more than 1, may by himself, herself or the person's counsel address the jury for the purpose of opening the evidence (if any) intended to be adduced for the defence, and after the whole of the evidence is given may again address the jury upon the whole case.

(4) If evidence is adduced for an accused person, the counsel for the Crown is entitled to reply.

(5) If evidence is adduced for 1 or more of several accused persons, but not for all of them, the counsel for the Crown is entitled to reply with respect to the person or persons by

whom evidence is so adduced, but not with respect to the other or others of them.

(6) However, a Crown Law Officer is entitled to reply in all cases, whether evidence is adduced by any accused person or not.

620 Summing up

(1) After the evidence is concluded and the counsel or the accused person or persons, as the case may be, have addressed the jury, it is the duty of the court to instruct the jury as to the law applicable to the case, with such observations upon the evidence as the court thinks fit to make.

(2) After the court has instructed the jury they are to consider their verdict.

624 Special verdict

In any case in which it appears to the court that the question whether an accused person ought or ought not to be convicted of an offence may depend upon some specific fact, or that the proper punishment to be awarded upon conviction may depend upon some specific fact, the court may require the jury to find that fact specially.

625 General verdict on charge of defamation

Notwithstanding the provisions of section 624, the jury, on the trial of a person charged with the offence defined in section 365, may give a general verdict of guilty or not guilty upon the whole matter in issue, in like manner as in other cases.

Chapter division 12 Other provisions

630 Procedure on charge of an offence committed after previous conviction

(1) The proceedings upon an indictment for committing an offence after a previous conviction or convictions are required to be as follows, that is to say—

(a) the accused person is in the first instance to be called upon to plead to so much only of the indictment as charges the subsequent offence;

(b) if the accused person pleads any plea which raises an issue to be tried by a jury, the jury are to be charged in the first instance to inquire concerning the subsequent offence only;

(c) if the accused person pleads guilty, or if upon trial the accused person is convicted of the subsequent offence, the person is then, and not before, to be asked whether the person had been previously convicted as alleged in the indictment;

(d) if the accused person answers that the person had been so previously convicted, the court may proceed to pass sentence upon the person accordingly;

(e) if the accused person denies that the person had been so previously convicted, or will not answer directly to the question, the jury are then to be charged to inquire concerning the previous conviction or convictions; and in that case it is not necessary that the jury should be sworn afresh, but the oath already taken by them is deemed to extend to such last mentioned inquiry.

(2) However, if on the trial of a person charged with a subsequent offence, the person offers evidence of the person's good character, the Crown may, in answer thereto, and before any verdict is given, offer evidence of the person's conviction of the previous offence or offences, and in that case the jury are required to inquire concerning the previous conviction or

convictions at the same time that they inquire concerning the subsequent offence.

631 Further pleas

(1) When the issues raised by any plea or pleas, except the plea of not guilty, have been found against an accused person who has not pleaded the plea of not guilty, the person is to be called upon to plead afresh, and, if those issues have been tried by a jury, the court may direct the issues raised by any fresh plea to be tried by the same jury or by another jury.

(2) If the court directs them to be tried by the same jury, it is not necessary that the jury should be sworn afresh, but the oath already taken by them is to be deemed to extend to the trial of such fresh issues.

631A Plea of guilty during trial

(1) If, at any time before the jury returns its verdict, the accused person informs the court that—

(a) he or she wishes to change his or her plea to one of guilty of the offence charged in the indictment; or

(b) he or she wishes to plead guilty to any other offence of which he or she might be convicted upon the indictment;

the court—

(c) in the case referred to in paragraph (a)—may direct that the accused person be again called upon in open court to plead to the indictment, and to say whether he or she is guilty or not guilty of the offence charged; or

(d) in the case referred to in paragraph (b)—may direct, with the consent of the Crown, that the accused person be called upon in open court to plead to any other offence of which he or she might be convicted upon the indictment, and to say whether he or she is guilty or not guilty of that offence.

(1A) It is not necessary for the plea to be taken in the jury's presence.

(2) If the accused person does not plead guilty to the offence charged in the indictment or, in the circumstances described in subsection (1)(d), to another offence, the trial shall proceed.

(3) If the accused person pleads guilty to the offence charged in the indictment or, in the circumstances described in subsection (1)(d), to another offence, the jury shall be discharged from giving their verdict in respect of the offence charged in the indictment.

(4) A plea of guilty to an offence made by the accused person in the circumstances described in this section shall have effect as if made by him or her when called upon at the beginning of a trial to plead to an indictment charging him or her with that offence.

Chapter 63 Evidence—presumptions of fact

632 Corroboration

(1) A person may be convicted of an offence on the uncorroborated testimony of 1 witness, unless this Code expressly provides to the contrary.

Editor's note—

See sections 52 (Sedition), 125 (Evidence on charge of perjury) and 195 (Evidence).

(2) On the trial of a person for an offence, a judge is not required by any rule of law or practice to warn the jury that it is unsafe to convict the accused on the uncorroborated testimony of 1 witness.

(3) Subsection (1) or (2) does not prevent a judge from making a comment on the evidence given in the trial that it is

appropriate to make in the interests of justice, but the judge must not warn or suggest in any way to the jury that the law regards any class of persons as unreliable witnesses.

634 Evidence on trials for perjury and subornation

On the trial of a person charged with an offence of which the giving of false testimony by any person at the trial of a person charged with an offence is an element, a certificate setting out the substance and effect only, without the formal parts, of the indictment or complaint, and the proceedings at the trial, and purporting to be signed by the officer having the custody of the records of the court where the indictment or complaint was tried, or by the officer's deputy, is sufficient evidence of the trial, without proof of the signature or official character of the person who appears to have signed the certificate.

635 Evidence of previous conviction

(1) On the trial of a person charged with an offence alleged to have been committed after a previous conviction, a certificate setting out the substance and effect only, without the formal parts, of the indictment, verdict, and judgment, or of the complaint and conviction, purporting to be signed by the officer having the custody of the records of the court where the accused person was first convicted, or by the officer's deputy is, upon proof of the identity of the person of the offender, sufficient evidence of the conviction, without proof of the signature or official character of the person who appears to have signed the certificate.

(2) If the previous conviction was a summary conviction, the conviction is presumed not to have been appealed against until the contrary is shown.

636 Evidence of blood relationship

(1) In this section—

blood relationship means the blood relationship existing between a person charged with a prescribed offence and the person in respect of whom or, as the case may be, with whom a prescribed offence is alleged to have been committed.

prescribed offence means an offence—

(a) defined in section 222; or

(b) defined in section 208, 210 or 216(2) where it is alleged as a circumstance of aggravation that the offence was committed in respect of a child under the age of 16 years who is the lineal descendant of the person charged.

(2) On the trial of a person charged with a prescribed offence—

(a) blood relationship is sufficiently proved by proof that the relationship is reputed to exist and it is not necessary to prove that the person charged or the person in respect of whom or with whom the prescribed offence is alleged to have been committed or any person (living or dead) upon whom the blood relationship depends was born in lawful wedlock; and

(b) the person charged is, until the contrary is proved, presumed to have had knowledge at the time the prescribed offence is alleged to have been committed of the blood relationship.

638 Evidence of authority

The averment in an indictment that the prosecution is instituted by the direction of or with the consent of a Crown Law Officer, or with the consent of the Attorney-General, or with the consent of the director of public prosecutions, or at the request of the Government of any State, is sufficient evidence of the fact, until the contrary is shown.

639 Averments about public officers and public service officers or employees

On the trial of a person charged with any offence of which the fact that some person was at some particular time a public officer or public service officer or employee is an element, the averment in the indictment or complaint that any person therein mentioned was a public officer or public service officer or employee at any time therein stated is sufficient evidence of the fact, until the contrary is shown.

641 Evidence on certain charges of stealing money

(1) On the trial of a person charged with stealing, while employed in the public service, money which was the property of Her Majesty, or which came into the person's possession by virtue of the person's employment, or charged with stealing, while a clerk or servant, money which was the property of the person's employer or which came into the person's possession on account of the person's employer or being a trustee within the meaning of the *Trust Accounts Act 1973* charged with stealing money of which the person is a trustee on behalf of any other person, an entry in any book of account kept by the accused person, or kept in, under, or subject to, the person's charge or supervision, purporting to be an entry of the receipt of any money, is evidence that the money so purporting to have been received was so received by the person.

(2) On the trial of a person charged with any such offence, it is not necessary to prove the stealing by the accused person of any specific sum of money, if, on examination of the books of account or entries kept or made by the person, or kept or made in, under, or subject to, the person's charge or supervision, or by any other evidence, there is proof of a general deficiency, and if the jury are satisfied that the accused person stole the deficient money or any part of it.

(3) And on the trial of a person charged with any offence as a trustee referred to in subsection (1), the ownership of or the right, title, use or benefit in, to or of the money the subject

matter of the charge may be laid in the indictment in the name of any one or other of the persons (the ***beneficiaries***) of whose money the person charged is the trustee as aforesaid specifying any one of the beneficiaries by name with the addition of the words 'and others', and it is immaterial whether or not the evidence establishes that the said money was the property of any specific one of the beneficiaries, or that the right, title, use or benefit in, to or of the said money was in any specific one of the beneficiaries and the indictment will be sustained so far as regards that allegation upon proof that the property in, or the right, title, use or benefit in, to or of the money was in one or other of the beneficiaries without ascertaining which of them.

(4) For subsection (1) or (3), the reference to a trustee within the meaning of the *Trust Accounts Act 1973* includes a legal practitioner associate of a law practice, within the meaning of the *Legal Profession Act 2007*, if part 3.3 of the *Legal Profession Act 2007* applies to the law practice.

642 Evidence on charges relating to seals and stamps

On the trial of a person charged with any offence relating to any seal or stamp used for the purposes of the public revenue, or of the post office, in any part of Her Majesty's dominions or in any foreign state, a dispatch from 1 of Her Majesty's Principal Secretaries of State, transmitting to the Governor any stamp, mark, or impression, and stating it to be a genuine stamp, mark, or impression, of a die, plate, or other instrument, provided, made, or used, by or under the direction of the proper authority of the country in question for the purpose of expressing or denoting any stamp duty or postal charge, is admissible as evidence of the facts stated in the dispatch; and the stamp, mark, or impression, so transmitted may be used by the court and jury and by witnesses for the purposes of comparison.

643 Intention to injure, deceive or defraud

On the trial of a person charged with any offence of which an intent to injure or deceive or defraud, or an intent to enable another person to deceive or defraud, is an element, it is not necessary to prove an intent to injure or deceive or defraud any particular person, or an intent to enable any particular person to deceive or defraud any particular person.

644 Admissions

(1) An accused person may by himself, herself or the person's counsel admit on the trial any fact alleged against the person, and such admission is sufficient proof of the fact without other evidence.

(2) The Crown may by its counsel admit on the trial of an accused any fact relevant to the trial where the accused is in agreement with this being done, and such admission is sufficient proof of the fact without other evidence.

(3) In this section—

trial also includes, and it is hereby declared to have always included, proceedings before justices dealing summarily with an indictable offence.

644A Witness giving incriminating answers

(1) A person who is called as a witness in any proceeding for an offence against section 59, 60, 87, 98C, 101, 118, 120, 121, 122, 127 or 133, must not be excused from answering any question relating to the offence on the ground that the answer to the question may incriminate or tend to incriminate himself or herself.

(2) An answer to a question in a proceeding to which this section applies is not admissible in evidence against the person giving the answer other than in the proceeding or in a prosecution for perjury in respect of the answer.

Chapter 64 Verdict—judgment

645 Accused person insane during trial

(1) If on the trial of any person charged with an indictable offence it is alleged or appears that the person is not of sound mind, the jury are to be required to consider the matter, and if the jury find that the person is not of sound mind, the finding is to be recorded, and thereupon the court is required to order the person to be kept in strict custody, in such place and in such manner as the court thinks fit, until the person is dealt with under the *Mental Health Act 2000*.

(2) A person so found to be not of sound mind may be again indicted and tried for the offence.

646 Discharge of persons acquitted

If the jury find that the accused person is not guilty, or give any other verdict which shows that the person is not liable to punishment, the person is entitled to be discharged from the charge of which the person is so acquitted.

647 Acquittal on ground of insanity

(1) However, if, on the trial of a person charged with any indictable offence, it is alleged or appears that the person was not of sound mind at the time when the act or omission alleged to constitute the offence occurred, the jury are to be required to find specially, if they find that the person is not guilty, whether the person was of unsound mind at the time when such act or omission took place, and to say whether the person is acquitted by them on account of such unsoundness of mind; and if they find that the person was of unsound mind at the time when such act or omission took place, and say that the person is acquitted by them on account of such unsoundness of mind, the court is required to order the person to be kept in strict custody, in such place and in such manner

as the court thinks fit, until the person is dealt with pursuant to the *Mental Health Act 2000*.

(2) In any such case the Governor, in the name of Her Majesty, may give such order for the safe custody of such person during the Governor's pleasure, in such place of confinement, and in such manner, as the Governor in Council may think fit.

648 Convicted person to be called on to show cause

When an accused person pleads that the person is guilty of any offence, and when, upon trial, an accused person is convicted of any offence, the proper officer is required to ask the person whether the person has anything to say why sentence should not be passed upon the person, but an omission to do so does not invalidate the judgment.

649 Arrest of judgment

(1) A person convicted of an indictable offence, whether on the person's plea of guilty or otherwise, may at any time before sentence move that judgment be arrested on the ground that the indictment does not disclose any offence.

(2) Upon the hearing of the motion the court may allow any such amendments of the indictment as it might have allowed before verdict.

(3) The court may either hear and determine the motion forthwith or may reserve the question of law for the consideration of the Court of Appeal as hereinafter provided.

650 Sentence

If a motion to arrest the judgment is not made or is dismissed, the court may pass sentence upon the offender forthwith or make any other order it may make by law instead of passing sentence.

651 Court may decide summary offences if a person is charged on indictment

(1) If an indictment has been presented against a person before a court, the court may also, subject to section 652(2) to (4) and subsection (2), hear and decide summarily any charge of a summary offence that has been laid against the person.

(2) The court must not hear and decide the summary offence unless—

(a) the court considers it appropriate to do so; and

(b) the accused person is represented by a legal practitioner; and

(c) the Crown and the accused consent to the court so doing; and

(d) the accused person states his or her intention of entering a plea of guilty to the charge; and

(e) the complaint or bench charge sheet for the offence, or a copy, is before the court, whether or not returnable before another court.

(3) Subject to this section, the practices of the court and the express provisions of this Code relating to taking a plea on an indictment apply to the taking of a plea to the charge in a complaint or bench charge sheet.

(4) On convicting the person of the summary offence, the court may make any orders in relation to the conviction a Magistrates Court may make.

(5) The power to make rules for the court extends to the making of rules in relation to the practice and procedure to be applied in the hearing and decision summarily of summary offences by the court.

(6) If the court hears and decides a charge summarily, the court has jurisdiction despite the time that has elapsed from the time when the matter of complaint of the charge arose.

(7) In this section—

summary offence means—

(a) a simple or regulatory offence; or

(b) an offence for which—

(i) proceedings for a charge of the offence may be taken summarily under the *Drugs Misuse Act 1986*; and

(ii) the prosecution has made an election under section 118 of that Act; or

(c) an indictable offence against this Code if, under section 552A, the prosecution has elected to have a charge for the offence heard and decided summarily; or

(d) an indictable offence against this Code if, under section 552BA, the charge for the offence must be heard and decided summarily.

652 Proceedings to transmit charge for summary offence

(1) A charge for a summary offence may be transmitted to the registry of a court for the purpose of the charge being dealt with under section 651 at any time despite any limitation in any Act as to the time for commencing proceedings for a summary offence.

(2) If a person charged with committing a summary offence wishes to have the offence heard and decided under section 651, he or she must make written application to the clerk of the relevant court of summary jurisdiction to take any necessary steps to transmit the relevant complaint or bench charge sheet to the registrar of the court that is to deal with the charge under section 651 (the ***receiving court***).

(3) An application under subsection (2) must be a written statement signed by the applicant containing at least—

(a) a declaration by that person under the *Oaths Act 1867*; and

(b) the following information—

(i) the charge to be transmitted;

(ii) the defendant's intention to plead guilty to the offence charged;

(iii) that the defendant wishes to have the charge transferred for no other reason than to plead guilty to the charge before the receiving court.

(4) On being satisfied that the application fulfils the requirements of this section the clerk of the relevant court of summary jurisdiction must transmit, by any secure and expeditious means, the relevant complaint or bench charge sheet, or a copy, to the registrar of the receiving court.

(5) On the final decision of the transmitted charge by the receiving court, the registrar of the court must, within 1 calendar month, notify the result of the decision to the clerk of the relevant court of summary jurisdiction from which the charge was transmitted and no further appearance is required in that court by any party to the proceeding.

653 Remission of proceedings to court exercising summary jurisdiction

(1) This section applies if a charge against a person for a summary offence has been transmitted to the registry of a court for the purpose of the charge being dealt with under section 651.

(2) If—

(a) the person states an intention of entering a plea of not guilty before the court to the charge or enters a plea of not guilty before the court to the charge; or

(b) any of the conditions mentioned in section 651(2) are not satisfied; or

(c) the person has been dealt with on the indictment mentioned in section 651(1) before the charge for the summary offence is brought before the court; or

(d) for any other reason the court decides not to deal with the charge;

the court must direct that the charge must be heard by a court exercising summary jurisdiction and order the court registrar to send the relevant court record to the registrar of the court exercising summary jurisdiction.

659 Effect of summary conviction for indictable offences

When a person has been summarily convicted of an indictable offence, the conviction is to be deemed a conviction of a simple offence only, and not of an indictable offence.

Chapter 65 Costs

660 Costs of prosecution in certain cases

(1) When a person is convicted on indictment of any indictable offence relating to the person of any person, the court, on the application of the person aggrieved by the offence, may, in addition to any sentence which is passed upon the offender, adjudge the offender to pay to the person aggrieved the person's costs of prosecution, together with a sum by way of compensation for any loss of time suffered by the person by reason of the offence of which the offender is convicted.

(2) An order for the payment of such costs, or of any sum so awarded by way of compensation, may be enforced in the same manner as a judgment of the court given in an action.

(3) If any money was found on the person of the offender on the offender's arrest, the court may order it to be applied towards the payment of any money so ordered to be paid by the offender.

(4) When an order is made under the provisions of this section for the payment of money by way of compensation to an

aggrieved person, the offender is not liable to any civil proceedings for the same cause at the suit of that person.

662 Taxation

(1) Costs of a prosecution or defence must be taxed by the proper officer of the court in which the indictment is presented.

(2) If the indictment is presented in a Circuit Court, the costs must be taxed by the proper officer of the Supreme Court.

(3) In this section—

costs of defence includes costs incurred by the accused person both before and after the person's committal.

costs of prosecution includes costs incurred by the person aggrieved in order to the committal of the offender, and costs incurred by the person with the consent of the Crown for the purposes of the trial.

663 Enforcement of judgment of Circuit Court

When an order is made by a Circuit Court under the provisions of this chapter, it may be recorded in the Supreme Court, and may then be enforced in the same manner as a judgment of that court given in an action.

Chapter 67 Appeal—pardon

668 Definitions

(1) In this chapter—

appellant includes a person who has been convicted and desires to appeal under this chapter.

Court means the Court of Appeal.

court of trial means any court from whose finding, sentence, or other determination a person is by this Act entitled to appeal or to apply for leave to appeal.

registrar means the registrar of the Court.

sentence includes any order made by the court of trial on conviction of a person with reference to the person's person or property whether or not the person is adversely affected thereby and whether or not the order is made instead of passing sentence.

(2) The power of the Court to pass any sentence includes a power to make any such order.

(3) For the purposes of this chapter a person acquitted on the ground of insanity, where such insanity was not set up as a defence by the person, shall be deemed to be a person convicted, and any order to keep the person in custody shall be deemed to be a sentence.

668A Reference by Attorney-General of pre-trial direction or ruling

(1) The Attorney-General may refer to the Court for its consideration and opinion a point of law that has arisen in relation to a direction or ruling under section 590AA given by another court as to the conduct of a trial or pre-trial hearing.

(2) If a reference is made—

(a) the Attorney-General must give notice of the reference to the other court and the accused person; and

(b) the other court—

(i) must adjourn the trial until the Court has given its opinion on the point; and

(ii) may make the other orders it considers appropriate, including an order about remanding the accused person; and

(c) the Court must hear argument on the reference—

(i) by the Attorney-General; and

(ii) by the accused person if the accused person wishes; and

(d) after hearing argument on the reference, the Court—

(i) must consider the point referred and give the Attorney-General its opinion on the point; and

(ii) may make the orders it considers appropriate, including the directions or rulings it considers appropriate to give effect to its opinion.

(3) In this section—

adjourn, for a trial where the accused person has not been called on to plead to the indictment, includes postpone the trial.

668B Reservation of points of law

(1) When any person is indicted for any indictable offence, the court of trial must, on the application of counsel for the accused person made before verdict, and may in its discretion, either before or after judgment, without such application, reserve any question of law which arises on the trial for the consideration of the Court.

(2) If the accused person is convicted, and a question of law has been so reserved before judgment, the court of trial may either pronounce judgment on the conviction and respite execution of the judgment, or postpone the judgment until the question has been considered and decided, and may either commit the person convicted to prison or grant bail to the person conditioned to appear at such time and place as the court of trial may direct, and to render himself or herself in execution, or to receive judgment, as the case may be.

(3) The judge of the court of trial is thereupon required to state, in a case signed by the judge, the question of law so reserved, with the special circumstances upon which it arose; and the case is to be transmitted to the Court.

(4) Any question so reserved is to be heard and determined as an appeal by the Court.

(5) The Court may send the case back to be amended or restated if it thinks it necessary so to do.

668C Appeal from arrest of judgment

(1) When the court of trial before which a person is convicted on indictment arrests judgment, the court is required, on the application of counsel for the prosecution, to reserve a case for the consideration of the Court as hereinbefore provided.

(2) On the hearing of the case the Court may affirm or reverse the order arresting judgment.

(3) If the order is reversed, the Court is to direct that judgment be pronounced upon the offender, and the offender is to be ordered to appear at such time and place as the Court may direct to receive judgment, and any justice may issue a warrant for the arrest of the offender.

(4) An offender so arrested may be granted bail by order of the Court or a judge thereof, which may be made at the time when the order directing judgment to be pronounced is made, or afterwards.

668D Right of appeal

(1) A person convicted on indictment, or a person convicted of a summary offence by a court under section 651, may appeal to the Court—

(a) against the person's conviction on any ground which involves a question of law alone; and

(b) with the leave of the Court, or upon the certificate of the judge of the court of trial that it is a fit case for appeal, against the person's conviction on any ground of appeal which involves a question of fact alone, or question of mixed law and fact, or any other ground which appears to the Court to be a sufficient ground of appeal; and

(c) with the leave of the Court, against the sentence passed on the person's conviction.

(2) A person summarily convicted under section 651 may appeal to the court, with the leave of the court, against the sentence passed on conviction, including any order made under that section.

668E Determination of appeal in ordinary cases

(1) The Court on any such appeal against conviction shall allow the appeal if it is of opinion that the verdict of the jury should be set aside on the ground that it is unreasonable, or can not be supported having regard to the evidence, or that the judgment of the court of trial should be set aside on the ground of the wrong decision of any question of law, or that on any ground whatsoever there was a miscarriage of justice, and in any other case shall dismiss the appeal.

(1A) However, the Court may, notwithstanding that it is of the opinion that the point or points raised by the appeal might be decided in favour of the appellant, dismiss the appeal if it considers that no substantial miscarriage of justice has actually occurred.

(2) Subject to the special provisions of this chapter, the Court shall, if it allows an appeal against conviction, quash the conviction and direct a judgment and verdict of acquittal to be entered.

(3) On an appeal against a sentence, the Court, if it is of opinion that some other sentence, whether more or less severe, is warranted in law and should have been passed, shall quash the sentence and pass such other sentence in substitution therefor, and in any other case shall dismiss the appeal.

668F Powers of Court in special cases

(1) If it appears to the Court that an appellant, though not properly convicted on some count or part of the indictment, has been properly convicted on some other count or part of the

indictment, the Court may either affirm the sentence passed at the trial or pass such sentence, whether more or less severe, in substitution therefor, as it thinks proper, and as may be warranted in law by the conviction on the count or part of the indictment on which it considers the appellant has been properly convicted.

(2) Where an appellant has been convicted of an offence, and the jury could on the indictment have found the appellant guilty of some other offence, and on the finding of the jury it appears to the Court that the jury must have been satisfied of facts which proved the appellant guilty of that other offence, the Court may, instead of allowing or dismissing the appeal, substitute for the verdict found by the jury a verdict of guilty of that other offence, and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law for that other offence, not being a sentence of greater severity.

(3) Where, on the conviction of the appellant, the jury have found a special verdict, and the Court considers that a wrong conclusion has been arrived at by the court of trial on the effect of that verdict, the Court may, instead of allowing the appeal, order such conclusion to be recorded as appears to the Court to be in law required by the verdict, and pass such sentence, whether more or less severe, in substitution for the sentence passed at the trial, as may be warranted in law.

(4) If on any appeal it appears to the Court that, although the appellant committed the act or made the omission charged against the appellant, the appellant was not of sound mind at the time when the act or omission alleged to constitute the offence occurred, so as not to be responsible therefor according to law, the Court may quash the sentence passed at the trial, and order the appellant to be kept in strict custody in the same manner as if a jury had found that fact specially under section 647.

669 Power to grant new trial

(1) On an appeal against a conviction on indictment, the Court may, either of its own motion or on the application of the appellant, order a new trial in such manner as it thinks fit, if the Court considers that a miscarriage of justice has occurred, and that, having regard to all the circumstances, such miscarriage of justice can be more adequately remedied by an order for a new trial than by any other order which the Court is empowered to make.

(2) If the Court makes an order for a new trial and the appellant is not granted bail, the order is taken to be a warrant for the appellant's detention under the *Corrective Services Act 2006*, section 9(1)(a).

669A Appeal by Attorney-General

(1) The Attorney-General may appeal to the Court against any sentence pronounced by—

(a) the court of trial; or

(b) a court of summary jurisdiction in a case where an indictable offence is dealt with summarily by that court;

and the Court may in its unfettered discretion vary the sentence and impose such sentence as to the Court seems proper.

(1A) The Attorney-General may appeal to the Court against an order staying proceedings or further proceedings on an indictment.

(2) The Attorney-General may refer any point of law that has arisen at the trial upon indictment of a person in relation to any charge contained therein to the Court for its consideration and opinion thereon if the person charged has been—

(a) acquitted of the charge; or

(b) discharged in respect of that charge after counsel for the Crown, as a result of a determination of the court of trial on that point of law, has duly informed the court that the

Crown will not further proceed upon the indictment in relation to that charge; or

(c) convicted, following a determination of the court of trial on that point of law—

(i) of a charge other than the charge that was under consideration when the point of law arose; or

(ii) of the same charge with or without a circumstance of aggravation.

(2A) The Attorney-General may refer to the Court for its consideration and opinion a point of law that has arisen at the summary trial of a charge of an indictable offence, if the person charged has been—

(a) acquitted of the charge at the summary trial; or

(b) discharged on the charge after the prosecution, because of a decision on the point of law by the court of trial, indicates to the court that it will not further proceed on the charge in the proceeding before the court; or

(c) convicted, following a determination of the court of trial on that point of law—

(i) of a charge other than the charge that was under consideration when the point of law arose; or

(ii) of the same charge with or without a circumstance of aggravation.

(3) Notice of the reference shall be given to the person acquitted or, as the case may be, discharged.

(4) Upon the reference the Court shall hear argument—

(a) by the Attorney-General or by counsel on the Attorney-General's behalf; and

(b) if the person so desires, by the person acquitted or discharged or by counsel on his or her behalf;

and thereupon shall consider the point referred and furnish to the Attorney-General its opinion thereon.

(5) Where the reference relates to a trial in which the person charged has been acquitted or convicted, the reference shall not affect the trial of nor the acquittal or conviction of the person.

(6) If a person convicted summarily of an indictable offence appeals to a District Court judge under the *Justices Act 1886*, section 222 or the *Youth Justice Act 1992*, part 6, division 9, subdivision 3, and, in relation to the same conviction, the Attorney-General appeals under this section—

(a) the convicted person's appeal is, by force of this section, removed to the Court of Appeal; and

(b) both appeals must be heard together by the Court of Appeal.

(7) In this section—

discharged includes the dismissal or striking out of a charge at a summary trial.

670 Revesting and restitution of property on conviction

(1) Subject to section 134 of the *Penalties and Sentences Act 1992*, the operation of any order for the restitution of any property, or for the payment of compensation to an aggrieved person, made by the court of trial, and the operation of the provisions of section 26(1) of the *Sale of Goods Act 1896* as to the revesting of the property in stolen goods on conviction, shall (unless such court directs to the contrary in any case in which in its opinion the title to the property is not in dispute) be suspended—

(a) until the expiration of the time provided for appealing to the Court; and

(b) where notice of appeal or of application for leave to appeal is given within the time provided, until the determination of the appeal or refusal of the application or, where the appeal is by the Attorney-General against

sentence within the time provided, until the determination of that appeal;

and in cases where the operation of any such order or the operation of the said provisions is suspended until the determination of the appeal, the order or provisions, as the case may be, shall not take effect as to the property in question if the conviction is quashed on appeal, except by the special order of the Court.

(2) The Court may annul or vary any such order, although the conviction is not quashed.

(3) Where any matter arises before the Court in relation to the operation or suspension of the operation of any such order as aforesaid or the operation or suspension of the operation of such provisions as aforesaid, the person in whose favour the order is made or the person benefiting from the operation of the said provisions, as the case may be, may by himself, herself or the person's counsel or solicitor appear before the Court and there make submissions in connection with such matter.

671 Time for appealing

(1) Any person convicted desiring to appeal to the Court, or to obtain the leave of the Court to appeal from any conviction or sentence, shall give notice of appeal or notice of application for leave to appeal, in the prescribed manner, within 1 calendar month of the date of such conviction or sentence.

(2) An appeal to the Court by the Attorney-General against sentence shall be made within 1 calendar month of the date of such sentence.

(3) The time within which notice of appeal, or notice of an application for leave to appeal, may be given or within which the Attorney-General may appeal against sentence may be extended at any time by the Court.

671A Judge's notes and report to be furnished on appeal

(1) The judge of the court of trial shall, in the case of any appeal or application for leave to appeal, furnish to the registrar the judge's notes of the trial, and also a report giving the judge's opinion upon the case or upon any point arising in the case.

(2) However, where shorthand notes have been taken in accordance with this chapter, a transcript of such notes may be furnished in lieu of such judge's notes.

671B Supplemental powers

(1) The Court may, if it thinks it necessary or expedient in the interests of justice—

(a) order the production of any document, exhibit, or other thing connected with the proceedings; and

(b) order any persons who would have been compellable witnesses at the trial to attend and be examined before the Court, whether they were or were not called at the trial, or order any such persons to be examined before any judge of the Court, or before any officer of the Court, or justice, or other person appointed by the Court for the purpose, and admit any depositions so taken as evidence; and

(c) receive the evidence, if tendered, of any witness (including the appellant) who is a competent, but not a compellable, witness; and

(d) where any question arising on the appeal involves prolonged examination of documents or accounts, or any scientific or local investigation, which can not, in the opinion of the Court, be conveniently conducted before the Court, refer the question for inquiry and report to a commissioner appointed by the Court, and act upon the report of such commissioner so far as the Court thinks fit; and

(e) appoint any person with special expert knowledge to act as assessor to the Court in any case in which it appears

to the Court that such special knowledge is required for the determination of the case;

and exercise in relation to the proceedings of the Court any other powers which may for the time being be exercised by the Supreme Court on appeals or applications in civil matters, and issue any warrant or other process necessary for enforcing the orders or sentences of the Court.

(2) However, in no case shall any sentence be increased by reason of or in consideration of any evidence that was not given at the trial.

(3) Subject to this chapter, the general rules may provide that any application under subsection (1)(a), (b), (d), or (e) may be heard and determined by a judge of the Court.

671D Right of appellant to be present

(1) An appellant, notwithstanding that the appellant is in custody, shall be entitled to be present if the appellant desires it, on the hearing of the appellant's appeal, except where the appeal is on some ground involving a question of law alone.

(1A) On an appeal on such ground, and on an application for leave to appeal, and on any proceedings preliminary or incidental to an appeal, the appellant shall not be entitled to be present, except by leave of the Court.

(2) The power of the Court to pass any sentence may be exercised notwithstanding that the appellant is not present.

671E Appeals permitted in writing

An appellant shall be entitled to present the appellant's case and argument to the Court in writing if the appellant so desires.

671F Costs of appeal

(1) On the hearing or determination of an appeal, or any proceedings preliminary or incidental thereto, no costs shall be allowed on either side.

(2) The expenses of any assessor appointed, and of any witnesses attending on the order of the Court or examined, and of and incidental to any examination or reference, and of the appearance of an appellant on the hearing of the appeal or on any proceedings preliminary or incidental to the appeal, shall be defrayed out of the Consolidated Fund up to an amount allowed by the registrar; but, subject to any regulations as to rates of payment made by the Crown Law Officer, the decision of the registrar may be reviewed by the Court or a judge thereof.

671G Grant of bail to appellant and custody when attending Court

(1) An appellant who is not granted bail shall, pending the determination of the appeal, be treated in such manner as may be directed under the laws relating to prisons.

(2) The period the appellant is in custody pending the determination of the appeal counts as part of any term of imprisonment under the appellant's sentence.

(3) If an appellant is released on bail pending the determination of the appeal—

(a) the period the appellant is released on bail does not count as part of any term of imprisonment under the appellant's sentence, whether passed by the court of trial or the Court; and

(b) the appellant's imprisonment under the appellant's sentence resumes or begins to run, as the case requires, on the day the appellant is received into prison under the appellant's sentence.

(4) Provision shall be made under the laws relating to prisons for the manner in which an appellant, when in custody, is to be

brought to any place where the appellant is entitled to be present, or ordered to be taken, for the purposes of this chapter, and for the manner in which the appellant is to be kept in custody whilst absent from prison for the purpose; and an appellant whilst in custody in accordance with those laws shall be deemed to be in legal custody.

(5) Where pursuant to an appeal to the Court by the Attorney-General against sentence the Court varies the sentence—

(a) by imposing a term of imprisonment; or

(b) in a case where the court of trial imposed a term of imprisonment—by increasing the term of imprisonment imposed;

then, subject to any order the Court may make or any direction it may give to the contrary in the circumstances—

(c) the term of imprisonment referred to in paragraph (a) shall commence from the time the person in question is received into prison pursuant to the decision of the Court or, where that person is already in prison in respect of imprisonment arising out of another matter, from the date of the decision of the Court;

(d) in the service of the increased term of imprisonment referred to in paragraph (b) by the person in question, any part of the sentence already served by the person shall be taken into account.

671H Duties of registrar

(1) The registrar shall take all necessary steps for obtaining a hearing of any appeals or applications, notice of which is given to the registrar, and shall obtain and lay before the Court in proper form all documents, exhibits, and other things relating to the proceedings in the court of trial which appear necessary for the proper determination of the appeal or application.

(2) If it appears to the registrar that any notice of appeal or of application for leave to appeal against a conviction or sentence does not show any substantial ground of appeal, the registrar may refer the appeal to the Court for summary determination; and the Court may thereupon, if it considers that the appeal is frivolous or vexatious, dismiss the appeal summarily without calling upon any person to attend the hearing.

(3) The registrar shall furnish the necessary forms and instructions in relation to notices of appeals or notices of application to any person who demands the same, and to officers of courts, the chief executive (corrective services), and to such other officers or persons as the registrar thinks fit, and the chief executive (corrective services) shall cause such forms and instructions to be placed at the disposal of prisoners desiring to appeal or to make any application, and shall cause any such notice given by a prisoner for whom the chief executive (corrective services) has responsibility to be forwarded on behalf of the prisoner to the registrar.

671J Documents, exhibits etc.

Any documents, exhibits, or other things connected with any proceedings before a court of trial, in respect of which any person is entitled or may be authorised to appeal, shall be kept in the custody of the court of trial for such time as may be prescribed, subject to such power as may be prescribed for the conditional release of any such documents, exhibits, or other things from that custody.

671K Recording of trial proceedings

(1) The proceedings at every trial of any person on indictment shall, if practicable, be recorded in shorthand or by a mechanical device (as referred to in the *Recording of Evidence Act 1962*) or partly in shorthand and partly by such a mechanical device.

(2) On any notice of appeal or application for leave to appeal, a record of the proceedings or any part thereof shall, if directed by the registrar, be furnished to the registrar for the use of the Court or any judge thereof.

(3) A copy of a record of proceedings or of any part thereof may be furnished to any party interested in accordance with provisions of the *Criminal Practice Rules 1999* and the *Criminal Practice Rules 1999*, without limiting the generality of the foregoing, may prescribe, in respect of a trial or in respect of an appeal or in respect of both a trial and an appeal—

(a) charges for the copy of the record or part thereof; or

(b) circumstances in which such charges may be varied or waived and on whose or by what authority they may be varied or waived; or

(c) who is a 'party interested' for the purpose of having furnished to the person a copy of the record or part thereof; or

(d) the authorisation of the furnishing of a copy of a record of proceedings or of any part thereof to any other person on the ground that such person has a sufficient interest therein, and by whom any such authorisation may be made.

(4) In addition to the foregoing, the Attorney-General may cause a copy of a record of proceedings or of any part thereof to be furnished to any person in such circumstances and subject to such conditions as the Attorney-General thinks fit.

(5) The Crown is entitled to receive a copy of any record of proceedings or of any part thereof without payment of any charge.

(6) The furnishing in accordance with this section and, in an appropriate case, the *Criminal Practice Rules 1999* of a copy of any record of proceedings or of any part thereof shall not render the Crown, a Crown Law Officer, the registrar or any shorthand reporter or recorder or other person responsible for

or associated with that furnishing liable in any way in law in respect thereof.

671L Powers exercisable by a judge

The powers of the Court to give leave to appeal, to extend the time in which notice of appeal or of an application for leave to appeal may be given and to allow the appellant to be present at any proceedings in cases where the appellant is not entitled to be present without leave may be exercised by any judge of the Court in the same manner as they may be exercised by the Court, and subject to the same provisions; but if the judge refuses an application on the part of the appellant to exercise any such power in the appellant's favour, the appellant shall be entitled to have the application determined by the Court.

672 Appeals from the decisions of the Court

(1) Where an appeal to the Court is upheld, and the appellant is entitled to have the conviction against the appellant quashed by order of the Court, the Court may, upon application on behalf of the Crown, at any time before the release of such appellant, either by the same or by a separate order, direct that execution of the order quashing the appellant's conviction be stayed for such time (not exceeding 7 days) as the Court thinks fit; and the Court or a judge thereof shall thereupon make such order for the detention of the appellant or the appellant's return to any former custody, or for granting bail to the appellant, as the Court or judge thinks fit, for the time during which such stay has been directed.

(2) The Court or a judge thereof may, upon application by or on behalf of the Crown Law Officer, make such order for the detention of the appellant or for granting bail to the appellant pending the hearing of an appeal to the High Court of Australia as the Court or a judge may think fit, and may at any time vary or rescind such order.

(3) On the application of any appellant deeming himself or herself wronged by any failure to diligently prosecute such

appeal, the Court or a judge thereof may order the immediate execution of the original order of the Court quashing the conviction, and may order the appellant's immediate release, and the Court may further, if it thinks fit, award the appellant such compensation as appears just.

672A Pardoning power preserved

Nothing in sections 668 to 672 shall affect the pardoning power of the Governor on behalf of Her Majesty, but the Crown Law Officer, on the consideration of any petition for the exercise of the pardoning power having reference to the conviction of any person or to any sentence passed on a convicted person, may—

(a) refer the whole case to the Court, and the case shall be heard and determined by the Court as in the case of an appeal by a person convicted; or

(b) if the Crown Law Officer desires the assistance of the Court on any point arising in the case with a view to the determination of the petition, refer that point to the Court for its opinion thereon, and the Court shall consider the point so referred and furnish the Crown Law Officer with its opinion thereon accordingly.

675 Conditional remission of sentence by Governor

(1) In any case in which the Governor is authorised, on behalf of Her Majesty, to extend the Royal mercy to an offender under sentence of imprisonment, the Governor may extend mercy upon condition of the offender entering into a recognisance conditioned as in the case of offenders discharged by the Court upon suspension of the execution of a sentence.

(2) The offender is thereupon liable to the same obligations, and is liable to be dealt with in all respects in the same manner, as a person discharged by the Court on recognisance upon such suspension.

676 Pardon in case of imprisonment for non-payment of money

The Governor may extend the Royal mercy to any person imprisoned upon conviction of any of the offences defined in chapter 44, although the person is imprisoned for non-payment of money which is payable to some private person.

677 Effect of pardon

A pardon by the Governor, on behalf of Her Majesty, has the effect of discharging the convicted person from the consequences of the conviction.

Chapter 68 Exceptions to double jeopardy rules

678 Definitions

(1) In this chapter—

25 year offence means an offence punishable by imprisonment for life or for a period of 25 years or more.

acquittal—

(a) includes—

(i) an acquittal in appeal proceedings in relation to an offence; and

(ii) an acquittal at the direction of a court; and

(iii) a dismissal under section 700 or the *Justices Act 1886*, section 149; but

(b) does not include—

(i) an acquittal on account of unsoundness of mind under section 647; or

(ii) a discontinuance of proceedings under the *Mental Health Act 2000*, section 281.

administration of justice offence means an offence under chapter 16.

Court means the Court of Appeal.

fresh and compelling evidence see section 678D.

interests of justice see section 678F.

tainted acquittal see section 678E.

(2) For the purposes of this chapter, the retrial of an acquitted person for an offence includes a trial if the offence is not the same as the offence of which the person was acquitted.

(3) In this chapter, a reference to the proceedings in which a person was acquitted includes, if they were appeal proceedings, a reference to the earlier proceedings to which the appeal related.

678A Application of ch 68

(1) This chapter applies if, after the commencement of this chapter, a person is acquitted of an offence, whether the offence is committed before or after the commencement of this chapter.

(2) However, this chapter does not apply if, in relation to a charge of an offence, although a person is acquitted of the offence as charged, the person is convicted instead of a lesser offence.

Examples where this chapter does not apply—

- in relation to a charge of the offence of murder, a person is acquitted of murder and convicted instead of manslaughter
- in relation to a charge of an offence committed with circumstances of aggravation, a person is acquitted of the offence committed with circumstances of aggravation and convicted instead of the offence without any of the circumstances of aggravation

(3) This section extends to a person acquitted in proceedings outside this State of an offence under the law of the place where the proceedings were held.

(4) However, this section does not extend as mentioned in subsection (3) if the law of the place where the proceedings were held does not permit the person to be retried and the application of this chapter to the retrial is inconsistent with the Commonwealth Constitution or a law of the Commonwealth.

678B Court may order retrial for murder—fresh and compelling evidence

(1) The Court may, on the application of the director of public prosecutions, order an acquitted person to be retried for the offence of murder if satisfied that—

(a) there is fresh and compelling evidence against the acquitted person in relation to the offence; and

(b) in all the circumstances it is in the interests of justice for the order to be made.

(2) The Court may order a person to be retried for the offence of murder under this section even if the person had been charged with and acquitted of a lesser offence.

(3) If the Court orders an acquitted person to be retried for the offence of murder, the Court must quash the person's acquittal or remove the acquittal as a bar to the person being retried.

(4) On the retrial, section 17 does not apply in relation to the charge of the offence of murder.

678C Court may order retrial for 25 year offence—tainted acquittal

(1) The Court may, on the application of the director of public prosecutions, order an acquitted person to be retried for a 25 year offence if satisfied that—

(a) the acquittal is a tainted acquittal; and

(b) in all the circumstances it is in the interests of justice for the order to be made.

(2) The Court may order a person to be retried for a 25 year offence under this section even if the person had been charged with and acquitted of a lesser offence.

(3) If the Court orders an acquitted person to be retried for a 25 year offence, the Court must quash the person's acquittal or remove the acquittal as a bar to the person being retried.

(4) On the retrial, section 17 does not apply in relation to the charge of the 25 year offence.

678D Fresh and compelling evidence—meaning

(1) This section applies for the purpose of deciding under this chapter whether there is fresh and compelling evidence against an acquitted person in relation to the offence of murder.

(2) Evidence is ***fresh*** if—

(a) it was not adduced in the proceedings in which the person was acquitted; and

(b) it could not have been adduced in those proceedings with the exercise of reasonable diligence.

(3) Evidence is ***compelling*** if—

(a) it is reliable; and

(b) it is substantial; and

(c) in the context of the issues in dispute in the proceedings in which the person was acquitted, it is highly probative of the case against the acquitted person.

(4) Evidence that would be admissible on a retrial under this chapter is not precluded from being fresh and compelling evidence merely because it would have been inadmissible in the earlier proceedings against the acquitted person.

678E Tainted acquittal—meaning

(1) This section applies for the purpose of deciding under this chapter whether the acquittal of an accused person is a tainted acquittal.

(2) An acquittal is ***tainted*** if—

(a) the accused person or another person has been convicted in this State or elsewhere of an administration of justice offence in relation to the proceedings in which the accused person was acquitted; and

(b) it is more likely than not that, but for the commission of the administration of justice offence, the accused person would have been convicted.

(3) An acquittal is not a tainted acquittal during any of the following periods—

(a) the period provided under section 671(1) for the person convicted of the administration of justice offence (the ***convicted person***) to appeal, or obtain leave to appeal, from the conviction;

(b) if, within the period mentioned in paragraph (a), the convicted person gives notice of an appeal—the period ending when the appeal is decided;

(c) if, within the period mentioned in paragraph (a), the convicted person gives notice of an application for leave to appeal, the period ending—

(i) if the application is refused—when the decision refusing the application is made; or

(ii) if the application is granted—when the appeal is decided.

Note—

Section 668D provides the right of appeal.

(4) If the conviction for the administration of justice offence is, on appeal, quashed after the Court has ordered the acquitted person to be retried under this chapter because of the

conviction, the person may apply to the Court to set aside the order and—

(a) restore the acquittal that was quashed; or

(b) restore the acquittal as a bar to the person being retried for the offence.

678F Interests of justice—matters for consideration

(1) This section applies for the purpose of deciding under this chapter whether it is in the interests of justice for an order to be made for the retrial of an acquitted person.

(2) It is not in the interests of justice to make an order for the retrial of an acquitted person unless the Court is satisfied that a fair retrial is likely in the circumstances.

(3) The Court must have regard in particular to—

(a) the length of time since the acquitted person allegedly committed the offence; and

(b) whether any police officer or prosecutor has failed to act with reasonable diligence or expedition in relation to—

(i) the investigation of the commission of the offence of which the person was acquitted and the prosecution of the proceedings in which the person was acquitted; and

(ii) the application for the retrial of the acquitted person.

678G Application for retrial—procedure

(1) If a person has been acquitted, not more than 1 application for the retrial of the person may be made under this chapter in relation to the acquittal.

(2) If the acquittal results from a retrial under this chapter—

(a) an application may not be made for an order under section 678B in relation to the acquittal; but

(b) an application may be made for an order under section 678C in relation to the acquittal.

(3) An application for the retrial of an acquitted person may not be made under this chapter unless—

(a) the person has been charged with the offence for which the retrial is sought (the ***relevant offence***); or

(b) a warrant has been issued for the person's arrest in relation to the relevant offence.

(4) The application must be made not later than 28 days after the person is charged with the relevant offence or the warrant is issued for the person's arrest in relation to the relevant offence.

(5) The Court may extend the period mentioned in subsection (4) for good cause.

(6) The Court must consider the application at a hearing.

(7) The person to whom the application relates is entitled to be present and heard at the hearing, whether or not the person is in custody.

(8) However, if the person has been given a reasonable opportunity to be present, the application may be decided even if the person is not present.

(9) The powers of the Court mentioned in section 671B(1) may be exercised in relation to the hearing of the application.

(10) The Court may at 1 hearing consider more than 1 application under this chapter for a retrial (whether or not relating to the same person), but only if the offences concerned may be tried on the same indictment.

(11) If the Court decides in proceedings on an application under this chapter that the acquittal is not a bar to the person being retried for the offence concerned, it must make a declaration to that effect.

678H Retrial

(1) An indictment for the retrial of a person that has been ordered under this chapter may not, without the leave of the Court, be presented after the end of the period of 2 months after the order was made.

(2) The Court may give leave only if it is satisfied that—

(a) the prosecutor has acted with reasonable expedition; and

(b) there is good and sufficient reason for the retrial despite the lapse of time since the order was made.

(3) If, after the end of the period of 2 months after an order for the retrial of an accused person was made under this chapter, an indictment for the retrial of the person has not been presented or has been withdrawn or quashed, the person may apply to the Court to set aside the order for the retrial and—

(a) restore the acquittal that was quashed; or

(b) restore the acquittal as a bar to the person being tried for the offence.

(4) If the order is set aside, a further application may not be made under this chapter for the retrial of the accused person in relation to the offence concerned.

(5) At the retrial of an accused person, the prosecution is not entitled to refer to the fact that the Court has found that it appears that—

(a) there is fresh and compelling evidence against the acquitted person; or

(b) more likely than not, but for the commission of the administration of justice offence, the accused person would have been convicted.

678I Authorisation of police investigations

(1) This section applies to any police investigation of the commission of an offence by an acquitted person in relation to

the possible retrial of the person for the offence under this chapter.

(2) For the purposes of this section, a police investigation is an investigation that involves, whether with or without the consent of the acquitted person—

(a) any arrest, questioning or search of the acquitted person, or the issue of a warrant for the arrest of the person; or

(b) any forensic procedure carried out on the person or any search or seizure of premises or property of or occupied by the person.

(3) A police officer may carry out or authorise a police investigation to which this section applies only if the director of public prosecutions—

(a) has advised that, in the opinion of the director of public prosecutions, the acquittal would not be a bar to the retrial of the acquitted person in this State for the offence; or

(b) has given written consent to the police investigation on the application in writing of the commissioner, or a deputy commissioner, of the police service.

(4) The commissioner, or a deputy commissioner, of the police service may make an application for the police investigation only if satisfied that relevant evidence for the purposes of an application for a retrial under this chapter—

(a) has been obtained; or

(b) is likely to be obtained as a result of the investigation.

(5) The director of public prosecutions may give consent to the police investigation only if satisfied that—

(a) there is, or there is likely as a result of the investigation to be, sufficient new evidence to warrant the conduct of the investigation; and

(b) it is in the public interest for the investigation to proceed.

(6) Despite the *Police Service Administration Act 1990*, section 4.10, the commissioner of the police service may not delegate powers of the commissioner under this section to a police officer or staff member.

678J Bail

(1) This section has effect despite anything to the contrary in the *Bail Act 1980*.

(2) There is a presumption in favour of bail for a person who is charged with an offence for which a retrial is sought under this chapter until the application for the retrial is dealt with.

678K Restrictions on publication

(1) A person must not publish any matter for the purpose of identifying or having the effect of identifying an acquitted person who is being retried under this chapter or who is the subject of—

(a) a police investigation, or an application for a police investigation, mentioned in section 678I; or

(b) an application for a retrial, or an order for retrial, under this chapter.

(2) Subsection (1) does not apply if the publication is authorised by order of the Court or of the court before which the acquitted person is being retried.

(3) The relevant court may make an order authorising publication only if the court is satisfied that it is in the interests of justice to make the order.

(4) Before making an order under this section, the relevant court must give the acquitted person a reasonable opportunity to be heard on the application for the order.

(5) The relevant court may at any time vary or revoke an order under this section.

(6) The prohibition on publication under this section ceases to have effect, subject to any order under this section, when the first of the following paragraphs apply—

(a) there is no longer any step that could be taken which would lead to the acquitted person being retried under this chapter;

(b) if the acquitted person is retried under this chapter—the trial ends.

(7) Nothing in this section affects any prohibition of the publication of any matter under any other Act or law.

(8) A contravention of a prohibition on publication under this section is punishable as contempt of the Supreme Court.

Chapter 69 Seizure and detention of property connected with offences—restitution of property unlawfully acquired

679A Search of aircraft

(1) If it appears to the person in command of an aircraft that there are reasonable grounds for suspecting that any offence involving the safety of the aircraft has been, is being, is about to be, or may be, committed on board or in relation to the aircraft it shall be lawful for the person and for any person acting by the person's authority with such assistance as the person or such person may think necessary to search or cause to be searched—

(a) the aircraft and any person luggage and freight on board the aircraft; and

(b) any person who is about to board the aircraft and any luggage or freight that is about to be placed on board the aircraft;

and seize—

(c) anything whether animate or inanimate and whether living or dead as to which there are reasonable grounds for believing that it will of itself or by or on scientific examination, afford evidence as to the commission of any offence; or

(d) anything as to which there are reasonable grounds for believing that it is intended to be used for the purpose of committing any offence;

and take it before a justice to be dealt with according to law.

(2) A female shall not be searched under this section except by a female.

680 Property found on offenders on arrest

When, on the arrest of any person on a charge of an offence relating to property, the property in respect of which the offence is alleged to be committed is found in the person's possession, the person arresting the person may take such property before a justice to be dealt with according to law.

682 Disposal of property seized

(1) When anything is seized or taken under the provisions of this Code, the person seizing or taking it is required forthwith to carry it before a justice.

(2) The justice may cause the thing so seized or taken to be detained in such custody as the justice may direct, taking reasonable care for its preservation, until the conclusion of any investigation that may be held with respect to it; and, if any person is committed for trial for any offence committed with respect to the thing so seized or taken, or committed under such circumstances that the thing so seized or taken is

likely to afford evidence at the trial, the justice may cause it to be further detained in like manner for the purpose of being produced in evidence at such trial.

(3) If no person is so committed, the justice is required to direct that the thing be returned to the person from whom it was taken, unless the justice is authorised or required by law to dispose of it otherwise.

(4) If the thing so seized or taken is anything forged or counterfeit, or is of such a nature that a person who has it in the person's possession without lawful authority or excuse is guilty of an offence, then, if any person is committed for trial for any offence committed with respect to it or committed under such circumstances as aforesaid and is convicted, the court before which the person is convicted, or, in any other case, any justice, may cause it to be defaced or destroyed.

(5) If the thing so seized or taken is of such a nature that a person who has it in his or her possession, knowing its nature and without lawful authority or excuse, is guilty of an offence, then, as soon as it appears that it will not be required, or further required, in evidence against the person who had it in his or her possession, it is to be delivered to the Treasurer, or some person authorised by the Treasurer to receive it.

683 Explosives

If the thing seized or taken is an explosive substance found in a vessel or vehicle, the person acting in the execution of the warrant may for 24 hours after seizure, and for such longer time as is necessary for the purpose of removal to a safe place of deposit, use the vessel or the vehicle, with the tackle and furniture thereof, or the beasts, and accoutrements belonging thereto as the case may be, paying afterwards to the owner of the vessel or vehicle a sufficient recompense for its use, which is to be assessed by the justice or justices before whom the suspected offender is brought, and, in case of non-payment immediately after such assessment, may be recovered before 2 justices in a summary way.

685B Orders for delivery of certain property

(1) Where any property has come into the custody or possession of a court or justices in connection with any charge, the court or justices, on the conclusion of the trial and on the application of the prosecutor, may make an order for the delivery of the property to the person appearing to the court or justices to be the person lawfully entitled thereto or, if that person can not be ascertained, may make such order with respect to the property as to the court or justices seems just.

(2) An order so made shall not be a bar to the right of any person to recover the property by action from the person to whom it is delivered by virtue of the order.

Chapter 70 Informations by private persons for indictable offences—ex officio indictments

686 Information by leave of the court by private prosecutors

(1) Any person may by leave of the Supreme Court present an information against any other person for any indictable offence, alleged to have been committed by such other person.

(2) An information presented by leave of the court is to be signed by the person on whose application the leave is granted, or some other person appointed by the court in that behalf, and filed in the Supreme Court.

(3) The person who signs the information is called the prosecutor.

(4) The information is to be intituled ‘The Queen on the prosecution of the prosecutor (naming the person) against the accused person (naming the person)’, and must state that the prosecutor informs the court by leave of the court.

(5) Except as otherwise expressly provided, the information and the proceedings upon it are subject to the same rules and incidents in all respects as an indictment presented by a Crown Law Officer and the proceedings upon such an indictment as hereinbefore set forth.

687 Security to be given by prosecutor for costs of defence

Before the information is presented the prosecutor is to be required to give security, in such amount and in such manner as the court on giving leave to present the information may direct, that the prosecutor will prosecute the information without delay, and will pay to the accused person such costs incurred by the accused person in respect of the person's defence to the charge as the court may order the prosecutor to pay.

688 Service of information

An office copy of the information is to be served upon the accused person, upon which copy there must be endorsed a summons, under the hand of the registrar and seal of the court, requiring the person to appear and plead to the information within the same time after service within which the person would be required to enter an appearance after service of a writ in a civil action.

689 Plea

The accused person is required within the time so limited to enter an appearance and file the person's plea in writing in the Supreme Court, and to deliver a copy thereof forthwith to the prosecutor.

690 Default of plea

(1) If the accused person does not plead to the information according to the exigency of the summons endorsed on the

copy served on the person, the prosecutor may serve the accused person with a notice to the effect that unless the person pleads or demurs within 8 days a plea of not guilty will be filed in the person's name.

(2) Upon filing an affidavit setting forth the service of the information and of such notice, and of default of pleading in accordance with the exigency of the notice, the prosecutor may cause a plea of not guilty to be filed for the accused person, and thereupon the same proceedings may be had as if the accused person had filed a plea of not guilty.

(3) Or, in the case of a misdemeanour, judgment of conviction may, by leave of the court or a judge, be entered against the accused person for want of a plea.

(4) But the court or a judge may, either before or after the time so prescribed, allow further time for the accused person to plead or demur to the information.

691 Time and place of trial

When the accused person pleads any plea, or when a plea of not guilty is filed for the person by the prosecutor, either party may apply to a judge to appoint the time and place of trial, of which notice is to be given to the accused person.

692 Effect of judgment for prosecutor on demurrer

(1) If the accused person demurs only, and does not plead any plea, and judgment is given against the person on demurrer, the person is required to plead to the information within such time as the court or a judge may allow.

(2) If the accused person makes default in doing so, the same proceedings may be taken as if the person had made default in pleading in the first instance.

693 Effect of judgment by default

(1) If judgment of conviction is entered against the accused person for want of a plea, the person is required to attend to receive the judgment of the court at a time and place to be appointed by a judge.

(2) If the accused person does not so attend, any justice may issue a warrant to arrest the person and bring him or her before the court to receive judgment.

694 Costs of defence

In any of the following cases, that is to say—

(a) if an application for leave to present an information against a person (the ***accused person***) ends without the application being granted;

(b) if the accused person pleads to the information, and is not brought to trial within a year after filing the person's plea;

(c) if a Crown Law Officer informs the court that the Crown Law Officer will not further proceed on the information;

(d) if the accused person is acquitted upon trial;

the court, or the judge before whom the trial (if any) is had, may award costs to the accused person.

695 Practice to be applied on ex officio indictment

When an indictment is presented in the Supreme Court by a Crown Law Officer against any person who has not been committed for trial for the offence charged in the indictment, the Crown may proceed thereon in the manner prescribed in this chapter with respect to informations filed by private prosecutors, except that no security shall be required.

Chapter 71 Miscellaneous provisions

695A Power to protect victim of violence by prohibiting publication of information about proceedings

(1) This section applies to—

(a) a judge of a court—

(i) to which someone has been committed for trial or sentence for an indictable offence involving personal violence; or

(ii) before which an indictment has been presented for an offence involving personal violence; or

(iii) hearing and deciding a proceeding for a COVA application relating to an offence involving personal violence; and

(b) a magistrate summarily hearing and deciding a proceeding for an indictable offence involving personal violence, including a committal proceeding.

(2) The judge or magistrate may make an order prohibiting, indefinitely or for a specified time, the publication of information about the address of a person against whom the violence is alleged to have been committed.

(3) The order may be made on application by the person, or by the prosecution acting in the person's interests.

(4) The order may be made only if the information is not relevant to the guilt or innocence of the charged person.

(5) An application for an order under this division may be made—

(a) in chambers; and

(b) only in the presence of persons the judge or magistrate allows.

(6) On the hearing of the application the judge or magistrate may receive and act on information the judge or magistrate considers appropriate.

(7) In this section—

address, of a person, means the address of the person's residence, school, place of employment or other address.

COVA application means an application under the repealed *Criminal Offence Victims Act 1995*, part 3, as applying under the *Victims of Crime Assistance Act 2009*, chapter 6, part 2.

697 Court may direct certain persons to be prosecuted for perjury

(1) If it appears to any court that any person has been guilty of perjury in any testimony given before it, the court may commit the person to take the person's trial for such perjury before any court of competent jurisdiction in the same manner as if the person had been charged before a justice with the same perjury, and sufficient evidence had been given against the person.

(2) A person so committed may be granted bail in the same manner as if the person had been committed for trial by a justice.

(3) The court may order that any person be given a notice to appear and give evidence at the trial of a person so directed to be prosecuted.

(4) In this section—

court includes any person before whom a writ of inquiry is executed, but does not include a Magistrates Court.

699 Staying prosecution for publication of parliamentary paper

(1) A person prosecuted on a charge of the unlawful publication of defamatory matter which is contained in any paper

published by the person, or by the person's servant, by order or under the authority of the Legislative Assembly, may, at any stage of the proceedings, apply to the Supreme Court or a judge thereof or to the court in which the proceedings are pending, for an order staying the prosecution, first giving 24 hours notice of intention so to do to the prosecutor; and upon production to the court or judge of a certificate under the hand of the Speaker of the Legislative Assembly or clerk of the Parliament stating that the paper in respect of which the prosecution is instituted was published by the defendant, or by the defendant's servant, by order or under the authority of the Assembly, together with an affidavit verifying such certificate, the court or judge is required immediately to stay the prosecution, and may order the prosecutor to pay to the defendant the defendant's costs of defence.

(2) A person prosecuted on a charge of the unlawful publication of defamatory matter which is contained in a copy of, or an extract from or abstract of, any such paper, may, at any stage of the proceedings, apply to the Supreme Court or a judge thereof, or to the court in which the proceedings are pending, for an order staying the prosecution; and upon production to the court or judge of an original of such paper, together with such a certificate as aforesaid, and an affidavit verifying the same, the court or judge may stay the prosecution, and may order the prosecutor to pay to the defendant the defendant's costs of defence.

700 Certificate of dismissal by justices

(1) When justices dismiss a complaint of an offence punishable on summary conviction, whether an indictable offence or not, they may, if required and if they think fit, give the accused person a certificate of dismissal.

(2) Such a certificate is a bar to any further prosecution of the accused person for the same cause.

702 Saving of civil remedies

Except when expressly so provided, the prosecution or conviction of a person for an offence does not affect any civil remedy which any person aggrieved by the offence may have against the offender.

704 No court fees in criminal cases

No fees can be taken in any court of criminal jurisdiction or before any justice from any person who is charged with an indictable offence for any proceeding had or taken in the court or before the justice with respect to the charge.

705 Copies of depositions to be allowed to persons committed for trial

(1) Any person who is committed for trial or granted bail for any indictable offence is entitled to have on demand from the person who has the lawful custody thereof copies of the depositions of the witnesses on whose depositions the person has been so committed or granted bail.

(2) However, if the demand is not made before the day appointed for the commencement of the sittings of the court at which the trial of the person on whose behalf the demand is made is to take place, the person is not entitled to have any such copy unless the judge is of opinion that the copy may be made and delivered without delay or inconvenience to the trial.

(3) The court may postpone a trial on account of the accused person not having previously had a copy of the depositions.

706 Inspection of depositions at trial

Any person who is tried for any offence is entitled at the time of the person's trial to inspect without fee all depositions, or copies of depositions, which have been taken against the person and returned into the court before which the trial is had.

706A Development of administrative arrangements

(1) An administrative arrangement can not affect—

(a) any power of a court, including any inherent power, to give a direction or make an order in a particular case, or generally; or

(b) the judicial independence of any court or judicial officer.

(2) However, a practice direction may be made to give effect to an administrative arrangement.

(3) In this section—

administrative arrangement means an arrangement entered into between 2 or more relevant agencies for the development of compatible business and operating processes to facilitate the efficient and timely resolution of proceedings under relevant laws.

relevant agency means any of the following—

(a) the chief executive;

(b) the chief executive (corrective services);

(c) the chief executive of the department in which the *Youth Justice Act 1992* is administered;

(d) the commissioner of the police service;

(e) the director of public prosecutions;

(f) the Chief Magistrate under the *Magistrates Act 1991*;

(g) the Chief Judge of the District Court of Queensland under the *District Court of Queensland Act 1967*;

(h) the Chief Justice of Queensland;

(i) the chief executive officer, Legal Aid Queensland;

(j) the president of the Queensland Law Society Incorporated;

(k) the president of the Bar Association of Queensland;

(l) if nominated by the chief executive—the chief executive officer of a publicly funded, non-profit corporation whose primary purpose as a corporation is to provide legal services to Aboriginal and Torres Strait Islander people.

relevant law means any of the following—

(a) any law that includes provisions relating to criminal procedure, including in particular this Code and the *Justices Act 1886*;

(b) any other law that operates in conjunction with, or whose operation is otherwise associated with, the operation of a law mentioned in paragraph (a);

(c) practice directions relating to criminal practice and procedure for the purposes of the operation of a law mentioned in paragraph (a).

707 Forms of criminal proceedings

A form prescribed under a rule of court for a criminal proceeding is taken to be—

(a) sufficient for the purpose for which it is to be used; and

(b) if used, a sufficient statement of the relevant offence or matter.

708 Regulation-making power

The Governor in Council may make regulations under this Code.

Part 9 Transitional and validation provisions

Chapter 72 Transitional provision for Act No. 18 of 1999

709 Transitional provision for Act No. 18 of 1999

On a charge of unlawful stalking committed after the commencement of the *Criminal Code (Stalking) Amendment Act 1999* (the ***commencement***), evidence of an act described in section 359B(c) done before the commencement may be admitted for the purpose of deciding whether an act done after the commencement constituted unlawful stalking.

Chapter 73 Transitional provision for Justice Legislation (Miscellaneous Provisions) Act (No. 2) 1999

710 Transitional provision for Justice Legislation (Miscellaneous Provisions) Act (No. 2) 1999

(1) This section applies if, after the commencement of the *Justice Legislation (Miscellaneous Provisions) Act (No. 2) 1999*, section 11—

(a) a charge of an offence against section 339(1) is before the Supreme or District Court; and

(b) the person charged with the offence informs the court that he or she does not want to be tried by jury; and

(c) the prosecutor agrees to the charge being dealt with summarily.

(2) The court may order that—

(a) the matter be remitted to a court of summary jurisdiction for the charge to be dealt with summarily; and

(b) the court registrar send the relevant court record to the registrar of the relevant court of summary jurisdiction.

(3) The court may not make an order under subsection (2) if satisfied that because of the nature or seriousness of the offence or any other relevant consideration the defendant, if convicted, may not be adequately punished on summary conviction.

Chapter 74 Transitional provision for Criminal Law Amendment Act 2000

711 Transitional provision for Criminal Law Amendment Act 2000

(1) In relation to an indictment mentioned in section 578(1), (1A) or (4) charging a person with an offence that was committed before the commencement of this section, the reference in those provisions to section 352 is a reference to section 337 as in force at any time before the commencement of this section.

(2) In relation to an indictment presented before the commencement of this section, the person charged in the indictment may be convicted of an offence because of section 578 only if the person could have been convicted of the offence because of section 578 as in force immediately before the commencement of this section.

Chapter 75 Transitional provision for Criminal Law Amendment Act 2002

712 Transitional provision for Criminal Law Amendment Act 2002

Section 568(6) to (8), as in force at any time before the commencement of this section, continues to apply in relation to an indictment under section 568(6) presented before the commencement of this section as if the *Criminal Law Amendment Act 2002*, section 29 had not been enacted.

Chapter 76 Transitional provision for Sexual Offences (Protection of Children) Amendment Act 2003

713 Transitional provision for Sexual Offences (Protection of Children) Amendment Act 2003—unlawful sexual relationship

On a charge of an offence as defined in section 229B, evidence of an unlawful sexual act or acts done before the commencement of this section may be admitted for the purpose of deciding whether unlawful sexual acts done after the commencement of this section establish the existence of an unlawful sexual relationship.

Chapter 77 Validation provision for Criminal Proceeds Confiscation Act 2002

714 Validation provision for Criminal Proceeds Confiscation Act 2002—presentation of indictment

(1) This section applies to an indictment presented before the commencement of this section by a person, appointed or employed in, or engaged by, the Office of the Director of Public Prosecutions, who was not authorised under an Act to present the indictment.

(2) The indictment is taken to have been presented by the director of public prosecutions.

(3) Any proceedings taken, or other thing done, in relation to the indictment is taken to be as valid as if the proceedings were taken, or other thing done, in relation to an indictment presented by the director of public prosecutions.

Chapter 78 Transitional provision for Evidence (Protection of Children) Amendment Act 2003

715 Transitional provision for disclosure by the prosecution

Chapter 62, chapter division 3 applies to the following types of relevant proceeding, even if the offence concerned was committed before the commencement of this section—

(a) a relevant proceeding started in relation to an offence if the charge against the accused person for the offence was brought after the commencement of this section;

(b) a relevant proceeding in relation to an indictment presented after the commencement of this section;

(c) a relevant proceeding that is a new trial ordered by the court if the order is made after the commencement of this section.

Chapter 79 Transitional provision for Defamation Act 2005

716 Defence of truth of defamatory matter still to be specially pleaded

Section 599, as in force at any time before the commencement of this section, continues to apply in relation to a person charged with the unlawful publication of defamatory matter under the *Defamation Act 1889* as if the *Defamation Act 2005*, schedule 4, amendments of the Criminal Code, item 2 had not been enacted.

Chapter 80 Transitional provision for Criminal Code Amendment Act 2006

717 Effect of repeal of ss 56, 57 and 58

(1) After the commencement of the *Criminal Code Amendment Act 2006*, a person can not be charged with, prosecuted for or further prosecuted for, or convicted of, an offence against section 56, 57 or 58 or punished for doing or omitting to do an act that constituted that offence.

(2) However, subsection (1) does not prevent a person being punished by the Legislative Assembly for contempt of the Legislative Assembly as defined under the *Parliament of Queensland Act 2001*.

Chapter 81 Transitional provision for Justice and Other Legislation Amendment Act 2007

718 Appointment of animal valuers

A person appointed as an animal valuer under section 450F, as in force immediately before the commencement of this section, continues to hold the appointment after the commencement, as if the appointment had been made by the chief executive.

Chapter 82 Transitional provision for Criminal Code and Other Acts Amendment Act 2008

719 References to particular offences

(1) The following provisions apply as if a reference to section 208 included a reference to section 209 as in force at any time before its repeal by the amending Act—

- section 229B(10), definitions *offence of a sexual nature* and *prescribed age*
- section 578(1), (1A) and (4)
- section 636(1), definition *prescribed offence*.

(2) Section 568(2) applies as if it included a reference to an indictment against a trustee to whom the *Trust Accounts Act 1973* applies for an offence under section 436 as in force at any time before its repeal by the amending Act.

(3) Section 641(1) applies as if it included a reference to a trustee within the meaning of the *Trust Accounts Act 1973* charged with an offence under section 436 as in force at any time before its repeal by the amending Act and, for that purpose, section 641(2), as in force immediately before the commencement of this section, continues to apply.

(4) Section 644A applies as if the reference to section 101 included a reference to section 103 as in force at any time before its repeal by the amending Act.

(5) In this section—

amending Act means the *Criminal Code and Other Acts Amendment Act 2008*.

Chapter 83 Transitional provision for Criminal Code and Jury and Another Act Amendment Act 2008

720 Trial by judge alone

(1) Chapter 62, chapter division 9A applies in relation to a trial begun after the commencement whether the offence was committed before or after the commencement.

(2) For subsection (1), the trial has begun when the jury panel attends before the court.

(3) In this section—

commencement means the commencement of the *Criminal Code and Jury and Another Act Amendment Act 2008*, part 2.

Chapter 84 Transitional provision for Justice and Other Legislation Amendment Act 2008, part 8

721 Notices to witnesses

(1) This section applies if, before the commencement of this section, a witness is given a notice to witness in relation to the trial of a person.

(2) Sections 559, 590AA, 593A and 597A, as in force immediately before the commencement of this section, continue to have effect in relation to the notice to witness until—

(a) the trial of the person is concluded; or

(b) the court otherwise directs; or

(c) 3 years after the commencement of this section;

whichever happens first.

Chapter 85 Transitional provision for the Criminal Code (Medical Treatment) Amendment Act 2009

722 Retrospective application of amendment

(1) This Code as amended by the *Criminal Code (Medical Treatment) Amendment Act 2009*, section 3 applies to proceedings for an offence—

(a) started but not finished before 19 August 2009; or

(b) started after 19 August 2009, whether the act or omission constituting the offence happened before or after 19 August 2009.

(2) Subsection (1) does not apply to proceedings for an appeal against a conviction or sentence that happened before 19 August 2009.

Chapter 86 Transitional provisions for Criminal Code (Abusive Domestic Relationship Defence and Another Matter) Amendment Act 2010

723 Retrospective application of amendment

(1) This Code, as amended by the *Criminal Code (Abusive Domestic Relationship Defence and Another Matter) Amendment Act 2010*, section 3, applies to proceedings for an offence—

(a) started but not finished before the commencement; or

(b) started after the commencement, whether the act or omission constituting the offence happened before or after the commencement.

(2) Subsection (1) does not apply to proceedings for an appeal from a conviction or sentence that happened before the commencement.

(3) In this section—

commencement means the commencement of the *Criminal Code (Abusive Domestic Relationship Defence and Another Matter) Amendment Act 2010*, section 3.

Chapter 87 Transitional provision for members of QR Group

724 Employees of members of QR Group taken to be persons employed in public service during interim period

(1) During the interim period, the chief executive officer of QR Limited and persons employed by a member of QR Group are taken to be persons employed in the public service.

(2) In this section—

change of ownership means the beginning of the day notified by the Treasurer by gazette notice for this chapter.

commencement means the commencement of this chapter.

interim period means the period from the commencement to the change of ownership.

member of QR Group means QR Limited or a related body corporate of QR Limited.

QR Limited means QR Limited ACN 124 649 967.

related body corporate has the meaning given in the Corporations Act.

Treasurer means the Minister who administers the *Financial Accountability Act 2009*.

Chapter 88 Transitional provisions for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010

725 Definitions for ch 88

In this chapter—

amending Act means the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010*.

originating step, for a proceeding, means—

(a) the arrest of the defendant in the proceeding; or

(b) the making of a complaint under the *Justices Act 1886*, section 42 in relation to the defendant in the proceeding; or

(c) the serving of a notice to appear on the defendant in the proceeding under the *Police Powers and Responsibilities Act 2000*, section 382.

726 New disclosure provisions apply only to prosecutions commenced after commencement

(1) Chapter 62, chapter divisions 2, 3, 4 and 4A, as amended or inserted by the amending Act, apply to a proceeding for an offence only if an originating step for the proceeding is taken on or after the commencement of this section.

(2) For subsection (1), it does not matter when the offence was committed.

727 New summary disposition provisions apply only to prosecutions commenced after commencement

(1) Chapter 58A, as amended by the amending Act, applies in relation to a charge for an offence only if an originating step

for the proceeding for the charge is taken on or after the commencement of this section.

(2) For subsection (1), it does not matter when the offence was committed.

(3) Subsection (4) applies if—

(a) an originating step for a proceeding for a charge for an old offence is taken against a person on or after the commencement of this section in relation to circumstances that happened before the repeal of the provision providing for the old offence; and

(b) the proceeding for the old offence is not prevented under section 11(1).

(4) The issue of whether the charge for the old offence must be heard and decided summarily must, to the greatest practicable extent, be decided according to whether a charge for the new offence could be, or would be required to be, heard and decided summarily.

(5) In this section—

new offence means the offence that, for the purposes of section 11(1), is the offence under the law in force at the time when the person is charged with the old offence.

old offence means an offence against a provision of this Code that was repealed at any time before the commencement of this section.

Chapter 89 Transitional provision for Criminal Code and Other Legislation Amendment Act 2011

728 Application of amendment Act

(1) This Code, as amended by the amendment Act, sections 4 and 6, applies to proceedings for an offence started after the commencement of the sections, whether the act or omission constituting the offence happened before or after the commencement of the sections.

(2) Subsection (1) does not apply to proceedings for an appeal from a conviction or sentence that happened before the commencement of the amendment Act, sections 4 and 6.

(3) This Code, as amended by the amendment Act, sections 5, 7 and 8, applies to proceedings for an offence only if the act or omission constituting the offence happened after the commencement of the sections.

(4) In this section—

amendment Act means the *Criminal Code and Other Legislation Amendment Act 2011*.

Endnotes

1 Index to endnotes

Page

2 Date to which amendments incorporated 454

3 Key 455

4 Table of reprints 455

5 Tables in earlier reprints for Criminal Code Act 1899 457

6 List of legislation for Criminal Code Act 1899 457

7 List of annotations for Criminal Code Act 1899 458

8 Tables in earlier reprints for Criminal Code 459

9 List of legislation for Criminal Code 459

10 List of annotations for Criminal Code 474

11 List of forms notified or published in the gazette 540

12 Transitional and savings provisions for Criminal Code 540

2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 6 December 2011. Future amendments of the Criminal Code Act 1899 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key		Explanation	Key		Explanation
AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
amdt	=	amendment	prov	=	provision
ch	=	chapter	pt	=	part
def	=	definition	pubd	=	published
div	=	division	R[X]	=	Reprint No. [X]
exp	=	expires/expired	RA	=	Reprints Act 1992
gaz	=	gazette	reloc	=	relocated
hdg	=	heading	renum	=	renumbered
ins	=	inserted	rep	=	repealed
lap	=	lapsed	(retro)	=	retrospectively
notfd	=	notified	rv	=	revised edition
num	=	numbered	s	=	section
o in c	=	order in council	sch	=	schedule
om	=	omitted	sdiv	=	subdivision
orig	=	original	SIA	=	Statutory Instruments Act 1992
p	=	page	SIR	=	Statutory Instruments Regulation 2002
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	1993 Act No. 70	26 March 1994	26 March 1994
1A	1995 Act No. 58	18 December 1995	7 August 1996
1B	1995 Act No. 58	17 February 1997	14 March 1997
1C	1997 Act No. 9	1 July 1997	4 July 1997
2	1997 Act No. 38	1 August 1997	1 August 1997
2A	1997 Act No. 82	5 December 1997	9 December 1997
2B	1998 Act No. 19	26 March 1998	3 April 1998
2C	1999 Act No. 19	30 April 1999	18 June 1999
3	2000 Act No. 5	23 March 2000	31 March 2000
3A	2000 Act No. 23	1 July 2000	14 July 2000
3B	2000 Act No. 23	28 September 2000	29 September 2000
3C	2000 Act No. 46	27 October 2000	8 November 2000
3D	2000 Act No. 63	17 November 2000	1 December 2000
3E	2001 Act No. 19	6 August 2001	17 August 2001

Reprint No.	Amendments to	Effective	Reprint date
4	2001 Act No. 19	6 August 2001	7 September 2001
4A	2001 Act No. 19	28 February 2002	13 March 2002
4B	2002 Act No. 23	28 February 2002	5 June 2002
4C	2002 Act No. 23	6 June 2002	20 June 2002

Reprint No.	Amendments included	Effective	Notes
4D	2002 Act No. 23	19 July 2002	
4E rv	2002 Act No. 35	27 September 2002	
4F	2002 Act No. 68	29 November 2002	
4G	2002 Act No. 74	1 April 2003	
4H	2003 Act No. 3	1 May 2003	
4I	2003 Act No. 15	20 June 2003	
4J rv	1992 Act No. 44 (amd 2002 Act No. 39) 2002 Act No. 39	1 July 2003	
4K	2003 Act No. 92	3 December 2003	
4L	2003 Act No. 77	8 December 2003	
4M	2003 Act No. 55	5 January 2004	
4N	2004 Act No. 8	6 August 2004	
4O	2004 Act No. 43	3 December 2004	
4P	2004 Act No. 37	1 January 2005	
5 rv	2005 Act No. 9	4 April 2005	Revision notice issued for R5
5A rv	2005 Act No. 24	26 May 2005	
5B rv	2005 Act No. 70	8 December 2005	
5C rv	2005 Act No. 55	1 January 2006	
5D rv	2006 Act No. 26 2006 Act No. 30	1 June 2006	
5E rv	2005 Act No. 45	30 June 2006	
5F rv	2006 Act No. 25	1 July 2006	
5G rv	2006 Act No. 8	3 July 2006	
5H rv	2006 Act No. 29	28 August 2006	
5I rv	2006 Act No. 45	10 November 2006	R5I rv withdrawn, see R6
6	—	10 November 2006	
6A	2007 Act No. 14	20 March 2007	
6B	2007 Act No. 24	1 July 2007	
6C	2007 Act No. 37	28 September 2007	
6D	2007 Act No. 49	25 October 2007	
6E	2007 Act No. 6	30 October 2007	
6F	2007 Act No. 37	30 November 2007	
6G	2007 Act No. 59	15 March 2008	
6H	2007 Act No. 15	1 July 2008	
6I	2008 Act No. 50	19 September 2008	
6J	2008 Act No. 59	25 November 2008	

Reprint No.	Amendments included	Effective	Notes
7	2008 Act No. 55 2008 Act No. 67	1 December 2008	
7A	2009 Act No. 4	1 July 2009	
7B	2009 Act No. 33	5 September 2009	
7C	2009 Act No. 25	24 September 2009	
7D	2008 Act No. 67	1 November 2009	
7E	2009 Act No. 35	1 December 2009	
7F	2010 Act No. 1	16 February 2010	
7G	2009 Act No. 34	29 March 2010	
7H	2009 Act No. 53	15 April 2010	
7I	2010 Act No. 19	23 May 2010	
7J	2010 Act No. 2	1 June 2010	
7K	2009 Act No. 17	1 July 2010	
7L	2010 Act No. 29	1 September 2010	
7M	2010 Act No. 19	21 September 2010	
7N	2010 Act No. 42	14 October 2010	
7O	2010 Act No. 26 2010 Act No. 36 2010 Act No. 42	1 November 2010	R7O withdrawn, see R8
8	—	1 November 2010	
8A	2011 Act No. 7	4 April 2011	
8B	2011 Act No. 12 2011 Act No. 13	1 July 2011	
8C	2011 Act No. 27	1 September 2011	
8D	2011 Act No. 43	6 December 2011	

5 Tables in earlier reprints for Criminal Code Act 1899

Name of table	Reprint No.
Renumbered provisions	1

6 List of legislation for Criminal Code Act 1899

Criminal Code Act 1899 63 Vic No. 9

date of assent 28 November 1899

s 2 sch 1 commenced 1 January 1901 (see s 2)

remaining provisions commenced on date of assent

Note—This Act was to have been repealed by Criminal Code No. 37 of 1995 s 460(1) sch 4 (automatic commencement under AIA s 15DA(2) deferred to 14 June 1997) (1996 SL No. 84 s 2(2)) but the 1995 Code was never proclaimed into force and was repealed by 1997 No. 3 s 121.

amending legislation—

Criminal Code Correction of Errors Act 1900 64 Vic No. 7
date of assent 20 November 1900
commenced on date of assent

Statute Law Revision Act 1908 8 Edw 7 No. 18 s 2 sch 1
date of assent 23 December 1908
commenced on date of assent

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1
date of assent 28 November 1995
commenced on date of assent

Criminal Law Amendment Act 1997 No. 3 ss 1, 2(2), pt 2
date of assent 3 April 1997
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 1997 (1997 SL No. 152)

Justice and Other Legislation (Miscellaneous Provisions) Act (No. 2) 1997 No. 82 ss 1–3 sch
date of assent 5 December 1997
commenced on date of assent

7 List of annotations for Criminal Code Act 1899

Saving
s 3 amd R1 (see RA s 40)

Civil remedies
hdg prec (2) om 1997 No. 3 s 4(1)
s 6 amd 1997 No. 3 s 4(2)–(3); 1997 No. 82 s 3 sch

Printing of amendments
s 9 om 1908 8 Edw 7 No. 18 s 2 sch 1

General rules
s 10 om 1995 No. 58 s 4 sch 1

SCHEDULE 2—STATUTES OF THE REALM IN FORCE IN QUEENSLAND
om R1 (see RA s 40)

SCHEDULE 3—STATUTES OF NEW SOUTH WALES AND QUEENSLAND
amd 1900 64 Vic No. 7 s 1 sch
om R1 (see RA s 40)

SCHEDULE 4
om R1 (see RA s 40)

8 Tables in earlier reprints for Criminal Code

Name of table	Reprint No.
Changed citations and remade laws	1
Changed titles	1
Comparative legislation	1
Corrected minor errors	1, 3, 6, 7
Obsolete and redundant provisions	1
Renumbered provisions	1

9 List of legislation for Criminal Code

Criminal Code (schedule 1 to 63 Vic No. 9)
date of assent 28 November 1899
commenced 1 January 1901 (see s 2 of Act)
Note—This Code was to have been repealed by Criminal Code No. 37 of 1995 s 460(1) sch 4 (automatic commencement under AIA s 15DA(2) deferred to 14 June 1997) (1996 SL No. 84 s 2(2)) but the 1995 Code was never proclaimed into force and was repealed by 1997 No. 3 s 121.

amending legislation—

Criminal Code Correction of Errors Act 1900 64 Vic No. 7
date of assent 20 November 1900
commenced on date of assent

Statute Law Revision Act 1908 8 Edw 7 No. 18 s 5 sch 3
date of assent 23 December 1908
commenced on date of assent

Criminal Code Amendment Act 1913 4 Geo 5 No. 23
date of assent 26 November 1913
commenced on date of assent

Criminal Code Amendment Act 1913 (No. 2) 4 Geo 5 No. 25
date of assent 26 November 1913
commenced on date of assent

Criminal Code Amendment Act 1914 5 Geo 5 No. 22
date of assent 3 December 1914
commenced on date of assent

Trade Union Act 1915 6 Geo 5 No. 31 pt 2
date of assent 29 December 1915
commenced on date of assent

Criminal Code Amendment Act 1922 13 Geo 5 No. 2
date of assent 31 July 1922
commenced on date of assent

Criminal Code Amendment Act 1922 (No. 2) 13 Geo 5 No. 26
date of assent 16 October 1922
commenced on date of assent

State Children Acts Amendment Act 1928 19 Geo 5 No. 19 s 3
date of assent 14 November 1928
commenced on date of assent

Industrial Conciliation and Arbitration Act 1929 20 Geo 5 No. 28 s 119
date of assent 23 December 1929
commenced on date of assent

Art Union Regulation Act 1930 21 Geo 5 No. 11 s 3
date of assent 2 October 1930
commenced on 23 October 1930 (proc pubd gaz 25 October 1930 p 1592)

Criminal Code (Prohibition of Secret Commissions) and Further Amendment Act 1931 22 Geo 5 No. 40
date of assent 24 December 1931
commenced on date of assent

Industrial Conciliation and Arbitration Act 1932 23 Geo 5 No. 36 s 85
date of assent 6 January 1933
commenced 1 February 1933 (proc pubd gaz 14 January 1933 p 316)

Dairy Produce Acts and Other Acts Amendment Act 1934 25 Geo 5 No. 11 s 11
date of assent 25 October 1934
commenced on date of assent

Criminal Code Amendment Act 1939 3 Geo 6 No. 28
date of assent 1 December 1939
commenced on date of assent

Criminal Code Amendment Act 1943 7 Geo 6 No. 14
date of assent 29 April 1943
commenced on date of assent

Criminal Law Amendment Act 1945 9 Geo 6 No. 11 pt 2
date of assent 5 April 1945
commenced on date of assent

Criminal Code Amendment Act 1946 10 Geo 6 No. 22
date of assent 11 April 1946
commenced on date of assent

Criminal Law Amendment Act 1946 11 Geo 6 No. 6 ss 5–6
date of assent 20 December 1946
commenced on date of assent

Criminal Law Amendment Act 1948 12 Geo 6 No. 48 pt 2
date of assent 9 December 1948
commenced on date of assent

Traffic Act 1949 13 Geo 6 No. 26 s 24
date of assent 22 April 1949
commenced 1 February 1950 (proc pubd gaz 7 January 1950 p 37)

Elections Acts and the Criminal Code Amendment Act 1952 1 Eliz 2 No. 4 pt 3
date of assent 9 April 1952
commenced 1 December 1952 (proc pubd gaz 15 November 1952 p 1210)

Criminal Code and Justices Acts Amendment Act 1956 5 Eliz 2 No. 5 pt 2
date of assent 29 October 1956
commenced on date of assent

Criminal Code Amendment Act 1957 6 Eliz 2 No. 1
date of assent 5 April 1957
commenced on date of assent

Criminal Code and Other Acts Amendment Act 1961 10 Eliz 2 No. 11
date of assent 29 March 1961
commenced on date of assent

Criminal Code Amendment Act 1964 No. 14
date of assent 6 April 1964
commenced on date of assent

Criminal Code Amendment Act 1968 No. 44
date of assent 19 December 1968
commenced 1 January 1969 (see s 2)

Criminal Code and the Offenders Probation and Parole Act Amendment Act 1971 No. 41 pt 2
date of assent 25 October 1971
commenced on date of assent

Elections Act and the Criminal Code Amendment Act 1973 No. 8 pt 3
date of assent 11 April 1973
commenced 1 July 1973 (proc pubd gaz 19 May 1973 p 476)

Criminal Code Amendment Act 1973 No. 53
date of assent 25 October 1973
commenced on date of assent

Criminal Code and the Justices Act and Another Act (Stock Offences) Amendment Act 1973 No. 88 pt 2
date of assent 20 December 1973
commenced 1 April 1974 (proc pubd gaz 16 February 1974 p 687)

Public Defence Act 1974 No. 3 s 3(1)(b)
date of assent 2 April 1974
commenced 1 July 1974 (proc pubd gaz 15 June 1974 p 997)

Age of Majority Act 1974 No. 57 s 8 sch
date of assent 27 September 1974
commenced 1 March 1975 (proc pubd gaz 16 November 1974 p 1083)

Limitations of Actions Act 1974 No. 75 s 4 sch
date of assent 1 November 1974
commenced 1 July 1975 (see s 2)

Criminal Code and the Justices Act Amendment Act 1975 No. 27
date of assent 15 May 1975
commenced 1 July 1975 (see s 1(4))

Criminal Code Amendment Act 1976 No. 25
date of assent 22 April 1976
commenced 1 July 1976 (see s 2)

Jury Act and Other Acts Amendment Act 1976 No. 39 pt 4
date of assent 5 May 1976
commenced 30 August 1976 (proc pubd gaz 24 July 1976 p 1718)

Justices Act and the Criminal Code Amendment Act 1977 No. 13 pt 3
date of assent 14 April 1977
commenced 1 July 1977 (proc pubd gaz 18 June 1977 p 1050)

Evidence Act 1977 No. 47 s 3(7) sch 1 pt G
date of assent 3 October 1977
commenced 1 January 1978 (see s 1(2))

Justices Act and the Criminal Code Amendment Act 1978 No. 10 pt 3
date of assent 31 May 1978
commenced on date of assent

Status of Children Act 1978 No. 30 s 14 sch
date of assent 8 June 1978
commenced 1 January 1979 (see s 1(2))

Criminal Law Amendment Act 1979 No. 2 pt 2
date of assent 6 April 1979
commenced 7 April 1979 (proc pubd gaz 7 April 1979 p 1359)

Bail Act 1980 No. 35 s 4(1) sch 1
date of assent 14 May 1980
commenced 1 July 1980 (proc pubd gaz 28 June 1980 p 1634)

Criminal Law Amendment Act 1982 No. 34
date of assent 1 September 1982
commenced on date of assent

Criminal Law Amendment Act 1982 (No. 2) No. 59
date of assent 3 December 1982
commenced on date of assent

Criminal Code Amendment Act 1984 No. 28
date of assent 5 April 1984
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 1984 (proc pubd gaz 30 June 1984 p 1475)

Criminal Code and Bail Act Amendment Act 1984 No. 32 pt 2
date of assent 12 April 1984
commenced on date of assent

Mental Health Act, Criminal Code and Health Act Amendment Act 1984 No. 66 pt 3
date of assent 12 September 1984
commenced 1 July 1985 (proc pubd gaz 27 April 1985 p 2349)

Director of Prosecutions Act 1984 No. 95 s 34(3)
date of assent 6 December 1984
commenced 17 January 1985 (proc pubd gaz 19 January 1985 p 165)

Regulatory Offences Act 1985 No. 32 s 10
date of assent 17 April 1985
commenced 29 April 1985 (proc pubd gaz 27 April 1985 p 2349)

Criminal Code Amendment Act 1986 No. 1
date of assent 6 March 1986
ss 1–2 commenced on date of assent
ss 4–25, 27(b), 28–35, 60–65, 66(b), 67–80 and 83–97 commenced 29 March 1986 (proc pubd gaz 29 March 1986 p 1289 as amd by proc pubd gaz 5 April 1986 p 1396)
remaining provisions commenced 1 July 1987 (proc pubd gaz 13 June 1987 p 1461)

Corrective Services (Consequential Amendments) Act 1988 No. 88 s 5 sch 2
date of assent 1 December 1988
commenced 15 December 1988 (see s 2(2) and o in c pubd gaz 10 December 1988 p 1675)

Criminal Code, Evidence Act and Other Acts Amendment Act 1989 No. 17 pt 2 (this Act is amended, see amending legislation below)
date of assent 30 March 1989
ss 8, 56(b) never proclaimed into force and rep 1994 No. 87 s 4(1) sch 3 pt 2
remaining provisions commenced 3 July 1989 (proc pubd gaz 24 June 1989 p 1821 as amd by proc pubd gaz 1 July 1989 p 2190)

amending legislation—

Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3 sch 1 (amends 1989 No. 17 above)
date of assent 1 December 1994
commenced on date of assent

Public Service (Administrative Arrangements) Act (No. 2) 1990 No. 80 s 3 sch 1
date of assent 14 November 1990
commenced on date of assent

Criminal Code and Another Act Amendment Act 1990 No. 93
date of assent 7 December 1990
ss 1–2 commenced on date of assent
remaining provisions commenced 19 January 1991 (proc pubd gaz 19 January 1991 p 174)

Referendums Legislation Amendment Act 1990 No. 101 pt 6
date of assent 12 December 1990
commenced on date of assent

Supreme Court of Queensland Act 1991 No. 68 s 111 sch 2
date of assent 24 October 1991
ss 1–2 commenced on date of assent
remaining provisions commenced 14 December 1991 (1991 SL No. 173)

Statutory Instruments Act 1992 No. 22 pts 1, 8
date of assent 1 June 1992
commenced on date of assent

Criminal Law (Escaped Prisoners) Amendment Act 1992 No. 25 pts 1–2
date of assent 1 June 1992
commenced on date of assent

Electoral Act 1992 No. 28 pts 1, 10 div 3
date of assent 1 June 1992
ss 1–2 commenced on date of assent
remaining provisions commenced 19 June 1992 (1992 SL No. 160)

Juvenile Justice Act 1992 No. 44 s 235 sch 3
date of assent 19 August 1992
ss 1–2 commenced on date of assent
remaining provisions commenced 1 September 1993 (1993 SL No. 313)

Penalties and Sentences Act 1992 No. 48 ss 197(1), 207 sch
date of assent 24 November 1992
ss 1–2 commenced on date of assent
remaining provisions commenced 27 November 1992 (1992 SL No. 377)

Prostitution Laws Amendment Act 1992 No. 65 pts 1, 3
date of assent 7 December 1992
ss 1–2 commenced on date of assent
remaining provisions commenced 1 February 1993 (1993 SL No. 11)

Statute Law (Miscellaneous Provisions) Act (No. 2) 1992 No. 68 s 3 sch 2
date of assent 7 December 1992
commenced on date of assent

Criminal Law Amendment Act 1993 No. 65
date of assent 23 November 1993
commenced on date of assent

Justice and Attorney-General Legislation (Miscellaneous Provisions) Act 1993 No. 68 pt 6
date of assent 23 November 1993
commenced on date of assent

Local Government Act 1993 No. 70 s 804 sch
date of assent 7 December 1993

ss 1–2 commenced on date of assent
remaining provisions commenced 26 March 1994 (see s 2(5))

Fisheries Act 1994 No. 37 s 244 sch 2
date of assent 8 September 1994
ss 1–2 commenced on date of assent
remaining provisions commenced 27 January 1995 (1995 SL No. 9)

Criminal Code No. 37 of 1995 ss 1–2, 459(2) sch 3 pt 1 div 2, 459(4) sch 3 pt 2 div 2, 459(6) sch 3 pt 3 div 2 (this Act is amended, see amending legislation below)
date of assent 16 June 1995
ss 1–2, 459(2) sch 3 pt 1 div 2 commenced on date of assent (see s 2(2))
remaining provisions never proclaimed into force and rep 1997 No. 3 s 121

amending legislation—

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1 (amends 1995 No. 37 above)
date of assent 28 November 1995
commenced 16 June 1995 (see s 2(1) sch 1)

Jury Act 1995 No. 42 ss 1–2, 76 sch 2
date of assent 9 November 1995
ss 1–2 commenced on date of assent
remaining provisions commenced 17 February 1997 (1997 SL No. 13)

Criminal Offence Victims Act 1995 No. 54 ss 1–2, 45 sch 2
date of assent 22 November 1995
ss 1–2 commenced on date of assent
remaining provisions commenced 18 December 1995 (1995 SL No. 383)

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1
date of assent 28 November 1995
commenced on date of assent

Criminal Law Amendment Act 1997 No. 3 ss 1, 2(2) pt 3, s 120 sch 1 (this Act is amended, see amending legislation below)
date of assent 3 April 1997
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 1997 (1997 SL No. 152)

amending legislation—

Justice and Other Legislation (Miscellaneous Provisions) Act 1997 No. 9 ss 1, 2(2), 3, pt 9 sch 1 (amends 1997 No. 3 above)
date of assent 15 May 1997
commenced 1 July 1997 (see s 2(2))

Penalties and Sentences (Serious Violent Offences) Amendment Act 1997 No. 4 pts 1, 3
date of assent 3 April 1997
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 1997 (1997 SL No. 151)

Justice and Other Legislation (Miscellaneous Provisions) Act 1997 No. 9 ss 1–2(1) pt 7
date of assent 15 May 1997
commenced on date of assent

Aboriginal, Torres Strait Islander and Remote Communities (Justice Initiatives) Amendment Act 1997 No. 32
date of assent 18 July 1997
ss 1–2 commenced on date of assent
remaining provisions commenced 1 August 1997 (1997 SL No. 234)

Friendly Societies (Queensland) Act 1997 No. 35 ss 1–2, 38 sch
date of assent 18 July 1997
ss 1–2 commenced on date of assent
remaining provisions commenced 1 October 1997 (1997 SL No. 307)

Courts Reform Amendment Act 1997 No. 38 ss 1–2, pt 4
date of assent 18 July 1997
ss 1–2 commenced on date of assent
remaining provisions commenced on 1 August 1997 (1997 SL No. 235)

Justice and Other Legislation (Miscellaneous Provisions) Act (No. 2) 1997 No. 82 ss 1, 3 sch
date of assent 5 December 1997
commenced on date of assent

Police and Other Legislation (Miscellaneous Provisions) Act 1998 No. 19 ss 1–2, pt 4
date of assent 26 March 1998
commenced on date of assent

Corrective Services Legislation Amendment Act 1999 No. 9 pt 1 sch
date of assent 30 March 1999
ss 1–2 commenced on date of assent
remaining provisions commenced 1 May 1999 (1999 SL No. 72)

Child Protection Act 1999 No. 10 ss 1, 2(2), 205 sch 3
date of assent 30 March 1999
ss 1–2 commenced on date of assent
remaining provisions commenced 23 March 2000 (2000 SL No. 45)

Justice Legislation (Miscellaneous Provisions) Act 1999 No. 16 ss 1–2 sch
date of assent 22 April 1999
commenced on date of assent

Criminal Code (Stalking) Amendment Act 1999 No. 18 pts 1–2
date of assent 30 April 1999
commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1999 No. 19 ss 1–3 sch
date of assent 30 April 1999
commenced on date of assent

Road Transport Reform Act 1999 No. 42 ss 1–2(1), 54(3) sch pt 3
date of assent 2 September 1999
ss 1–2 commenced on date of assent
remaining provisions commenced 1 December 1999 (see s 2(1))

Audio Visual and Audio Links Amendment Act 1999 No. 65 pts 1, 3
date of assent 6 December 1999
ss 1–2 commenced on date of assent
remaining provisions commenced 1 March 2000 (2000 SL No. 14)

Justice Legislation (Miscellaneous Provisions) Act (No. 2) 1999 No. 66 ss 1, 2(2), pt 3 s 6 sch
date of assent 6 December 1999
ss 1–2 commenced on date of assent
remaining provisions commenced 1 March 2000 (2000 SL No. 15)

Prostitution Act 1999 No. 73 ss 1, 2(2)–(3), pt 10
date of assent 14 December 1999
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2000 (see s 2(2)–(3))

Police Powers and Responsibilities Act 2000 No. 5 ss 1–2, 373 sch 2, 461 (prev s 373) sch 3
date of assent 23 March 2000
ss 1–2, 373 sch 2 commenced on date of assent (see s 2(2))
remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)

Mental Health Act 2000 No. 16 ss 1–2, 590 sch 1 pt 2
date of assent 8 June 2000
ss 1–2, 590 commenced on date of assent (see s 2(1))
remaining provisions commenced 28 February 2002 (2002 SL No. 27)

Training and Employment Act 2000 No. 23 ss 1, 2(3), 293 sch 2
date of assent 27 June 2000
ss 1–2 commenced on date of assent
remaining provisions commenced 28 September 2000 (2000 SL No. 248)

Criminal Law Amendment Act 2000 No. 43 pts 1, 3
date of assent 13 October 2000
ss 1–2 commenced on date of assent
remaining provisions commenced 27 October 2000 (2000 SL No. 270)

Statute Law (Miscellaneous Provisions) Act 2000 No. 46 ss 1, 3 sch
date of assent 25 October 2000
commenced on date of assent

Justice and Other Legislation (Miscellaneous Provisions) Act 2000 No. 58 ss 1–2 sch
date of assent 17 November 2000
commenced on date of assent

Corrective Services Act 2000 No. 63 ss 1, 2(2), 276 sch 2
date of assent 24 November 2000

ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2001 (2001 SL No. 88)

Crimes at Sea Act 2001 No. 19 ss 1–2, 9
date of assent 11 May 2001
ss 1–2 commenced on date of assent
remaining provisions commenced 6 August 2001 (2001 SL No. 128)

Electoral and Other Acts Amendment Act 2002 No. 8 ss 1, 2(2), pt 3
date of assent 19 April 2002
ss 1–2 commenced on date of assent
remaining provisions commenced 6 June 2002 (2002 SL No. 119)

Criminal Law Amendment Act 2002 No. 23 ss 1–2, pt 3, s 3 sch
date of assent 23 May 2002
ss 1–3 commenced on date of assent (see s 2(1))
sch amdt 1 commenced 28 February 2002 (see s 2(2))
remaining provisions commenced 19 July 2002 (2002 SL No. 157)

Drugs Misuse Amendment Act 2002 No. 35 ss 1–2, 13 sch
date of assent 16 August 2002
ss 1–2 commenced on date of assent
remaining provisions commenced 27 September 2002 (2002 SL No. 253)

Juvenile Justice Amendment Act 2002 No. 39 pts 1, 7
date of assent 29 August 2002
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2003 (2002 SL No. 350)

Juvenile Justice Act 1992 No. 44 s 341(3) (prev 262(3)) sch 3 (this Act is amended, see amending legislation below)

amending legislation—

Juvenile Justice Amendment Act 2002 No. 39 ss 1–2, 115, 118 (amends 1992 No. 44 above)
date of assent 29 August 2002
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2003 (2002 SL No. 350)

Criminal Proceeds Confiscation Act 2002 No. 68 ss 1–2(1)(a), (3)(a), ch 12 pt 4
date of assent 29 November 2002
ss 1–2 commenced on date of assent
remaining provisions commenced on date of assent (see s 2(3)(a))

Discrimination Law Amendment Act 2002 No. 74 ss 1–2, 90 sch
date of assent 13 December 2002
ss 1–2 commenced on date of assent
s 90 commenced 31 March 2003 (2003 SL No. 51)
remaining provisions commenced 1 April 2003 (2003 SL No. 51)

Sexual Offences (Protection of Children) Amendment Act 2003 No. 3 ss 1, 2(2), pt 3
date of assent 4 March 2003

ss 1–2 commenced on date of assent
remaining provisions commenced 1 May 2003 (2003 SL No. 52)

Criminal Code (Palliative Care) Amendment Act 2003 No. 15
date of assent 9 April 2003
ss 1–2 commenced on date of assent
remaining provisions commenced 20 June 2003 (2003 SL No. 114)

Evidence (Protection of Children) Amendment Act 2003 No. 55 pts 1, 5
date of assent 18 September 2003
ss 1–2 commenced on date of assent
remaining provisions commenced 5 January 2004 (2003 SL No. 280)

Justice and Other Legislation Amendment Act 2003 No. 77 ss 1, 2(3), pt 10
date of assent 6 November 2003
ss 1–2 commenced on date of assent
remaining provisions commenced 8 December 2003 (2003 SL No. 310)

Police Powers and Responsibilities and Other Legislation Amendment Act 2003 No. 92 s 1, pt 5A
date of assent 3 December 2003
commenced on date of assent

Terrorism (Community Safety) Amendment Act 2004 No. 8 pts 1, 3
date of assent 20 May 2004
ss 1–2 commenced on date of assent
remaining provisions commenced 6 August 2004 (2004 SL No. 147)

Local Government (Community Government Areas) Act 2004 No. 37 ss 1–2, 86 sch 1
date of assent 27 October 2004
ss 1–2 commenced on date of assent
remaining provisions commenced 1 January 2005 (2004 SL No. 266)

Justice and Other Legislation Amendment Act 2004 No. 43 pts 1, 6, s 3 sch
date of assent 18 November 2004
ss 1–2 commenced on date of assent
remaining provisions commenced 3 December 2004 (2004 SL No. 263)

Criminal Code (Child Pornography and Abuse) Amendment Act 2005 No. 9 pts 1–2
date of assent 18 March 2005
ss 1–2 commenced on date of assent
remaining provisions commenced 4 April 2005 (2005 SL No. 48)

Tourism, Fair Trading and Wine Industry Development Legislation Amendment Act 2005 No. 24 pts 1, 5
date of assent 31 May 2005
ss 1–2 commenced on date of assent
remaining provisions commenced 26 May 2005 (see s 2)

Cross-Border Law Enforcement Legislation Amendment Act 2005 No. 45 ss 1–2(1), 74 sch 4
date of assent 14 October 2005

ss 1–2 commenced on date of assent
remaining provisions commenced 30 June 2006 (2006 SL No. 144)

Defamation Act 2005 No. 55 ss 1–2, 48 sch 4
date of assent 18 November 2005
ss 1–2 commenced on date of assent
remaining provisions commenced 1 January 2006 (see s 2)

Justice and Other Legislation Amendment Act 2005 No. 70 s 1, pt 10, s 166 sch
date of assent 8 December 2005
commenced on date of assent

Drug Legislation Amendment Act 2006 No. 8 pts 1, 4
date of assent 15 March 2006
ss 1–2 commenced on date of assent
remaining provisions commenced 3 July 2006 (2006 SL No. 151)

Health Quality and Complaints Commission Act 2006 No. 25 ss 1–2(1), 241(1) sch 3
date of assent 29 May 2006
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2006 (see s 2(1))

Police Powers and Responsibilities and Other Acts Amendment Act 2006 No. 26 ss 1, 2(1)(e), 2(13), pt 3
date of assent 1 June 2006
commenced on date of assent (see s 2(1)(e), 2(13))

Corrective Services Act 2006 No. 29 ss 1, 2(2), 518 sch 3
date of assent 1 June 2006
ss 1–2 commenced on date of assent
remaining provisions commenced 28 August 2006 (2006 SL No. 213)

Criminal Code Amendment Act 2006 No. 30 pts 1–2
date of assent 1 June 2006
commenced on date of assent

Criminal Code (Drink Spiking) and Other Acts Amendment Act 2006 No. 45 pts 1–2
date of assent 10 November 2006
commenced on date of assent

Transport Legislation and Another Act Amendment Act 2007 No. 6 pts 1–1A
date of assent 28 February 2007
ss 1–2 commenced on date of assent
s 2B commenced 30 October 2007 (see 2007 SL No. 255) amdt given effect under AIA s 14H(2)(a)
remaining provisions commenced 30 October 2007 (2007 SL No. 255)

Criminal Code and Civil Liability Amendment Act 2007 No. 14 s 1, pt 2
date of assent 20 March 2007
commenced on date of assent

Security Providers Amendment Act 2007 No. 15 ss 1–2, 37 sch
date of assent 20 March 2007

ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2008 (2008 SL No. 118)

Legal Profession Act 2007 No. 24 ss 1–2, 770 sch 1
date of assent 28 May 2007
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2007 (2007 SL No. 151)

Justice and Other Legislation Amendment Act 2007 No. 37 pts 1, 8, s 42 sch
date of assent 29 August 2007
ss 1–2 commenced on date of assent
ss 43–44 commenced 30 November 2007 (2007 SL No. 295)
remaining provisions commenced 28 September 2007 (2007 SL No. 241)

Criminal Code (Double Jeopardy) Amendment Act 2007 No. 49
date of assent 25 October 2007
commenced on date of assent

Local Government and Other Legislation (Indigenous Regional Councils) Amendment Act 2007 No. 59 pts 1, 5
date of assent 22 November 2007
ss 1–2 commenced on date of assent
remaining provisions commenced 15 March 2008 (2007 SL No. 336)

Criminal Code and Jury and Another Act Amendment Act 2008 No. 50 pts 1–2
date of assent 19 September 2008
commenced on date of assent

Criminal Code and Other Acts Amendment Act 2008 No. 55 pts 1–2
date of assent 23 October 2008
ss 1–2 commenced on date of assent
remaining provisions commenced 1 December 2008 (2008 SL No. 386)

Justice and Other Legislation Amendment Act 2008 No. 59 s 1, pt 8
date of assent 25 November 2008
commenced on date of assent

Transport and Other Legislation Amendment Act 2008 No. 67 ss 1, 2(3)(d), pt 3 div 3, pt 6 div 2 sdiv 1
date of assent 1 December 2008
ss 1–2, pt 3 div 3 commenced on date of assent
remaining provisions commenced 1 November 2009 (2009 SL No. 225)

Guide, Hearing and Assistance Dogs Act 2009 No. 4 ss 1–2, 124(2) sch 3
date of assent 23 February 2009
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2009 (2009 SL No. 125)

Local Government Act 2009 No. 17 ss 1, 2(4), 331 sch 1
date of assent 12 June 2009
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2010 (2010 SL No. 122)

Criminal Code and Other Legislation (Misconduct, Breaches of Discipline and Public Sector Ethics) Amendment Act 2009 No. 25 pts 1–2
date of assent 11 August 2009
ss 1–2 commenced on date of assent
remaining provisions commenced 24 September 2009 (2009 SL No. 203)

Criminal Code (Medical Treatment) Amendment Act 2009 No. 33
date of assent 5 September 2009
commenced on date of assent

Juvenile Justice and Other Acts Amendment Act 2009 No. 34 ss 1, 2(2), 45(1) sch pt 1 amdt 12
date of assent 17 September 2009
ss 1–2 commenced on date of assent
remaining provisions commenced 29 March 2010 (2010 SL No. 37)

Victims of Crime Assistance Act 2009 No. 35 ss 1–2, ch 7 pt 2
date of assent 17 September 2009
ss 1–2 commenced on date of assent
remaining provisions commenced 1 December 2009 (2009 SL No. 277)

Criminal Organisation Act 2009 No. 53 ss 1–2, pt 11 div 2
date of assent 3 December 2009
ss 1–2 commenced on date of assent
remaining provisions commenced 15 April 2010 (2010 SL No. 61)

Criminal Code (Abusive Domestic Relationship Defence and Another Matter) Amendment Act 2010 No. 1
date of assent 16 February 2010
commenced on date of assent

Surrogacy Act 2010 No. 2 ss 1–2, ch 6 pt 5, s 89 sch 1
date of assent 16 February 2010
ss 1–2 commenced on date of assent
remaining provisions commenced 1 June 2010 (2010 SL No. 86)

Transport and Other Legislation Amendment Act (No. 2) 2010 No. 19 ss 1, 2(1)(a), ch 2 pt 4
date of assent 23 May 2010
ss 1–2 commenced on date of assent
s 24 commenced 21 September 2010 (see s 2(1)(a) and gazette notice pubd Queensland Government Gazette No. 20, 21 September 2010 p 172)
remaining provisions commenced on date of assent

Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010 No. 26 pts 1, 4
date of assent 13 August 2010
ss 1–2 commenced on date of assent
remaining provisions commenced 1 November 2010 (2010 SL No. 236)

Prostitution and Other Acts Amendment Act 2010 No. 29 s 1, pt 3
date of assent 1 September 2010
commenced on date of assent

Ministerial and Other Office Holder Staff Act 2010 No. 36 ss 1–2, pt 6 div 1
date of assent 20 September 2010
ss 1–2 commenced on date of assent
remaining provisions commenced 1 November 2010 (2010 SL No. 304)

Justice and Other Legislation Amendment Act 2010 No. 42 ss 1–2(1), pt 7
date of assent 14 October 2010
s 23 commenced 1 November 2010 (2010 SL No. 301)
remaining provisions commenced on date of assent

Criminal Code and Other Legislation Amendment Act 2011 No. 7 pts 1–2
date of assent 4 April 2011
commenced on date of assent

Transport and Other Legislation Amendment Act 2011 No. 12 ss 1–2(1), pt 4
date of assent 14 April 2011
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2011 (2011 SL No. 97)

Forensic Disability Act 2011 No. 13 ch 1 pt 1, ch 14 pt 5
date of assent 19 May 2011
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2011 (2011 SL No. 121 item 1)

Local Government Electoral Act 2011 No. 27 s 1, pt 12 div 7
date of assent 1 September 2011
commenced on date of assent

Health and Hospitals Network Act 2011 No. 32 ss 1–2, 332 sch 1 pt 2
date of assent 28 October 2011
ss 1–2 commenced on date of assent
remaining provisions not yet proclaimed into force (see s 2)

Criminal Organisation Amendment Act 2011 No. 43 pts 1, 4
date of assent 6 December 2011
commenced on date of assent

Civil Proceedings Act 2011 No. 45 ss 1–2, pt 17
date of assent 6 December 2011
ss 1–2 commenced on date of assent
remaining provisions not yet proclaimed into force (see s 2)

10 List of annotations for Criminal Code

Note—By s 19 of Act No. 13 of 1977 notes to certain sections of the Criminal Code shall be deemed to be headings to such sections (see endnote 12—Transitional and savings provisions for Criminal Code).

Index amd 1982 No. 59 s 4; 1984 No. 32 s 5; 1989 No. 17 s 58; 1990 No. 93 s 3
om R1 (see RA s 36)

Definitions
prov hdg amd 2000 No. 43 s 15(1)
s 1 def **"adult"** ins 1989 No. 17 s 4
def **"adult entertainment"** ins 1999 No. 73 s 171(2)
def **"adult entertainment permit"** ins 1999 No. 73 s 171(2)
def **"affected child"** ins 2003 No. 55 s 10
def **"aircraft"** ins 1964 No. 14 s 2(a)
def **"animal"** ins 1986 No. 1 s 3
def **"approved manager"** ins 1999 No. 73 s 171(2)
def **"arresting officer"** ins 2003 No. 55 s 10
sub 2010 No. 26 s 16
def **"benefit"** ins 1997 No. 3 s 6(2)
def **"brothel licence"** ins 1999 No. 73 s 171(2)
def **"canal"** ins 2008 No. 55 s 4(2)
def **"carnal knowledge"** ins 1997 No. 3 s 6(2)
om 2004 No. 43 s 3 sch
def **"carnal knowledge"** ins 2003 No. 55 s 10
def **"child exploitation material"** ins 2005 No. 9 s 4
def **"classification officer"** ins 2005 No. 9 s 4
def **"classified"** ins 2005 No. 9 s 4
def **"clerk"** and **"servant"** amd 1997 No. 35 s 36 sch
def **"committal for trial"** ins 1975 No. 27 s 2(a)
def **"computer game"** ins 2005 No. 9 s 4
def **"computer generated image"** ins 2003 No. 3 s 14A
def **"conduct"** ins 2005 No. 70 s 53
def **"consent"** ins 2000 No. 43 s 15(2)
def **"court"** ins 2003 No. 55 s 10
def **"crematorium"** ins 2011 No. 7 s 3
def **"criminal history"** ins 2003 No. 55 s 10
def **"criminal organisation"** ins 2009 No. 53 s 145(1)
def **"Crown Law Officer"** amd 1984 No. 95 s 34(3); 2000 No. 46 s 3 sch
def **"damage"** ins 2008 No. 55 s 4(2)
def **"detriment"** ins 2008 No. 55 s 4(2)
def **"disclose"** ins 2003 No. 55 s 10
om 2008 No. 55 s 4(1)
def **"disclosure obligation"** ins 2010 No. 26 s 16(2)
def **"disclosure obligation direction"** ins 2010 No. 26 s 16(2)
def **"document"** ins 1997 No. 3 s 6(2)
def **"domestic relationship"** ins 2011 No. 7 s 3
def **"DPP presenter"** ins 2002 No. 68 s 302

def **"dwelling"** amd 1997 No. 3 s 6(3)
def **"Evidence Act section 93A device statement"** ins 2010 No. 2 s 89 sch 1
def **"exculpatory thing"** ins 2003 No. 55 s 10
def **"family"** ins 2002 No. 23 s 8
def **"film"** ins 2005 No. 9 s 4
def **"forge"** ins 1997 No. 3 s 6(2)
def **"genitalia"** ins 2000 No. 43 s 15(2)
def **"grievous bodily harm"** sub 1997 No. 3 s 6(1)–(2)
def **"have in possession"** see **"possession"**
def **"indecent matter"** ins 2003 No. 3 s 14A
def **"inland water"** ins 2008 No. 55 s 4(2)
def **"intellectually impaired person"** ins 1992 No. 65 s 6
om 2008 No. 55 s 4(1)
def **"judicial officer"** ins 2002 No. 23 s 8
def **"judicial proceeding"** ins 2002 No. 23 s 8
def **"law enforcement agency"** ins 2005 No. 70 s 53
sub 2009 No. 53 s 145(2)
def **"law enforcement officer"** ins 2005 No. 70 s 53
sub 2009 No. 53 s 145(2)
def **"licensed brothel"** ins 1999 No. 73 s 171(2)
def **"licensee"** ins 1999 No. 73 s 171(2)
def **"mail"** om 1997 No. 3 s 6(1)
def **"mail conveyance"** om 1997 No. 3 s 6(1)
def **"material"** ins 2005 No. 9 s 4
def **"motor vehicle"** ins 1964 No. 14 s 2(b)
def **"observe"** ins 2005 No. 70 s 53
def **"occupier"** ins 2005 No. 70 s 53
def **"offence"** ins 2003 No. 55 s 10
def **"original evidence"** ins 2003 No. 55 s 10
def **"party"** ins 2010 No. 26 s 16(2)
def **"penetrate"** ins 2000 No. 43 s 15(2)
def **"penis"** ins 2000 No. 43 s 15(2)
def **"person employed in the public service"** amd 1997 No. 3 s 6(5); 2008 No. 67 s 113; 2010 No. 19 s 23(2)–(3); 2010 No. 36 s 44
def **"person with an impairment of the mind"** ins 2008 No. 55 s 4(2)
def **"picture"** ins 2003 No. 3 s 14A
def **"place"** ins 2005 No. 70 s 53
def **"police officer"** om 2000 No. 5 s 373 sch 2
def **"port"** ins 2008 No. 55 s 4(2)
def **"possession"** amd 1997 No. 3 s 6(4)
def **"possession of the prosecution"** ins 2003 No. 55 s 10
def **"Post and Telegraph Department"** om 1997 No. 3 s 6(1)
def **"Postmaster-General"** om 1997 No. 3 s 6(1)
def **"post office"** and **"telegraph office"** om 1997 No. 3 s 6(1)
def **"premises"** ins 1997 No. 3 s 6(2)
def **"prescribed summary trial"** ins 2003 No. 55 s 10
def **"private act"** ins 2005 No. 70 s 53
def **"private place"** ins 2005 No. 70 s 53

def **"property"** sub 1997 No. 3 s 6(1)–(2)
def **"prosecution"** ins 2003 No. 55 s 10
sub 2010 No. 26 s 16
def **"prostitution"** ins 1992 No. 65 s 6
def **"publication"** ins 2005 No. 9 s 4
def **"public officer"** ins 1997 No. 3 s 6(2)
amd 2000 No. 46 s 3 sch
def **"public place"** ins 2005 No. 70 s 53
def **"rail GOC"** ins 2010 No. 19 s 23(1)
def **"record"** ins 1997 No. 3 s 6(2)
def **"registered brand"** and **"registered mark"** amd 1961 10 Eliz 2 No. 11 s 2
def **"relevant proceeding"** ins 2003 No. 55 s 10
def **"sensitive evidence"** ins 2003 No. 55 s 10
def **"serious disease"** ins 1997 No. 3 s 6(2)
def **"sexual act"** ins 1992 No. 65 s 6
om 1999 No. 73 s 171(1)
def **"someone"** ins 2005 No. 9 s 4
def **"spent conviction"** ins 2003 No. 55 s 10
def **"statement"** ins 2003 No. 55 s 10
def **"state of undress"** ins 2005 No. 70 s 53
def **"stock"** ins 2002 No. 23 s 8
def **"telegram"** and **"thing sent by telegraph"** om 1997 No. 3 s 6(1)
def **"telegraph"** om 1997 No. 3 s 6(1)
def **"the offender cannot be arrested without warrant"** ins 2003 No. 55 s 10
def **"the offender may be arrested without warrant"** ins 2003 No. 55 s 10
def **"thing sent by post"** om 1997 No. 3 s 6(1)
def **"trial"** ins 1975 No. 27 s 2(b)
def **"unlawful game"** ins 2005 No. 70 s 53
def **"vagina"** ins 2000 No. 43 s 15(2)
def **"vehicle"** ins 1997 No. 3 s 6(2)
amd 2008 No. 55 s 4(3)
def **"view"** ins 2010 No. 2 s 89 sch 1
def **"visually record"** ins 2005 No. 70 s 53
def **"vulva"** ins 2000 No. 43 s 15(2)
def **"woman"** ins 1997 No. 3 s 6(2)
def **"writing"** ins 1997 No. 3 s 6(2)

Division of offences
s 3 sub 1985 No. 32 s 10(a)

Carnal knowledge
s 6 amd 1990 No. 93 s 4
sub 1997 No. 3 s 7
amd 2004 No. 43 s 3 sch

Accessories after the fact
s 10 amd 1997 No. 3 s 8

Interpretation of ch 2
s 10A ins 1997 No. 3 s 9

Application of Code as to offences wholly or partially committed in Queensland
s 12 sub 1989 No. 17 s 5

Offences enabled, aided, procured or counselled by persons out of Queensland
s 13 sub 1989 No. 17 s 6

Offences procured in Queensland to be committed out of Queensland
s 14 amd 1989 No. 17 s 7

Offences committed on the high seas
s 14A ins 1976 No. 25 s 3
amd 1997 No. 82 s 3 sch
om 2001 No. 19 s 9

Defence Force
s 15 amd 2010 No. 2 s 89 sch 1

Former conviction or acquittal
s 17 amd 2007 No. 49 s 3

CHAPTER 4—ROYAL PREROGATIVE OF MERCY
ch hdg sub 1992 No. 48 s 207 sch

Royal prerogative of mercy
s 18 amd 1914 5 Geo 5 No. 22 s 2(1); 1922 13 Geo 5 No. 2 s 3(i); 1928 19 Geo 5 No. 19 s 3; 1986 No. 1 s 4; 1988 No. 88 s 5 sch 2
sub 1992 No. 44 s 235 sch 3; 1992 No. 48 s 207 sch

Construction of provisions of Code as to punishments
s 19 amd 1922 13 Geo 5 No. 2 s 3(ii); 1943 7 Geo 6 No. 14 s 2; 1948 12 Geo 6 No. 48 s 4; 1961 10 Eliz 2 No. 11 s 3; 1971 No. 41 s 4; 1975 No. 27 s 3; 1986 No. 1 s 5; 1988 No. 88 s 5 sch 2
om 1992 No. 48 s 207 sch

Calculation of Term of Sentence: Cumulative Sentences: Escaped Prisoners
prov hdg amd 1992 No. 25 s 2(1)
s 20 amd 1948 12 Geo 6 No. 48 s 5; 1988 No. 88 s 5 sch 2; 1992 No 25 s 2(2)
om 1992 No 48 s 207 sch

Prerogative
s 21 om 1992 No. 48 s 297 sch

Ignorance of the law—bona fide claim of right
s 22 amd 1985 No. 32 s 10(b); 1992 No. 22 s 50; 1992 No. 68 s 3 sch 2; 2000 No. 46 s 3 sch

Intention—motive
s 23 amd 1997 No. 3 s 10; 2011 No. 7 s 4

Intoxication
s 28 amd 1997 No. 3 s 11

Immature age
s 29 amd 1976 No. 25 s 19 sch; 1989 No. 17 s 9; 1997 No. 3 s 12

Justification and excuse—compulsion
s 31 amd 1922 13 Geo 5 No. 2 s 3(iii); 1971 No. 41 s 7; 1997 No. 3 s 13; 2000 No. 43 s 16; 2008 No. 55 s 5

Compulsion of husband
s 32 amd 1922 13 Geo 5 No. 2 s 3(iii); 1971 No. 41 s 7
om 1997 No. 3 s 120 sch 1

No conspiracy between husband and wife alone
s 33 om 1997 No. 3 s 120 sch 1

Liability of husband and wife for offences committed by either with respect to the other's property
s 35 amd 1977 No. 47 s 3(7) sch 1 pt G
om 1997 No. 3 s 120 sch 1

Application of rules
s 36 amd 1985 No. 32 s 10(c)

CHAPTER 6—TREASON AND OTHER OFFENCES AGAINST THE SOVEREIGN'S PERSON AND AUTHORITY
ch hdg om 1997 No. 3 s 120 sch 1

Treason
s 37 amd 1922 13 Geo 5 No. 2 s 3(iv); 1988 No. 88 s 5 sch 2; 1992 No. 48 s 207 sch
om 1997 No. 3 s 120 sch 1

Concealment of treason
s 38 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Treasonable crimes
s 39 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Time for proceeding in cases of treason or concealment of treason—2 witnesses necessary
s 40 om 1997 No. 3 s 120 sch 1

Inciting to mutiny
s 41 amd 1986 No. 1 s 6; 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Assisting escape of prisoners of war
s 42 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Overt act
s 43 om 1997 No. 3 s 120 sch 1

Unlawful oaths to commit certain crimes
prov hdg amd 1922 13 Geo 5 No. 2 s 3(v)
s 47 amd 1922 13 Geo 5 No. 2 s 3(v); 1971 No. 41 s 7; 1986 No. 1 s 7; 1988 No. 88 s 5 sch 2; 1997 No. 3 s 14
om 2008 No. 55 s 6

Other unlawful oaths to commit offences
s 48 amd 1922 13 Geo 5 No. 2 s 3(vi); 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 6

Compulsion, how far a defence
s 49 om 2008 No. 55 s 6

Effect of prosecution
s 50 om 1997 No. 3 s 120 sch 1

Unlawful drilling
s 51 amd 1900 64 Vic No. 7 s 1 sch; 1988 No. 88 s 5 sch 2; 1997 No. 82 s 3 sch

Sedition
s 52 amd 1988 No. 88 s 5 sch 2

Defamation of foreign princes
s 53 om 1997 No. 3 s 120 sch 1

Interference with Governor or Ministers
s 54 amd 1939 3 Geo 6 No. 28 s 3; 2008 No. 55 s 7

Demands with menaces upon agencies of government
s 54A ins 1984 No. 32 s 3
amd 1988 No. 88 s 5 sch 2; 1992 No 48 s 207 sch; R1 (see RA s 39); 1997 No. 82 s 3 sch; 2000 No. 46 s 3 sch; 2008 No. 55 s 8; 2010 No. 2 s 89 sch 1

Interference with the Legislature
s 55 amd 1939 3 Geo 6 No. 28 s 3; 2008 No. 55 s 9

Disturbing the Legislature
s 56 amd 1939 3 Geo 6 No. 28 s 3
om 2006 No. 30 s 3

Disturbance in House when Parliament not sitting
s 56A ins 1939 3 Geo 6 No. 28 s 2
amd 1988 No. 88 s 5 sch 2; 1999 No. 66 s 7

Going armed to Parliament House
s 56B ins 1939 3 Geo 6 No. 28 s 2
amd 1988 No. 88 s 5 sch 2; 1999 No. 66 s 8; 2000 No. 5 s 461 sch 3

False evidence before Parliament
s 57 amd 1988 No. 88 s 5 sch 2
om 2006 No. 30 s 4

Witnesses refusing to attend or give evidence before Parliament or parliamentary committee

s 58 amd 1900 64 Vic No. 7 s 1 sch
om 2006 No. 30 s 4

Member of Parliament receiving bribes

s 59 amd 1988 No. 88 s 5 sch 2; 1999 No. 66 s 6 sch

Bribery of member of Parliament

s 60 amd 1922 13 Geo 5 No. 26 s 2; 1988 No. 88 s 5 sch 2

CHAPTER 9—BREACHES OF THE PEACE

ch hdg amd 2008 No. 55 s 10

Riot

s 61 sub 2008 No. 55 s 11

Punishment of unlawful assembly

s 62 amd 1939 3 Geo 6 No. 28 s 3
om 2008 No. 55 s 11

Punishment of riot

s 63 amd 1939 3 Geo 6 No. 28 s 3; 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 11

Rioters remaining after proclamation ordering them to disperse

s 64 amd 1986 No. 1 s 8; 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 11

Rioters demolishing buildings etc.

s 65 amd 1986 No. 1 s 9; 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 11

Rioters injuring building, machinery etc.

s 66 amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 11

Smuggling or rescuing goods under arms

s 67 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Smuggling under arms or in disguise

s 68 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Going armed so as to cause fear

s 69 amd 1939 3 Geo 6 No. 28 s 3; 1975 No. 27 s 4; 1988 No. 88 s 5 sch 2

Forcible entry

s 70 amd 2008 No. 55 s 12

Forcible detainer

s 71 amd 2008 No. 55 s 13

Affray
s 72 amd 1988 No. 88 s 5 sch 2; 2008 No. 55 s 14

Challenge to fight a duel
s 73 amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 15

Threatening violence
s 75 amd 1975 No. 27 s 5; 1988 No. 88 s 5 sch 2; 1997 No. 3 s 15

Assembling for the purpose of smuggling
s 76 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Unlawful processions
s 77 om 2008 No. 55 s 16

Interfering with political liberty
s 78 amd 1988 No. 88 s 5 sch 2

CHAPTER 11—PIRACY
ch hdg sub 2008 No. 55 s 17

Definition of "act of piracy"
s 79 sub 2008 No. 55 s 17

Crime of piracy
s 80 sub 2008 No. 55 s 17

Punishment of piracy
s 81 amd 1922 13 Geo 5 No. 2 s 3(vii); 1988 No. 88 s 5 sch 2; 1992 No. 48 s 207 sch
om 2008 No. 55 s 17

Attempted piracy with personal violence
s 82 amd 1922 13 Geo 5 No. 2 s 3(vii); 1988 No. 88 s 5 sch 2; 1992 No. 48 s 207 sch
om 2008 No. 55 s 17

Aiding pirates
s 83 amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 17

PART 3—OFFENCES AGAINST THE ADMINISTRATION OF LAW AND JUSTICE, AGAINST OFFICE AND AGAINST PUBLIC AUTHORITY
pt hdg amd 2008 No. 55 s 18

CHAPTER 12—UNLAWFULLY OBTAINING OR DISCLOSING INFORMATION
ch hdg amd 2009 No. 53 s 146

Disclosure of secrets relating to defences by public officers
s 84 om 1997 No. 3 s 120 sch 1

Disclosure of official secrets
s 85 sub 1997 No. 3 s 16

Obtaining of or disclosure of secret information about the identity of informant
s 86 prev s 86 om 1997 No. 3 s 120 sch 1
pres s 86 ins 2009 No. 53 s 147
amd 2011 No. 43 s 22

Official corruption
s 87 amd 1988 No. 88 s 5 sch 2; 1997 No. 3 s 16A; 1999 No. 66 s 6 sch

Public officers interested in contracts
s 89 amd 2010 No. 36 s 45

False claims by officials
s 91 amd 1988 No. 88 s 5 sch 2

Abuse of office
s 92 amd 1988 No. 88 s 5 sch 2

Misconduct in relation to public office
s 92A ins 2009 No. 25 s 4

False certificates by public officers
s 94 amd 1988 No. 88 s 5 sch 2

False assumption of authority
s 96 amd 1988 No. 88 s 5 sch 2

Personating public officers
s 97 amd 1988 No. 88 s 5 sch 2
sub 2008 No. 55 s 19

CHAPTER 14—CORRUPT AND IMPROPER PRACTICES AT ELECTIONS
Chapter division 1—Definitions for ch 14
ch div hdg ins 2002 No. 8 s 49

Definitions
s 98 def **"authorising Act"** ins 2008 No. 55 s 20
def **"election"** amd 1990 No. 101 s 19(a); 1997 No. 82 s 3 sch; 2002 No. 8 s 50(2)
def **"municipal election"** om 1993 No. 70 s 804 sch; 2010 No. 2 s 89 sch 1
def **"parliamentary election"** amd 1990 No. 101 s 19(b); 1997 No. 82 s 3 sch om 2002 No. 8 s 50(1)
def **"polling booth"** om 2010 No. 2 s 89 sch 1

Chapter division 2—Legislative Assembly elections and referendums
ch div hdg ins 2002 No. 8 s 51
amd 2011 No. 27 s 258

Reference to election or referendum
s 98A ins 1992 No. 28 s 197
sub 1993 No. 70 s 804 sch; 2002 No. 8 s 51
amd 2011 No. 27 s 259

False or misleading information
s 98B ins 2002 No. 8 s 51
amd 2008 No. 55 s 21

Bribery
s 98C ins 2002 No. 8 s 51
amd 2004 No. 43 s 28

Forging or uttering electoral or referendum paper
s 98D ins 2002 No. 8 s 51

Influencing voting
s 98E ins 2002 No. 8 s 51

Providing money for illegal payments
s 98F ins 2002 No. 8 s 51

Voting if not entitled
s 98G ins 2002 No. 8 s 51

Chapter division 3—Other elections
ch div hdg ins 2002 No. 8 s 51

Application of ch div 3
s 98H ins 2002 No. 8 s 51

Voting if not entitled
s 99 amd 1988 No. 88 s 5 sch 2
sub 2008 No. 55 s 22

Hindering or interfering with voting conduct
s 100 amd 1988 No. 88 s 5 sch 2
sub 2008 No. 55 s 22

Bribery
s 101 amd 1988 No. 88 s 5 sch 2
sub 2008 No. 55 s 22

Publishing false information about a candidate
s 102 amd 1988 No. 88 s 5 sch 2
sub 2008 No. 55 s 22

Providing money for illegal payments
s 103 amd 1973 No. 8 s 25; 1988 No. 88 s 5 sch 2; 1999 No. 66 s 6 sch
sub 2008 No. 55 s 22

Election notices to contain particular matters
s 104 prev s 104 om 1993 No. 70 s 804 sch
pres s 104 ins 2008 No. 55 s 22

Illegal practices
s 105 amd 1993 No. 70 s 804 sch
om 2008 No. 55 s 22

Other illegal practices
s 106 amd 1990 No. 101 s 20; 1993 No. 70 s 804 sch
om 2008 No. 55 s 22

Corrupt and illegal practices—time
s 107 amd 1993 No. 70 s 804 sch
amd 2008 No. 55 s 23

Interfering at elections
s 108 amd 1988 No. 88 s 5 sch 2
sub 2008 No. 55 s 24

Electors attempting to violate secrecy of ballot
s 109 amd 1988 No. 88 s 5 sch 2; 1990 No. 101 s 21; 2008 No. 55 s 25

Stuffing ballot boxes
s 110 amd 1988 No. 88 s 5 sch 2
sub 2008 No. 55 s 26

Presiding officer helping an elector with a disability
s 111 amd 1988 No. 88 s 5 sch 2
sub 2008 No. 55 s 26

False or misleading information
s 112 amd 1988 No. 88 s 5 sch 2
sub 2008 No. 55 s 26

Interfering with secrecy at elections
s 113 amd 1988 No. 88 s 5 sch 2
sub 2008 No. 55 s 26

Breaking the seal of a parcel at elections
s 114 amd 1988 No. 88 s 5 sch 2; 1990 No. 101 s 22
sub 2008 No. 55 s 26

Breaking seal of packets used at elections
s 115 amd 1952 1 Eliz 2 No. 4 s 25; 1988 No. 88 s 5 sch 2; 1990 No. 101 s 23
om 2008 No. 55 s 26

Offences at elections when voting is by post
s 116 om 2008 No. 55 s 26

False claims
s 117 amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 26

Bargaining for offices in public service
s 118 amd 1988 No. 88 s 5 sch 2; 1999 No. 66 s 6 sch

Definitions for ch 16
s 119 sub 2002 No. 23 s 9

Meaning of "family"
s 119A ins 2002 No. 23 s 9
amd 2002 No. 74 s 90 sch

Retaliation against or intimidation of judicial officer, juror, witness etc.
prov hdg amd 2007 No. 59 s 69(1); 2009 No. 53 s 148(1)
s 119B ins 2002 No. 23 s 9
amd 2007 No. 59 s 69(2)–(5); 2009 No. 34 s 45(1) sch pt 1 amdt 12; 2009 No. 53 s 148(2)–(6)

Judicial corruption
s 120 amd R1 (see RA s 39); 1999 No. 66 s 6 sch; 2002 No. 23 s 10

Official corruption not judicial but relating to offences
s 121 amd 1988 No. 88 s 5 sch 2; 1999 No. 66 s 6 sch

Corruption of jurors
prov hdg sub 2002 No. 23 s 11(1)
s 122 amd 1988 No. 88 s 5 sch 2; 2002 No. 23 s 11(2)–(4)

Perjury—contradictory statements
s 123A ins 1997 No. 3 s 17

Punishment of perjury
s 124 amd 1922 13 Geo 5 No. 2 s 3(viii); 1988 No. 88 s 5 sch 2

Fabricating evidence
s 126 amd 1988 No. 88 s 5 sch 2

Corruption of witnesses
s 127 amd 1988 No. 88 s 5 sch 2; 1999 No. 66 s 6 sch

Deceiving witnesses
s 128 amd 1988 No. 88 s 5 sch 2

Damaging evidence with intent
s 129 amd 1988 No. 88 s 5 sch 2
sub 2008 No. 55 s 27

Preventing witnesses from attending
s 130 amd 2008 No. 55 s 28

Conspiracy to bring false accusation
s 131 amd 1922 13 Geo 5 No. 2 s 3(ix); 1986 No. 1 s 10; 1988 No. 88 s 5 sch 2

Conspiring to defeat justice
s 132 amd 1986 No. 1 s 11; 1988 No. 88 s 5 sch 2

Compounding an indictable offence
prov hdg amd 2008 No. 55 s 29(1)
s 133 amd 1922 13 Geo 5 No. 2 s 3(x); 1988 No. 88 s 5 sch 2; 1999 No. 66 s 6 sch; 2008 No. 55 s 29(2)–(4)

Compounding penal actions
s 134 om 2008 No. 55 s 30

Advertising a reward for the return of stolen property etc.
s 135 om 2008 No. 55 s 31

Justices exercising jurisdiction in a matter of personal interest
s 136 sub 2008 No. 55 s 32

Delay to take person arrested before magistrate
s 137 amd 2000 No. 5 s 373 sch 2; 2008 No. 55 s 33

Bringing fictitious action on penal statute
s 138 om 2008 No. 55 s 34

Inserting advertisement without authority of court
s 139 amd 1988 No. 88 s 5 sch 2

Attempting to pervert justice
s 140 amd 1988 No. 88 s 5 sch 2
sub 2003 No. 77 s 45

CHAPTER 17—ESCAPES—OBSTRUCTING OFFICERS OF COURTS
ch hdg amd 1992 No. 25 s 3

Aiding persons to escape from lawful custody
s 141 amd 1922 13 Geo 5 No. 2 s 3(xi); 1971 No. 41 s 7; 1988 No. 88 s 5 sch 2
sub 1992 No 25 s 4

Escape by persons in lawful custody
s 142 amd 1988 No. 88 s 5 sch 2
sub 1992 No. 25 s 4

Permitting escape
s 143 amd 1988 No. 88 s 5 sch 2
sub 1992 No. 25 s 4

Harbouring escaped prisoners etc.
s 144 amd 1988 No. 88 s 5 sch 2
sub 1992 No. 25 s 4

Sentence does not run while prisoner at large
s 145 sub 1992 No. 25 s 4
om 1992 No. 48 s 207 sch

Sections 141 to 144 do not apply to certain types of custody
prov hdg amd 2000 No. 46 s 3 sch
s 145A ins 1992 No. 25 s 4
amd 1999 No. 10 s 205 sch 3; 2000 No. 16 s 590 sch 1 pt 2; 2000 No. 46 s 3 sch; 2000 No. 63 s 276 sch 2; 2002 No. 23 s 3 sch; 2006 No. 29 s 518 sch 3; 2011 No. 13 s 172

Evidence of lawful custody
s 145B ins 1992 No. 25 s 4
amd 1999 No. 9 s 3 sch

Summary proceedings
s 145C ins 1992 No. 25 s 4
om 1997 No. 3 s 120 sch 1

Rescuing patients under Mental Health Act 1974
s 146 amd 1988 No. 88 s 5 sch 2
om 2000 No. 16 s 590 sch 1 pt 2

Removing etc. property under lawful seizure
s 147 amd 1988 No. 88 s 5 sch 2

Obstructing officers of courts of justice
s 148 amd 1988 No. 88 s 5 sch 2; 1997 No. 3 s 18; 2008 No. 55 s 35

CHAPTER 18—OFFENCES RELATING TO THE COIN
ch hdg om 1997 No. 3 s 120 sch 1

Definitions
s 149 om 1997 No. 3 s 120 sch 1

Counterfeiting gold and silver coin
s 150 amd R1 (see RA s 39)
om 1997 No. 3 s 120 sch 1

Preparation for coining gold and silver coin
s 151 amd R1 (see RA s 39)
om 1997 No. 3 s 120 sch 1

Clipping
s 152 amd R1 (see RA s 39)
om 1997 No. 3 s 120 sch 1

Possession of clippings
s 153 amd R1 (see RA s 39)
om 1997 No. 3 s 120 sch 1

Uttering counterfeit gold or silver coin
s 154 amd R1 (see RA s 39)
om 1997 No. 3 s 120 sch 1

Repeated uttering of counterfeit current gold or silver coin, or possession of several such coins
s 155 amd R1 (see RA s 39)
om 1997 No. 3 s 120 sch 1

Offences after previous conviction
s 156 amd R1 (see RA s 39)
om 1997 No. 3 s 120 sch 1

Counterfeiting copper coin
s 157 amd 1900 64 Vic No. 7 s 1 sch; R1 (see RA s 39)
om 1997 No. 3 s 120 sch 1

Uttering base copper coin
s 158 amd R1 (see RA s 39)
om 1997 No. 3 s 120 sch 1

Defacing coin by stamping words thereon
s 159 amd R1 (see RA s 39)
om 1997 No. 3 s 120 sch 1

Uttering foreign coin, medals etc. as current coin with intent to defraud
s 160 amd R1 (see RA s 39)
om 1997 No. 3 s 120 sch 1

Exporting counterfeit coin
s 161 amd R1 (see RA s 39)
om 1997 No. 3 s 120 sch 1

Having possession of more than 5 pieces of counterfeit foreign coin
s 162 amd R1 (see RA s 39)
om 1997 No. 3 s 120 sch 1

Tender of defaced coin not legal tender—penalty for uttering
s 163 om 1997 No. 3 s 120 sch 1

CHAPTER 19—OFFENCES RELATING TO POSTS AND TELEGRAPHS
ch hdg om 1997 No. 3 s 120 sch 1

Stopping mails
s 164 amd R1 (see RA s 39)
om 1997 No. 3 s 120 sch 1

Intercepting things sent by post or telegraph
s 165 amd R1 (see RA s 39)
om 1997 No. 3 s 120 sch 1

Tampering with things sent by post or telegraph
s 166 amd R1 (see RA s 39)
om 1997 No. 3 s 120 sch 1

Wilful misdelivery of things sent by post or telegraph
s 167 amd R1 (see RA s 39)
om 1997 No. 3 s 120 sch 1

Obtaining letters by false pretences
s 168 om 1997 No. 3 s 120 sch 1

Secreting letters
s 169 amd R1 (see RA s 39)
om 1997 No. 3 s 120 sch 1

Fraudulent issue of money orders and postal notes
s 170 amd R1 (see RA s 39)
om 1997 No. 3 s 120 sch 1

Fraudulent messages respecting money orders
s 171 amd R1 (see RA s 39)
om 1997 No. 3 s 120 sch 1

Sending dangerous or obscene things by post
s 172 amd R1 (see RA s 39)
om 1997 No. 3 s 120 sch 1

Retarding delivery of mails etc.
s 173 om 1997 No. 3 s 120 sch 1

Obstructing mails
s 174 om 1997 No. 3 s 120 sch 1

Penalty on mail-coach driver or guards loitering
s 175 om 1997 No. 3 s 120 sch 1

Fraudulently removing stamps
s 176 amd R1 (see RA s 39)
om 1997 No. 3 s 120 sch 1

Fraudulent evasion of postal laws
s 177 om 1997 No. 3 s 120 sch 1

Carrying letters otherwise than by post
s 178 om 1997 No. 3 s 120 sch 1

Illegally making postal envelopes or setting up post office or office for sale of stamps or obstructing post office
s 179 om 1997 No. 3 s 120 sch 1

Destroying or damaging letter receivers
s 180 om 1997 No. 3 s 120 sch 1

Placing injurious substances in or against letter boxes
s 181 om 1997 No. 3 s 120 sch 1

Obstructing post and telegraph offices
s 182 om 1997 No. 3 s 120 sch 1

Obstructing post and telegraph officers in the execution of duty etc.
s 183 om 1997 No. 3 s 120 sch 1

Interference with telegraphs
s 184 amd R1 (see RA s 39)
om 1997 No. 3 s 120 sch 1

Attempt to injure telegraphs
s 185 om 1997 No. 3 s 120 sch 1

Negligently injuring telegraphs
s 186 om 1997 No. 3 s 120 sch 1

Violation of secrecy
s 187 amd R1 (see RA s 39)
om 1997 No. 3 s 120 sch 1

Making charges for use of telegraph line without authority
s 188 om 1997 No. 3 s 120 sch 1

Erection or maintenance of telegraph lines without authority
s 189 om 1997 No. 3 s 120 sch 1

Obstructing possession of post and telegraph officers etc.
s 190 om 1997 No. 3 s 120 sch 1

Resisting officers
s 191 amd R1 (see RA s 39)
om 1997 No. 3 s 120 sch 1

False Declaration as to Execution of Sentence of Death
s 192 om 1922 13 Geo 5 No. 2 s 3(xii)

False verified statements
s 193 amd 1988 No. 88 s 5 sch 2
sub 2008 No. 55 s 36

False declarations
s 194 amd 1988 No. 88 s 5 sch 2
sub 1997 No. 3 s 19

Contradictory statements—false statements or declarations
s 195A ins 1997 No. 3 s 20

Shooting at customs boats or officers
s 196 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Resisting officers engaged in preventing smuggling
s 197 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Resisting customs officers
s 198 om 1997 No. 3 s 120 sch 1

Resisting public officers
s 199 amd 1988 No. 88 s 5 sch 2

Neglect of officers to suppress riot
s 201 om 2008 No. 55 s 37

Neglect to aid in suppressing riot
s 202 om 2008 No. 55 s 37

Neglect to aid in arresting offenders
s 203 om 2008 No. 55 s 37

Offering violence to officiating ministers of religion
s 206 amd 1988 No. 88 s 5 sch 2

Definitions for this chapter
s 207A ins 2005 No. 9 s 5
def **"law enforcement agency"** ins 2005 No. 70 s 54
om 2009 No. 53 s 149

def **"law enforcement officer"** ins 2005 No. 70 s 54
om 2009 No. 53 s 149
def **"observe"** ins 2005 No. 70 s 54
def **"private act"** ins 2005 No. 70 s 54
def **"private place"** ins 2005 No. 70 s 54
def **"state of undress"** ins 2005 No. 70 s 54
def **"visually record"** ins 2005 No. 70 s 54

Unlawful sodomy
s 208 amd 1988 No. 88 s 5 sch 2; 1989 No. 17 s 10
sub 1990 No. 93 s 5; 1997 No. 3 s 21
amd 1997 No. 82 s 3 sch; 2008 No. 55 s 38

Attempted sodomy
prov hdg sub 1997 No. 3 s 22(1)
s 209 amd 1988 No. 88 s 5 sch 2; 1989 No. 17 s 11
sub 1990 No. 93 s 6
amd 1997 No. 3 s 22(2)–(3)
om 2008 No. 55 s 39

Indecent treatment of children under 16
prov hdg amd 1975 No. 27 s 6(a)
s 210 amd 1975 No. 27 s 6(b)–(d); 1988 No. 88 s 5 sch 2
sub 1989 No. 17 s 12
amd 1997 No. 3 s 23; 2003 No. 3 s 15; 2005 No. 70 s 166 sch

Bestiality
prov hdg sub 1997 No. 3 s 24(1)
s 211 amd 1943 7 Geo 6 No. 14 s 3; 1988 No. 88 s 5 sch 2
sub 1990 No. 93 s 7
amd 1997 No. 3 s 24(2)

Defilement of Girls under Twelve
s 212 amd 1943 7 Geo 6 No. 14 s 4; 1945 9 Geo 6 No. 11 s 4; 1977 No. 47 s 3(7) sch 1 pt G
sub 1986 No. 1 s 12; 1988 No. 88 s 5 sch 2
om 1989 No. 17 s 13

Owner etc. permitting abuse of children on premises
prov hdg sub 1997 No. 3 s 25(1)
s 213 amd 1913 4 Geo 5 No. 25 s 2(i); 1976 No. 25 s 19 sch; 1977 No. 47 s 3(7) sch 1 pt G; 1986 No. 1 s 13; 1988 No. 88 s 5 sch 2
sub 1989 No. 17 s 13
amd 1990 No. 93 s 8; 1997 No. 3 s 25(2)–(6); 2010 No. 2 s 89 sch 1

Attempt to Abuse Girls under Ten
s 214 amd 1977 No. 47 s 3(7) sch 1 pt G; 1986 No. 1 s 14; 1988 No. 5 sch 2
om 1989 No. 17 s 14

Carnal knowledge with or of children under 16

prov hdg amd 1913 4 Geo 5 No. 25 s 2(ii); 1976 No. 25 s 19 sch; 2000 No. 43 s 17(1)

s 215 amd 1913 4 Geo 5 No. 25 s 2(ii); 1945 9 Geo 6 No. 11 s 5; 1976 No. 25 s 19 sch; 1977 No. 47 s 3(7) sch 1 pt G; 1988 No. 88 s 5 sch 2
sub 1989 No. 17 s 14
amd 1997 No. 3 s 26; 2000 No. 43 s 17(2)–(5)

Abuse of persons with an impairment of the mind

prov hdg amd 1913 4 Geo 5 No. 25 s 2(iii); 1976 No. 25 s 19 sch; 2008 No. 55 s 40(1)

s 216 amd 1913 4 Geo 5 No. 25 s 2(iii); 1945 9 Geo 6 No. 11 s 6; 1975 No. 27 s 41 sch; 1976 No. 25 s 19 sch; 1977 No. 47 s 3(7) sch 1 pt G; 1986 No. 1 s 15; 1988 No. 88 s 5 sch 2
sub 1989 No. 17 s 14
amd 1990 No. 93 s 9; 1992 No. 65 s 7; 1997 No. 3 s 27; 2005 No. 70 s 166 sch; 2008 No. 55 s 40(2)–(3)

Procuring young person etc. for carnal knowledge

s 217 amd 1974 No. 57 s 8 sch; 1977 No. 47 s 3(7) sch 1 pt G; 1988 No. 88 s 5 sch 2
sub 1989 No. 17 s 15; 1992 No. 65 s 8
amd 1997 No. 3 s 28; 2008 No. 55 s 41

Procuring sexual acts by coercion etc.

s 218 amd 1977 No. 47 s 3(7) sch 1 pt G; 1988 No. 88 s 5 sch 2; 1989 No. 17 s 16
sub 1992 No. 65 s 9
amd 1997 No. 3 s 29; 1999 No. 73 s 172; 2003 No. 3 s 16

Using internet etc. to procure children under 16

s 218A ins 2003 No. 3 s 17

Taking child for immoral purposes

prov hdg amd 1997 No. 3 s 30(1)

s 219 amd 1977 No. 47 s 3(7) sch 1 pt G; 1988 No. 88 s 5 sch 2
sub 1989 No. 17 s 17
amd 1990 No. 93 s 10; 1997 No. 3 s 30(2)–(5); 2000 No. 46 s 3 sch; 2002 No. 74 s 90 sch; 2010 No. 2 s 89 sch 1

Unlawful Detention with Intent to Defile or in a Brothel

s 220 amd 1977 No. 47 s 3(7) sch 1 pt G; 1988 No. 88 s 5 sch 2
om 1989 No. 17 s 18

Conspiracy to defile

s 221 amd 1986 No. 1 s 16; 1988 No. 88 s 5 sch 2
sub 1997 No. 3 s 31

Incest

s 222 amd 1943 7 Geo 6 No. 14 s 5; 1977 No. 47 s 3(7) sch 1 pt G; 1988 No. 88 s 5 sch 2; 1989 No. 17 s 19
sub 1997 No. 3 s 32
amd 2010 No. 2 s 90

Incest by adult female
s 223 amd 1943 7 Geo 6 No. 14 s 6; 1977 No. 47 s 3(7) sch 1 pt G; 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Attempts to procure abortion
s 224 amd 1988 No. 88 s 5 sch 2

The like by women with child
s 225 amd 1988 No. 88 s 5 sch 2

Supplying drugs or instruments to procure abortion
s 226 amd 1988 No. 88 s 5 sch 2

Indecent acts
s 227 amd 1943 7 Geo 6 No. 14 s 7; 1988 No. 88 s 5 sch 2; 1999 No. 73 s 173

Observations or recordings in breach of privacy
s 227A ins 2005 No. 70 s 55

Distributing prohibited visual recordings
s 227B ins 2005 No. 70 s 55

Persons who are not criminally responsible for offences against ss 227A and 227B
s 227C ins 2005 No. 70 s 55
amd 2006 No. 29 s 518 sch 3; 2007 No. 37 s 42 sch; 2009 No. 34 s 45(1) sch pt 1 amdt 12; 2011 No. 13 s 173

Obscene publications and exhibitions
s 228 amd 1988 No. 88 s 5 sch 2; 1989 No. 17 s 20; 2000 No. 43 s 18

Involving child in making child exploitation material
s 228A ins 2005 No. 9 s 6

Making child exploitation material
s 228B ins 2005 No. 9 s 6

Distributing child exploitation material
s 228C ins 2005 No. 9 s 6

Possessing child exploitation material
s 228D ins 2005 No. 9 s 6

Defences for ss 228A–228D
s 228E ins 2005 No. 9 s 6
amd 2005 No. 24 s 39; 2010 No. 2 s 89 sch 1

Excluding non-essential persons from court when child exploitation material displayed
s 228F ins 2005 No. 9 s 6

Forfeiture of child exploitation material etc.
s 228G ins 2005 No. 9 s 6
amd 2008 No. 55 s 42

Possession etc. of child exploitation material by law enforcement officer
s 228H ins 2005 No. 9 s 6
amd 2005 No. 70 s 56; 2005 No. 45 s 74 sch 4; 2007 No. 37 s 42 sch

Knowledge of age immaterial
s 229 amd 1989 No. 17 s 21

Indictable offences against morality that may be dealt with summarily
s 229A ins 1975 No. 27 s 7
amd 1976 No. 25 s 19 sch; 1988 No. 88 s 5 sch 2; 1989 No. 17 s 22
om 1997 No. 3 s 120 sch 1

Maintaining a sexual relationship with a child
prov hdg amd 1997 No. 3 s 33(1)
s 229B ins 1989 No. 17 s 23
amd 1997 No. 3 s 33(2)–(13)
sub 2003 No. 3 s 18
amd 2008 No. 55 s 43

CHAPTER 22A—PROSTITUTION
ch hdg ins 1992 No. 65 s 10

Definitions for ch 22A
prov hdg sub 2010 No. 29 s 14(1)
s 229C ins 1992 No. 65 s 10
def **"carry on a business"** ins 2010 No. 29 s 14(2)
def **"prostitution"** ins 2010 No. 29 s 14(2)
def **"unlawful prostitution"** ins 2010 No. 29 s 14(2)

Meaning of "sexual intercourse" for ch 22A
s 229D ins 1992 No. 65 s 10
sub 1999 No. 73 s 174

Meaning of "prostitution"
s 229E ins 1992 No. 65 s 10
sub 1999 No. 73 s 174
amd 2008 No. 55 s 44

Meaning of "carry on a business"
s 229F prev s 229F ins 1992 No. 65 s 10
om 2008 No. 55 s 45
pres s 229F ins 2010 No. 29 s 15

Obtaining prostitution from person who is not an adult
s 229FA ins 2010 No. 29 s 15

Procuring engagement in prostitution
prov hdg sub 2010 No. 29 s 15A
s 229G ins 1992 No. 65 s 10
amd 1997 No. 3 s 34; 1999 No. 73 s 175; 2008 No. 55 s 46

Knowingly participating in provision of prostitution
s 229H ins 1992 No. 65 s 10
amd 1999 No. 73 s 176; 2007 No. 15 s 37 sch; 2008 No. 55 s 47; 2010 No. 29 s 16(1)–(10)
(3)–(6) reloc and renum as s 229HA(2)–(5) 2010 No. 29 s 16(11)

When section 229H does not apply to a person
s 229HA ins 2010 No. 29 s 17
(2)–(5) (prev s 229H(3)–(6)) reloc and renum 2010 No. 29 s 16(11)

Carrying on business of providing unlawful prostitution
s 229HB ins 2010 No. 29 s 17

Persons engaging in or obtaining prostitution through unlawful prostitution business
s 229HC ins 2010 No. 29 s 17

Persons found in places reasonably suspected of being used for prostitution etc.
s 229I ins 1992 No. 65 s 10
amd 1999 No. 73 s 177; 2008 No. 55 s 48

Certificate of discharge for particular offences
prov hdg sub 2010 No. 29 s 18(1)
s 229J ins 1992 No. 65 s 10
amd 2010 No. 29 s 18(2)–(5)

Having an interest in premises used for prostitution etc.
prov hdg amd 2008 No. 55 s 49(1)
s 229K ins 1992 No. 65 s 10
amd 1999 No. 73 s 178; 2008 No. 55 s 49(2)

Permitting young person etc. to be at place used for prostitution
s 229L ins 1992 No. 65 s 10
amd 2008 No. 55 s 50

Evidence that business of prostitution is being carried on
s 229M prev s 229M ins 1992 No. 65 s 10
om 2000 No. 5 s 461 sch 3
pres s 229M ins 2010 No. 26 s 19

Evidence that place is being used for prostitution
s 229N ins 1992 No. 65 s 10

Non-compellability of health service providers
s 229O ins 1992 No. 65 s 10
amd 2006 No. 25 s 241(1) sch 3

Summary proceedings
s 229P ins 1992 No. 65 s 10
om 1997 No. 3 s 120 sch 1

Definitions for ch 23
s 230A ins 2005 No. 70 s 57

Bawdy Houses
s 231 amd 1988 No. 88 s 5 sch 2
om 1992 No. 65 s 11

Operating a place for unlawful games
s 232 amd 1988 No. 88 s 5 sch 2
sub 2005 No. 70 s 58

Possession of thing used to play an unlawful game
s 233 amd 1961 10 Eliz 2 No. 11 s 4; 1988 No. 88 s 5 sch 2; 1997 No. 3 s 35
sub 2005 No. 70 s 58

Conducting or playing unlawful games
s 234 amd 1930 21 Geo 5 No. 11 s 3; 1988 No. 88 s 5 sch 2
sub 2005 No. 70 s 58

Acting as keeper of gaming houses, betting houses, and lotteries
prov hdg amd 1992 No. 65 s 12(1)
s 235 amd 1992 No. 65 s 12(2)
om 2005 No. 70 s 58

Misconduct with regard to corpses
s 236 amd 1988 No. 88 s 5 sch 2

False information as to health of foreign ships
s 237 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Contamination of goods
s 238 amd 1988 No. 88 s 5 sch 2
sub 1997 No. 9 s 22

Hoax contamination of goods
s 239 amd 1988 No. 88 s 5 sch 2
sub 1997 No. 9 s 22

Dealing in contaminated goods
s 240 amd 1988 No. 88 s 5 sch 2
sub 1997 No. 9 s 22

Definitions for ch 24
s 241 sub 1997 No. 9 s 22

CHAPTER 25—MISCELLANEOUS OFFENCES
ch hdg om 2008 No. 55 s 51

Frauds on land laws
s 242 amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 51

Dealing with land fraudulently acquired from the Crown
s 243 amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 51

Fraudulent destruction or removal of goods liable to duty
s 244 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

PART 5—OFFENCES AGAINST THE PERSON AND RELATING TO MARRIAGE AND PARENTAL RIGHTS AND DUTIES
pt hdg amd 2002 No. 23 s 3 sch

Definition of "assault"
s 245 amd 1946 11 Geo 6 No. 6 s 5; 1989 No. 17 s 24

Duty of persons arresting
s 255 amd 2000 No. 5 s 373 sch 2

Police officer preventing escape from arrest
s 256 amd 1922 13 Geo 5 No. 2 s 3(xiii)
om 2000 No. 5 s 373 sch 2

Preventing escape or rescue after arrest
s 258 amd 2000 No. 5 s 461 sch 3

Examination of person of accused persons in custody
s 259 sub 1989 No. 17 s 25
amd 1997 No. 9 s 23
om 2000 No. 5 s 373 sch 2

Preventing a breach of the peace
s 260 amd 2000 No. 5 s 373 sch 2; 2000 No. 5 s 461 sch 3

Suppression of riot by magistrates
prov hdg amd 2000 No. 5 s 373 sch 2
s 262 amd 2000 No. 5 s 373 sch 2

Prevention of crimes and offences for which an offender may be arrested without warrant—prevention of violence by particular persons
prov hdg amd 2000 No. 16 s 590 sch 1 pt 2; 2011 No. 13 s 174(1)
s 266 amd 2000 No. 16 s 590 sch 1 pt 2; 2011 No. 13 s 174(2)

Defence of dwelling
s 267 sub 1997 No. 3 s 36

Provocation
s 268 Note—'In this section—' as appearing in all reprints from reprint 1 to reprint 6 was substituted for 'The term' under the Reprints Act 1992. The editing was reversed in reprint 7.

Defence of moveable property against trespassers
s 274 amd 1997 No. 3 s 37

Defence of moveable property with claim of right
s 275 amd 1997 No. 3 s 38

Defence of moveable property without claim of right
s 276 amd 1997 No. 3 s 39

Defence of premises against trespassers—removal of disorderly persons
s 277 amd 1997 No. 3 s 40

Defence of possession of real property or vessel with claim of right
s 278 amd 1997 No. 3 s 41

Exercise of right of way or easement
s 279 amd 1997 No. 3 s 42

Domestic discipline
s 280 amd 1997 No. 3 s 43

Discipline of vehicle
prov hdg amd 1997 No. 3 s 44(1)
s 281 sub 1964 No. 14 s 3
amd 1997 No. 3 s 44(2)–(4)

Surgical operations and medical treatment
s 282 sub 2009 No. 33 s 3

Palliative care
s 282A ins 2003 No. 15 s 4

Duty of person who has care of child
s 286 amd 1989 No. 17 s 26
sub 1997 No. 3 s 45

Duty of masters
s 287 om 2000 No. 23 s 293 sch 2

Limitation as to Time of Death
s 299 om 1992 No. 48 s 207 sch

Unlawful homicide
s 300 amd 1971 No. 41 s 7

Definition of Wilful Murder
s 301 om 1971 No. 41 s 5

Definition of "murder"
s 302 amd 1971 No. 41 s 6

Definition of "manslaughter"
s 303 amd 1971 No. 41 s 7

Killing on provocation
s 304 amd 1971 No. 41 s 7; 2011 No. 7 s 5

Diminished responsibility
s 304A ins 1961 10 Eliz 2 No. 11 s 5
amd 1971 No. 41 s 7

Killing for preservation in an abusive domestic relationship
prov hdg amd 2011 No. 7 s 6(1)
s 304B ins 2010 No. 1 s 3
amd 2011 No. 7 s 6(2)–(4)

Punishment of murder
s 305 amd 1922 13 Geo 5 No. 2 s 3(xiv); 1971 No. 41 s 7; 1988 No. 88 s 5 sch 2; 1992 No. 48 s 207 sch; 1997 No. 4 s 19; 2000 No. 63 s 276 sch 2; 2006 No. 29 s 518 sch 3

Attempt to murder
s 306 amd 1986 No. 1 s 17; 1988 No. 88 s 5 sch 2

Accessory after the fact to murder
s 307 amd 1971 No. 41 s 7; 1988 No. 88 s 5 sch 2

Threats to murder in document
prov hdg sub 1997 No. 3 s 46(1)
s 308 amd 1986 No. 1 s 18; 1988 No. 88 s 5 sch 2; 1997 No. 3 s 46(2)

Conspiring to murder
s 309 amd 1988 No. 88 s 5 sch 2

Punishment of manslaughter
s 310 amd 1988 No. 88 s 5 sch 2

Aiding suicide
s 311 amd 1988 No. 88 s 5 sch 2

Attempting to Commit Suicide
s 312 om 1979 No. 2 s 4

Killing unborn child
s 313 amd 1988 No. 88 s 5 sch 2; 1997 No. 3 s 47

Concealing the birth of children
s 314 amd 1988 No. 88 s 5 sch 2

Disabling in order to commit indictable offence
s 315 amd 1986 No. 1 s 19; 1988 No. 88 s 5 sch 2

Stupefying in order to commit indictable offence
s 316 amd 1988 No. 88 s 5 sch 2

Unlawful drink spiking
s 316A ins 2006 No. 45 s 4

Acts intended to cause grievous bodily harm and other malicious acts
prov hdg amd 1997 No. 3 s 48(1)
s 317 amd 1900 64 Vic No. 7 s 1 sch; 1986 No. 1 s 20; 1988 No. 88 s 5 sch 2; 1997 No. 3 s 48(2)–(3)

Carrying or sending dangerous goods in a vehicle
prov hdg sub 1997 No. 3 s 49(1)
s 317A ins 1964 No. 14 s 4
amd 1988 No. 88 s 5 sch 2; 1997 No. 3 s 49(2)–(6); 2008 No. 55 s 52

Obstructing rescue or escape from unsafe premises
s 318 amd 1986 No. 1 s 21; 1988 No. 88 s 5 sch 2
sub 1997 No. 3 s 50

Endangering the safety of a person in a vehicle with intent
s 319 amd 1986 No. 1 s 22; 1988 No. 88 s 5 sch 2
sub 2008 No. 55 s 53

Endangering safety of persons travelling by aircraft
s 319A ins 1964 No. 14 s 5
amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 53

Grievous bodily harm
s 320 amd 1975 No. 27 s 41 sch; 1988 No. 88 s 5 sch 2

Torture
s 320A ins 1997 No. 3 s 51

Attempting to injure by explosive or noxious substances
prov hdg amd 1997 No. 3 s 52(1)
s 321 amd 1986 No. 1 s 23; 1988 No. 88 s 5 sch 2; 1997 No. 3 s 52(2)

Bomb hoaxes
s 321A ins 1997 No. 3 s 53

Administering poison with intent to harm
s 322 amd 1988 No. 88 s 5 sch 2
sub 2008 No. 55 s 54

Wounding
s 323 amd 1943 7 Geo 6 No. 14 s 8; 1975 No. 27 s 41 sch; 1988 No. 88 s 5 sch 2
sub 2008 No. 55 s 54

Female genital mutilation
s 323A ins 2000 No. 43 s 19

Removal of child from State for female genital mutilation
s 323B ins 2000 No. 43 s 19

Failure to supply necessaries
s 324 amd 1988 No. 88 s 5 sch 2

Endangering life or health of apprentices or servants
s 325 amd 1988 No. 88 s 5 sch 2
om 2000 No. 23 s 293 sch 2

Endangering life of children by exposure
s 326 amd 1988 No. 88 s 5 sch 2; 1997 No. 3 s 54; 2008 No. 55 s 55

Setting mantraps
s 327 amd 1988 No. 88 s 5 sch 2

Negligent acts causing harm
s 328 amd 1948 12 Geo 6 No. 48 s 6; 1988 No. 88 s 5 sch 2

Dangerous operation of a vehicle
prov hdg sub 1997 No. 3 s 55(1)
s 328A ins 1943 7 Geo 6 No. 14 s 9
amd 1948 12 Geo 6 No. 48 s 7
sub 1961 10 Eliz 2 No. 11 s 6
amd 1964 No. 14 s 6; 1975 No. 27 s 41 sch; 1982 No. 59 s 2; 1988 No. 88 s 5 sch 2; 1989 No. 17 s 27; 1997 No. 3 s 55(2)–(9); 1999 No. 42 s 54(3) sch; 2003 No. 92 s 22B; 2007 No. 14 s 4; 2007 No. 6 s 2B; 2011 No. 12 s 10

Additional power to convict for dangerous driving
s 328B ins 1943 7 Geo 6 No. 14 s 9
sub 1948 12 Geo 6 No. 48 s 8; 1961 10 Eliz 2 No. 11 s 7
amd 1964 No. 14 s 7

Cancellation of driver's license to operate motor vehicle
s 328C ins 1943 7 Geo 6 No. 14 s 9
sub 1948 12 Geo 6 No. 48 s 9
amd 1961 10 Eliz 2 No. 11 s 8
om 1992 No. 48 s 207 sch

Endangering safety of persons travelling by railway
s 329 amd 1988 No. 88 s 5 sch 2

Sending or taking unseaworthy ships to sea
s 330 amd 1988 No. 88 s 5 sch 2

Endangering steamships by tampering with machinery
s 331 amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 56

The like by engineers
s 332 om 2008 No. 55 s 56

Evading laws as to equipment of ships
prov hdg amd 2008 No. 55 s 57(1)
s 333 amd 1988 No. 88 s 5 sch 2; 2008 No. 55 s 57(2)–(4)

Landing explosives
s 334 amd 1988 No. 88 s 5 sch 2; 1997 No. 82 s 3 sch; 2008 No. 55 s 58

Common assault
s 335 amd 1988 No. 88 s 5 sch 2; 1997 No. 3 s 56

Sexual assaults
prov hdg amd 1997 No. 3 s 58(1)
s 337 amd 1975 No. 27 s 41 sch; 1988 No. 88 s 5 sch 2
sub 1989 No. 17 s 28

amd 1990 No. 93 s 13; 1997 No. 3 s 58(2)–(6)
om 2000 No. 43 s 21

Assaults on persons protecting wrecks
s 338 amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 59

Assaults of member of crew on aircraft
s 338A ins 1964 No. 14 s 8
amd 1988 No. 88 s 5 sch 2; 2008 No. 55 s 60

Assaults occasioning bodily harm
s 339 amd 1943 7 Geo 6 No. 14 s 10; 1986 No. 1 s 24; 1988 No. 88 s 5 sch 2; 1997 No. 3 s 59

Serious assaults
s 340 amd 1988 No. 88 s 5 sch 2; 1997 No. 3 s 60; 2005 No. 70 s 59; 2006 No. 26 s 89; 2006 No. 29 s 518 sch 3; 2008 No. 55 s 61; 2009 No. 4 s 124(2) sch 3; 2008 No. 67 s 233

CHAPTER 31—ASSAULTS PUNISHABLE ON SUMMARY CONVICTION
ch hdg om 1997 No. 3 s 120 sch 1

Jurisdiction of justices
s 341 om 1997 No. 3 s 120 sch 1

Some assaults not to be so dealt with
s 342 om 1997 No. 3 s 120 sch 1

Common assaults
s 343 amd 1943 7 Geo 6 No. 14 s 11; 1961 10 Eliz 2 No. 11 s 9; 1975 No. 27 s 41 sch; 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1 (amd 1997 No. 9 s 31A)

Assaults occasioning bodily harm
s 343A ins 1975 No. 27 s 8
amd 1976 No. 25 ss 4, 19 sch; 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Aggravated assaults
s 344 amd 1943 7 Geo 6 No. 14 s 12; 1946 11 Geo 6 No. 6 s 6; 1961 10 Eliz 2 No. 11 s 10; 1975 No. 27 s 9; 1988 No. 88 s 5 sch 2; 1989 No. 17 s 29
om 1997 No. 3 s 120 sch 1

Effect of Summary Conviction or Dismissal
s 345 amd 1975 No. 27 s 10
om 1989 No. 17 s 30

Assaults in interference with freedom of trade or work
s 346 amd 1988 No. 88 s 5 sch 2; 1997 No. 3 s 61

CHAPTER 32—RAPE AND SEXUAL ASSAULTS
ch hdg sub 2000 No. 43 s 22

Definitions for ch 32
prov hdg sub 1997 No. 3 s 62(1)
s 347 amd 1900 64 Vic No. 7 s 1 sch
sub 1989 No. 17 s 31
amd 1997 No. 3 s 62(2)–(5) (amd 1997 No. 9 s 3 sch 1)
sub 2000 No. 43 s 24

Meaning of "consent"
s 348 amd 1988 No. 88 s 5 sch 2
sub 2000 No. 43 s 24

Rape
s 349 ins 2000 No. 43 s 24
amd 2003 No. 55 s 11

Attempt to commit rape
s 350 orig s 350 amd 1975 No. 27 s 41 sch; 1988 No. 88 s 5 sch 2
om 1989 No. 17 s 32
pres s 350 (prev s 349) amd 1943 7 Geo 6 No. 14 s 13; 1988 No. 88 s 5 sch 2
renum 2000 No. 43 s 23

Assault with intent to commit rape
prov hdg (prev s 336 hdg) amd 1990 No. 93 s 11
sub 1997 No. 3 s 57(1)
s 351 orig s 351 amd 1974 No. 57 s 8 sch; 1988 No. 88 s 5 sch 2
om 2000 No. 43 s 25
pres s 351 (prev s 336) amd 1988 No. 88 s 5 sch 2; 1990 No. 93 s 12; 1997 No. 3 s 57(2)
reloc and renum 2000 No. 43 s 20

Sexual assaults
prov hdg prev prov hdg amd 1913 4 Geo 5 No. 25 s 2(iv)
s 352 prev s 352 amd 1913 4 Geo 5 No. 25 s 2(iv); 1988 No. 88 s 5 sch 2
om 1989 No. 17 s 32
pres s 352 ins 2000 No. 43 s 26

Rule of Evidence
s 353 om 1977 No. 47 s 3(7) sch 1 pt G

Kidnapping
s 354 amd 1986 No. 1 s 25; 1988 No. 88 s 5 sch 2
sub 2000 No. 43 s 27
amd 2003 No. 55 s 12

Kidnapping for ransom
s 354A ins 1961 10 Eliz 2 No. 11 s 11
amd 1988 No. 88 s 5 sch 2; 1989 No. 17 s 33; 2003 No. 55 s 12; 2008 No. 55 s 62

Deprivation of liberty
s 355 amd 1988 No. 88 s 5 sch 2

False certificates by officers charged with duties relating to liberty
s 356 amd 1988 No. 88 s 5 sch 2

Unlawful custody of particular persons
prov hdg amd 2000 No. 16 s 590 sch 1 pt 2; 2011 No. 13 s 175(1)
s 358 amd 2000 No. 16 s 590 sch 1 pt 2; 2011 No. 13 s 175(2)

Threats
s 359 amd 1961 10 Eliz 2 No. 11 s 12; 1997 No. 9 s 24; 2008 No. 55 s 63; 2009 No. 53 s 150

CHAPTER 33A—UNLAWFUL STALKING
ch hdg ins 1999 No. 18 s 3

Definitions for ch 33A
s 359A ins 1993 No. 65 s 3
sub 1999 No. 18 s 3

What is unlawful stalking
s 359B prev s 359B ins 1993 No. 65 s 3
om 1997 No. 3 s 120 sch 1
pres s 359B ins 1999 No. 18 s 3

What is immaterial for unlawful stalking
s 359C ins 1999 No. 18 s 3

Particular conduct that is not unlawful stalking
s 359D ins 1999 No. 18 s 3

Punishment of unlawful stalking
s 359E ins 1999 No. 18 s 3
amd 2009 No. 53 s 151

Court may restrain unlawful stalking
s 359F ins 1999 No. 18 s 3

Bigamy
s 360 amd 1943 7 Geo 6 No. 14 s 14; 1977 No. 47 s 3(7) sch 1 pt G; 1988 No. 88 s 5 sch 2

Unlawful celebration of marriage
s 361 amd 1974 No. 57 s 8 sch

Child-stealing
s 363 amd 1946 10 Geo 6 No. 22 s 2; 1977 No. 47 s 3(7) sch 1 pt G; 1978 No. 30 s 14 sch; 1988 No. 88 s 5 sch 2; 1989 No. 17 s 34; 2010 No. 2 s 91

Abduction of child under 16
s 363A ins 1989 No. 17 s 35
amd 1999 No. 66 s 9

Cruelty to children under 16
s 364 amd 1989 No. 17 s 36
sub 1997 No. 3 s 63

amd 1999 No. 66 s 10
sub 2008 No. 55 s 64

Leaving a child under 12 unattended
s 364A ins 2008 No. 55 s 64

CHAPTER 35—CRIMINAL DEFAMATION
ch hdg prev ch 35 hdg om 1995 No. 37 s 459(2) sch 3 pt 1 div 2
pres ch 35 hdg ins 2005 No. 55 s 48 sch 4

Criminal defamation
s 365 prev s 365 om 1995 No. 37 s 459(2) sch 3 pt 1 div 2
pres s 365 ins 2005 No. 55 s 48 sch 4

Definition of "defamatory matter"
s 366 reloc (as 1889 53 Vic No. 12 s 4) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Questions of fact and law
s 367 reloc (as 1889 53 Vic No. 12 s 18) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Definition of defamation
s 368 reloc (as 1889 53 Vic No. 12 s 5) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Publication
s 369 reloc (as 1889 53 Vic No. 12 s 6) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Publication of defamatory matter prima facie unlawful
s 370 reloc (as 1889 53 Vic No. 12 s 7) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Absolute protection—privilege of Parliament
s 371 amd 1995 No. 37 s 459(2) sch 3 pt 1 div 2 (amd 1995 No. 58 s 4 sch 1)
reloc (as 1889 53 Vic No. 12 s 10A) 1995 No. 37 s 459(2) sch 3 pt 1 div 2 (amd 1995 No. 58 s 4 sch 1)

Absolute protection—privileges of Judges, witnesses and others in courts of justice
s 372 amd 1995 No. 37 s 459(2) sch 3 pt 1 div 2
reloc (as 1889 53 Vic No. 12 s 11) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Absolute protection—reports of official inquiries
s 373 amd 1995 No. 37 s 459(2) sch 3 pt 1 div 2
reloc (as 1889 53 Vic No. 12 s 12) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Protection—reports of matters of public interest
s 374 amd 1995 No. 37 s 459(2) sch 3 pt 1 div 2
reloc (as 1889 53 Vic No. 12 s 13) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Protection—fair comment
s 375 amd 1995 No. 37 s 459(2) sch 3 pt 1 div 2 (amd 1995 No. 58 s 4 sch 1)
reloc (as 1889 53 Vic No. 12 s 14) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Protection—truth
s 376 reloc (as 1889 53 Vic No. 12 s 15) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Qualified protection—excuse
s 377 reloc (as 1889 53 Vic No. 12 s 16) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Good faith
s 378 reloc (as 1889 53 Vic No. 12 s 17) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Relevancy and public benefit questions of fact
s 379 reloc (as 1889 53 Vic No. 12 s 19) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Unlawful publication of defamatory matter
s 380 amd 1988 No. 88 s 5 sch 2; 1995 No. 37 s 459(2) sch 3 pt 1 div 2
reloc (as 1889 53 Vic No. 12 s 9) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Defamation of members of Parliament by strangers
s 381 amd 1988 No. 88 s 5 sch 2; 1995 No. 37 s 459(2) sch 3 pt 1 div 2
reloc (as 1889 53 Vic No. 12 s 10) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Defence in case of defamation by words, sounds, signs, signals, or gestures
s 382 om 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Publishing or threatening to publish defamatory matter with intent to extort money
s 383 amd 1988 No. 88 s 5 sch 2
om 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Liability of proprietor, publisher, and editor of periodicals
s 384 reloc (as 1889 53 Vic No. 12 s 30) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Protection of innocent sellers of periodicals
s 385 reloc (as 1889 53 Vic No. 12 s 31) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Protection of innocent sellers of books
s 386 reloc (as 1889 53 Vic No. 12 s 32) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Protection of employers
s 387 reloc (as 1889 53 Vic No. 12 s 33) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Prosecution of newspapers to be by sanction of a Judge after notice
s 388 reloc (as 1889 53 Vic No. 12 s 34) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Summary jurisdiction in trivial cases of defamation
s 389 reloc (as 1889 53 Vic No. 12 s 35) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Things capable of being stolen
s 390 amd 1986 No. 1 s 26
sub 1997 No. 3 s 64

Definition of "stealing"
s 391 amd 1943 7 Geo 6 No. 14 s 15; 1989 No. 17 s 37

Special cases
s 392 amd 2008 No. 55 s 65

Husband and wife
s 397 om 2008 No. 55 s 66

Punishment of stealing

s 398 amd 1961 10 Eliz 2 No. 11 s 13; 1964 No. 14 s 9; 1973 No. 88 s 5; 1986 No. 1 s 27; 1988 No. 88 s 5 sch 2; 1989 No. 17 s 38; 1997 No. 3 s 65; 2002 No. 23 s 12; 2008 No. 55 s 67

Fraudulent concealment of particular documents

s 399 amd 1988 No. 88 s 5 sch 2
sub 2008 No. 55 s 68

Concealing wills

s 400 amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 68

Concealing deeds

s 401 amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 68

Fraudulently dealing with minerals in mines

s 405 amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 69

Fraudulent disposition of mortgaged goods

s 407 amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 70

Fraudulent appropriation of power

s 408 amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 70

Unlawful use or possession of motor vehicles, aircraft or vessels

prov hdg amd 2007 No. 37 s 42 sch
s 408A ins 1957 6 Eliz 2 No. 1 s 2
amd 1961 10 Eliz 2 No. 11 s 14; 1964 No. 14 s 10
sub 1975 No. 27 s 11
amd 1988 No. 88 s 5 sch 2; 2005 No. 70 s 166 sch

Indictable offences relating to user or possession of motor vehicles, aircraft or vessels that may be dealt with summarily

s 408B ins 1976 No. 25 s 5
amd 1988 No. 88 s 5 sch 2; 1992 No. 44 s 235 sch 3
om 1997 No. 3 s 120 sch 1

Fraud

prov hdg sub 1997 No. 3 s 66(1)
s 408C ins 1979 No. 2 s 5
amd 1988 No. 88 s 5 sch 2; 1989 No. 17 s 39; 1997 No. 3 s 66; 2008 No. 55 s 71

Obtaining or dealing with identification information

s 408D ins 2007 No. 14 s 6
amd 2010 No. 1 s 4

Computer hacking and misuse
s 408E (prev s 408D) ins 1997 No. 3 s 67
renum 2007 No. 14 s 5

Loaded arms
s 410 om 2008 No. 55 s 72

Punishment of robbery
s 411 amd 1986 No. 1 s 28; 1988 No. 88 s 5 sch 2

Attempted robbery
prov hdg sub 1997 No. 3 s 68(1)
s 412 amd 1986 No. 1 s 29; 1988 No. 88 s 5 sch 2; 1997 No. 3 s 68(2)–(3)

Assault with intent to steal
s 413 amd 1988 No. 88 s 5 sch 2

Demanding property with menaces with intent to steal
s 414 amd 1988 No. 88 s 5 sch 2

Extortion
prov hdg amd 1976 No. 25 s 6(a)
s 415 sub 1961 10 Eliz 2 No. 11 s 15
amd 1976 No. 25 s 6(b); 1977 No. 13 s 15
sub 1984 No. 32 s 4
amd 1988 No. 88 s 5 sch 2; 1997 No. 3 s 69
sub 2008 No. 55 s 73

Attempts at extortion by threats
s 416 amd 1922 13 Geo 5 No. 2 s 3(xv); 1976 No. 25 s 7; 1986 No. 1 s 30; 1988 No. 88 s 5 sch 2; 1990 No. 93 s 14; 1997 No. 3 s 70
om 2008 No. 55 s 73

Procuring execution of deeds etc. by threats
s 417 amd 1988 No. 88 s 5 sch 2; 1989 No. 17 s 40
om 2008 No. 55 s 73

Taking control of aircraft
s 417A ins 1964 No. 14 s 11
amd 1988 No. 88 s 5 sch 2

Definitions
s 418 amd 1997 No. 3 s 71

Burglary
s 419 amd 1976 No. 25 s 8; 1988 No. 88 s 5 sch 2
sub 1997 No. 3 s 72

Entering dwelling house with intent to commit an indictable offence
prov hdg amd 1976 No. 25 s 9(a)
s 420 amd 1976 No. 25 s 9(b); 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Entering or being in premises and committing indictable offences
s 421 amd 1945 9 Geo 6 No. 11 s 7
sub 1975 No. 27 s 12
amd 1988 No. 88 s 5 sch 2
sub 1997 No. 3 s 73

Breaking into places with intent to commit indictable offences
s 422 amd 1945 9 Geo 6 No. 11 s 8
sub 1975 No. 27 s 13
amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Breaking into Place of Worship and Committing Crime
s 423 om 1975 No. 27 s 14

Breaking into Place of Worship with Intent to Commit a Crime
s 424 om 1975 No. 27 s 15

Possession of things used in connection with unlawful entry
prov hdg amd 1976 No. 25 s 10(a)
sub 1997 No. 3 s 74(1)
s 425 amd 1976 No. 25 s 10(b); 1988 No. 88 s 5 sch 2; 1997 No. 3 s 74(2)–(5)

Definitions for purposes of chapter
s 425A ins 1943 7 Geo 6 No. 14 s 16
amd 1945 9 Geo 6 No. 11 s 9
sub 1975 No. 27 s 16
om 1997 No. 3 s 120 sch 1

Unlawful entry of vehicle
s 426 orig s 426 amd 1961 10 Eliz 2 No. 11 s 16
om 1997 No. 3 s 120 sch 1
prev s 426 ins 1998 No. 19 s 22
om 2008 No. 55 s 74

Unlawful entry of vehicle for committing indictable offence
s 427 prev s 427 sub 1961 10 Eliz 2 No. 11 s 17
amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1
pres s 427 ins 1998 No. 19 s 22

CHAPTER 40—OTHER FRAUDULENT PRACTICES
ch hdg amd 1900 64 Vic No. 7 s 1 sch
sub 1997 No. 3 s 75

Obtaining property by passing valueless cheques
s 427A ins 1975 No. 27 s 17
amd 1986 No. 1 s 31; 1988 No. 88 s 5 sch 2; 1997 No. 3 s 76

Obtaining execution of valuable security by a false pretence or wilfully false promise
s 428 sub 1961 10 Eliz 2 No. 11 s 18
amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Cheating

s 429 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Fraudulent falsification of records

s 430 prev s 430 amd 1943 7 Geo 6 No. 14 s 17; 1986 No. 1 s 32; 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 75
pres s 430 (prev s 441) amd 1975 No. 27 s 41 sch; 1988 No. 88 s 5 sch 2
sub 1997 No. 3 s 78
renum and reloc 2008 No. 55 s 80

False accounting by public officer

s 431 prev s 431 amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 75
pres s 431 (prev s 442) amd 1988 No. 88 s 5 sch 2
renum and reloc 2008 No. 55 s 81

CHAPTER 41—RECEIVING PROPERTY STOLEN OR FRAUDULENTLY OBTAINED AND LIKE OFFENCES

What is "tainted property" for ch 41

s 432 prev s 432 amd 1988 No. 88 s 5 sch 2
om 2000 No. 58 s 2 sch
pres s 432 ins 2008 No. 55 s 76

Receiving tainted property

prov hdg sub 2008 No. 55 s 77(1)
s 433 amd 1943 7 Geo 6 No. 14 s 18; 1988 No. 88 s 5 sch 2; 1997 No. 3 s 77; 1999 No. 66 s 6 sch; 2008 No. 55 s 77(2)–(3)

Receiving after change of ownership

prov hdg amd 1900 64 Vic No. 7 s 1 sch
s 434 amd 1943 7 Geo 6 No. 14 s 19
om 2008 No. 55 s 78

Taking reward for recovery of property obtained by way of indictable offences

s 435 amd 1988 No. 88 s 5 sch 2
sub 2008 No. 55 s 78

CHAPTER 42—FRAUDS BY TRUSTEES AND OFFICERS OF COMPANIES AND CORPORATIONS—FALSE ACCOUNTING

ch hdg om 2008 No. 55 s 79(1)

Trustees fraudulently disposing of trust property

s 436 amd 1945 9 Geo 6 No. 11 s 10; 1975 No. 27 s 41 sch; 1986 No. 1 s 33; 1988 No. 88 s 5 sch 2; 2007 No. 24 s 770 sch 1
om 2008 No. 55 s 79(2)

Directors and officers of corporations or companies fraudulently appropriating property, or keeping fraudulent accounts, or falsifying books or accounts

s 437 amd 1975 No. 27 s 41 sch; 1986 No. 1 s 34; 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 79(2)

False statements by officials of companies
s 438 amd 1975 No. 27 s 41 sch; 1986 No. 1 s 35; 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 79(2)

Defence
s 439 om 2008 No. 55 s 79(2)

Misappropriation by members of local governments
s 440 amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 79(2)

CHAPTER 42A—SECRET COMMISSIONS
ch hdg ins 1931 22 Geo 5 No. 40 s 2

Definitions
s 442A ins 1931 22 Geo 5 No. 40 s 2
def **"local government"** amd 1997 No. 82 s 3 sch
om 2009 No. 17 s 331 sch 1
def **"trustee"** amd 2005 No. 70 s 166 sch

Receipt or solicitation of secret commission by an agent
s 442B ins 1931 22 Geo 5 No. 40 s 3
amd 1997 No. 3 s 79(1)

Gift or offer of secret commission to an agent
s 442BA (prev s 442B(2)) renum 1997 No. 3 s 79(2)
amd 1997 No. 3 s 79(3)

Secret gifts received by parent, spouse, child, partner etc. of agent
prov hdg amd 2002 No. 74 s 90 sch
s 442C ins 1931 22 Geo 5 No. 40 s 4
amd 2002 No. 74 s 90 sch

False or misleading receipt or account
s 442D ins 1931 22 Geo 5 No. 40 s 5
amd 1997 No. 3 s 80

Secret commission for advice given
s 442E ins 1931 22 Geo 5 No. 40 s 6
amd 1997 No. 3 s 81(1)

Offer or solicitation of secret commission in return for advice given or to be given
s 442EA (prev s 442E(2)) renum 1997 No. 3 s 81(2)
amd 1997 No. 3 s 81(3)

Secret commission to trustee in return for substituted appointment
s 442F ins 1931 22 Geo 5 No. 40 s 7
amd 1997 No. 3 s 82

Liability of director etc. acting without authority
s 442G ins 1931 22 Geo 5 No. 40 s 8
amd 1997 No. 3 s 83

Offences
s 442H ins 1931 22 Geo 5 No. 40 s 9
amd 1934 25 Geo 5 No. 11 s 11
om 1997 No. 3 s 120 sch 1

Penalty on conviction
s 442I ins 1931 22 Geo 5 No. 40 s 10
amd 1988 No. 88 s 5 sch 2; 1997 No. 3 s 84

Court may order withdrawal of trifling or technical cases
s 442J ins 1931 22 Geo 5 No. 40 s 11

Witness giving answers criminating himself or herself
s 442K ins 1931 22 Geo 5 No. 40 s 12

Certificate to witness
s 442L ins 1931 22 Geo 5 No. 40 s 12

Custom of itself no defence
s 442M ins 1931 22 Geo 5 No. 40 s 13

CHAPTER 43—SUMMARY CONVICTION FOR STEALING AND LIKE INDICTABLE OFFENCES
ch hdg om 1997 No. 3 s 120 sch 1

Indictable offences which may be dealt with summarily
s 443 amd 1943 7 Geo 6 No. 14 s 20(1); 1961 10 Eliz 2 No. 11 s 19; 1964 No. 14 s 12; 1973 No. 88 s 6; 1975 No. 27 s 18; 1976 No. 25 ss 11, 19 sch; 1986 No. 1 s 36; 1988 No. 88 s 5 sch 2; 1989 No. 17 s 41
om 1997 No. 3 s 120 sch 1

Procedure
s 444 amd 1964 No. 14 s 13; 1976 No. 25 s 12; 1989 No. 17 s 42
om 1997 No. 3 s 120 sch 1

CHAPTER 44—OFFENCES ANALOGOUS TO STEALING RELATING TO ANIMALS
ch hdg amd 1986 No. 1 s 37(a)

Chapter division 1—Offences relating to animals generally
ch div hdg ins 1986 No. 1 s 37(b)
sub 2002 No. 23 s 13

Killing animals with intent to steal
s 444A (prev s 402) renum 1986 No. 1 s 39(a)–(b)
amd 1986 No. 1 s 38(c); 2002 No. 23 s 14

Using registered brands with criminal intention
s 444B (prev s 404) renum 1986 No. 1 s 39(a)–(b)
amd 1986 No. 1 s 39(c); 1988 No. 88 s 5 sch 2; 2002 No. 23 s 15

Chapter division 2—Offences relating to stock
ch div hdg ins 1986 No. 1 s 40
sub 2002 No. 23 s 16

Unlawfully using stock
prov hdg amd 2002 No. 23 s 17(1)
s 445 amd 1931 22 Geo 5 No. 40 s 15; 1961 10 Eliz 2 No. 11 s 20; 1986 No. 1 s 41; 1988 No. 88 s 5 sch 2; 2002 No. 23 s 17(2)–(6)

Suspicion of stealing stock
prov hdg amd 2002 No. 23 s 18(1)
s 446 amd 1961 10 Eliz 2 No. 11 s 21; 1973 No. 88 s 7; 1986 No. 1 s 42; 1988 No. 88 s 5 sch 2; 2002 No. 23 s 18(2)–(6)

Illegal branding
s 447 amd 1961 10 Eliz 2 No. 11 s 22; 1973 No. 88 s 8; 1986 No. 1 s 43; 1988 No. 88 s 5 sch 2; R1 (see RA s 39); 2002 No. 23 s 19

Defacing brands
s 448 amd 1961 10 Eliz 2 No. 11 s 23; 1973 No. 88 s 9; 1986 No. 1 s 44; 1988 No. 88 s 5 sch 2; 2002 No. 23 s 20

Having in possession stock with defaced brand
prov hdg amd 2002 No. 23 s 21(1)
s 448A ins 1931 22 Geo 5 No. 40 s 16
amd 1961 10 Eliz 2 No. 11 s 24; 1973 No. 88 s 10; 1986 No. 1 s 45; 1988 No. 88 s 5 sch 2; 2002 No. 23 s 21(2)–(6)

Chapter division 3—Arrest
ch div hdg ins 1986 No. 1 s 46
sub 2002 No. 23 s 3 sch

Time for prosecution
s 449 amd 1931 22 Geo 5 No. 40 s 17; 1961 10 Eliz 2 No. 11 s 25; 1986 No. 1 s 47
om 1997 No. 3 s 120 sch 1

Committal for trial
s 450 amd 1986 No. 1 s 48
om 2002 No. 23 s 22

Arrest without warrant
s 450A ins 1986 No. 1 s 49
amd 2000 No. 5 s 461 sch 3

Warrant in first instance
s 450B ins 1986 No. 1 s 50

Effect of civil proceedings
s 450C ins 1986 No. 1 s 51
om 2002 No. 23 s 23

CHAPTER 44A—SPECIAL PROVISIONS IN RESPECT OF OFFENCES RELATING TO STOCK
ch hdg ins 1986 No. 1 s 52
amd 2002 No. 23 s 24

Meaning of term "animal"
s 450D ins 1986 No. 1 s 53
sub 2002 No. 23 s 25

Animals not tendered in certain cases
s 450E ins 1986 No. 1 s 54
amd 2005 No. 70 s 166 sch

Animal valuers and valuations
s 450F ins 1986 No. 1 s 55
amd 1997 No. 82 s 3 sch; 2005 No. 70 s 166 sch; 2007 No. 37 s 43

Identification of animals and return to owners prior to tender in certain cases
s 450G ins 1986 No. 1 s 56

Licence disqualification where commission of offence facilitated by licence or use of vehicle
s 450H ins 1986 No. 1 s 57
amd 1989 No. 17 s 43; 1997 No. 82 s 3 sch; 1999 No. 42 s 54(3) sch; 2002 No. 23 s 26

Forfeiture in cases of conviction for offences under specified sections
s 450I ins 1986 No. 1 s 58
amd 1989 No. 17 s 44; 2002 No. 23 s 27

CHAPTER 44B—OTHER OFFENCES ANALOGOUS TO STEALING PUNISHABLE ON SUMMARY CONVICTION
ch hdg ins 1986 No. 1 s 59
om 2008 No. 55 s 82

Unlawful possession of shipwrecked goods
s 451 amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 82

Offering shipwrecked goods for sale
s 452 amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 82

Unlawfully dredging for oysters
s 453 amd 1988 No. 88 s 5 sch 2
om 1994 No. 37 s 244 sch 2

Unlawfully taking fish
s 454 om 1994 No. 37 s 244 sch 2

Arrest without warrant
s 455 amd 2000 No. 5 s 461 sch 3
om 2008 No. 55 s 82

Warrant in first instance
s 456 om 2008 No. 55 s 82

Effect of summary conviction and of civil proceedings
s 457 amd 1986 No. 1 s 60
om 2008 No. 55 s 82

Unlawful acts
s 458 amd 1997 No. 3 s 85; 2011 No. 7 s 7

Damage
s 460 amd 1997 No. 3 s 86
om 2008 No. 55 s 83

Arson
s 461 amd 1948 12 Geo 6 No. 48 s 10; 1988 No. 88 s 5 sch 2; 2008 No. 55 s 84

Endangering particular property by fire
s 462 amd 1988 No. 88 s 5 sch 2
sub 2008 No. 55 s 85

Setting fire to crops and growing plants
s 463 amd 1986 No. 1 s 61; 1988 No. 88 s 5 sch 2

Attempting to set fire to crops etc.
s 464 amd 1986 No. 1 s 62; 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 86

Casting away ships
s 465 amd 1986 No. 1 s 63; 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 86

Attempts to cast away ships
s 466 amd 1986 No. 1 s 64; 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 86

Endangering the safe use of vehicles and related transport infrastructure
s 467 amd 1900 64 Vic No. 7 s 1 sch; 1986 No. 1 s 65; 1988 No. 88 s 5 sch 2
sub 2008 No. 55 s 87

Endangering the safe use of an aircraft
s 467A ins 1964 No. 14 s 14
amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 87

Injuring animals
s 468 amd 1986 No. 1 s 66; 1988 No. 88 s 5 sch 2; 1989 No. 17 s 45; 2002 No. 23 s 28

Wilful damage
prov hdg sub 1997 No. 3 s 87(1)
s 469 amd 1964 No. 14 s 15; 1986 No. 1 s 67; 1988 No. 88 s 5 sch 2; 1997 No. 3 s 87(2)–(4); 2008 No. 55 s 88; 2011 No. 7 s 8

Sabotage and threatening sabotage
s 469A ins 2004 No. 8 s 14

Attempts to destroy property by explosives
s 470 amd 1986 No. 1 s 68; 1988 No. 88 s 5 sch 2

Unlawful deposition of explosive or noxious substances
prov hdg amd 2008 No. 55 s 89(1)
s 470A ins 1943 7 Geo 6 No. 14 s 21
amd 1988 No. 88 s 5 sch 2; 2008 No. 55 s 89(2)–(3)

Damaging mines
s 471 amd 1986 No. 1 s 69; 1988 No. 88 s 5 sch 2
sub 2008 No. 55 s 90

Interfering with marine signals
s 472 amd 1986 No. 1 s 70; 1988 No. 88 s 5 sch 2

Interfering with navigation works
s 473 amd 1986 No. 1 s 71; 1988 No. 88 s 5 sch 2

Communicating infectious diseases to animals
s 474 amd 1986 No. 1 s 72; 1988 No. 88 s 5 sch 2

Travelling with infected animals
s 475 amd 1986 No. 1 s 73; 1988 No. 88 s 5 sch 2

Removing boundary marks
s 476 amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 91

Obstructing railways
s 477 amd 1988 No. 88 s 5 sch 2

Sending letters threatening to burn or destroy
s 478 amd 1988 No. 88 s 5 sch 2; 1997 No. 3 s 88

Arrest without warrant
s 479 sub 1943 7 Geo 6 No. 14 s 22; 2000 No. 5 s 461 sch 3

CHAPTER 47—SUMMARY CONVICTION FOR CERTAIN OFFENCES
ch hdg om 1997 No. 3 s 120 sch 1

Offences which may be dealt with summarily
s 480 amd 1943 7 Geo 6 No. 14 s 23; 1961 10 Eliz 2 No. 11 s 26; 1964 No. 14 s 16; 1975 No. 27 s 19; 1976 No. 25 s 19 sch; 1988 No. 88 s 5 sch 2; 1989 No. 17 s 46
om 1997 No. 3 s 120 sch 1

Procedure
s 481 om 1997 No. 3 s 120 sch 1

Trivial charges
s 482 om 1997 No. 3 s 120 sch 1

Effect of summary conviction and of civil proceedings
s 483 om 1997 No. 3 s 120 sch 1

Definitions
s 484 amd 1997 No. 3 s 89

Further definitions
s 485 om 1997 No. 3 s 120 sch 1

Definition of forgery
s 486 om 1997 No. 3 s 120 sch 1

Certain matters immaterial
s 487 om 1997 No. 3 s 120 sch 1

Forgery and uttering
prov hdg sub 1997 No. 3 s 90(1)
s 488 amd 1986 No. 1 s 74; 1988 No. 88 s 5 sch 2; 1990 No. 80 s 3 sch 1; 1997 No. 3 s 90(2); 2008 No. 55 s 92

Uttering false documents and counterfeit seals
s 489 om 1997 No. 3 s 120 sch 1

Uttering cancelled or exhausted documents
s 490 om 1997 No. 3 s 120 sch 1

Uttering cancelled stamps
s 491 om 1997 No. 3 s 120 sch 1

Procuring execution of documents by false pretences
s 492 om 2008 No. 55 s 93

Obliterating crossings on cheques
s 493 amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 93

Making documents without authority
s 494 amd 1988 No. 88 s 5 sch 2; 1997 No. 3 s 91
om 2008 No. 55 s 93

Demanding property upon forged testamentary instruments
prov hdg amd 1900 64 Vic No. 7 s 1 sch
s 495 om 2008 No. 55 s 93

Purchasing forged bank notes
s 496 amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 93

False certificate of message received by telegraph
s 497 om 2008 No. 55 s 93

Falsifying warrants for money payable under public authority
s 498 amd 1988 No. 88 s 5 sch 2

Falsification of registers
s 499 amd 1988 No. 88 s 5 sch 2

Sending false certificate of marriage to registrar
s 500 amd 1988 No. 88 s 5 sch 2

False statements for the purpose of registers of births, deaths, and marriages
s 501 amd 1988 No. 88 s 5 sch 2

Contradictory statements
s 501A ins 1997 No. 3 s 92 (amd 1997 No. 9 s 3 sch 1)

Procuring or claiming unauthorised status
prov hdg sub 2008 No. 55 s 94
s 502 amd 1988 No. 88 s 5 sch 2

Counterfeiting trademarks
s 503 amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 95

Circulating false copies of rules or lists of members of societies or companies
s 504 amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 95

Sending false telegrams
s 505 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

CHAPTER 50—FORGERY AND LIKE OFFENCES PUNISHABLE ON SUMMARY CONVICTION
ch hdg om 2008 No. 55 s 96

Forgery of sailors' tickets or documents relating to regulation of factories and shops
prov hdg amd 1997 No. 82 s 3 sch
s 506 amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 96

Fraudulent use of adhesive stamps
s 507 om 2008 No. 55 s 96

False warranties or labels relating to the sale of food
s 508 om 2008 No. 55 s 96

Provisions of this chapter alternative
s 509 om 2008 No. 55 s 96

Instruments and materials for forgery
s 510 amd 1988 No. 88 s 5 sch 2
sub 1997 No. 3 s 93

Counterfeit stamps
s 511 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Paper for postal purposes
s 512 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Paper and dies for postage stamps
s 513 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Personation in general
s 514 amd 1988 No. 88 s 5 sch 2; 1997 No. 3 s 94

Falsely acknowledging deeds, recognisances etc.
s 515 amd 1988 No. 88 s 5 sch 2; 2000 No. 46 s 3 sch

Personation of a person named in a certificate
s 516 om 2008 No. 55 s 97

Lending certificates for personation
s 517 amd 1988 No. 88 s 5 sch 2
om 2008 No. 55 s 97

CHAPTER 53—FRAUDULENT DEBTORS
ch hdg om 1997 No. 3 s 120 sch 1

Definition
s 518 om 1997 No. 3 s 120 sch 1

Absconding with property in contemplation of or immediately after insolvency
s 519 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Frauds by insolvents
s 520 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Other frauds by insolvents
s 521 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Falsification of books by insolvents
s 522 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Frauds by insolvents in course of insolvency proceedings
s 523 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Failure by insolvents to discover property
s 524 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Failure to keep proper books
s 525 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Concealing documents
s 526 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Receiving insolvent's property with intent to defraud
s 527 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Making false claim in insolvency
s 528 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Concealing property of insolvents
s 529 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Fraudulent dealing with property by debtors
s 530 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Concealment by officers of companies on reduction of capital
s 531 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Falsification of books of companies
s 532 amd 1988 No. 88 s 5 sch 2
om 1997 No. 3 s 120 sch 1

Mixing uncertified with certified articles
s 533 amd 1988 No. 88 s 5 sch 2

Intimidation of workers and employers
s 534 amd 1915 6 Geo 5 No. 31 s 36; 1929 20 Geo 5 No. 28 s 119(1); 1932 23 Geo 5 No. 36 s 85(1); 1988 No. 88 s 5 sch 2; 1997 No. 82 s 3 sch; 2000 No. 46 s 3 sch
om 2008 No. 55 s 98

Attempts to commit indictable offences
s 535 amd 1997 No. 3 s 95
sub 2008 No. 55 s 99

Punishment of attempts to commit indictable offences
s 536 amd 1922 13 Geo 5 No. 2 s 3(xvi); 1988 No. 88 s 5 sch 2
sub 2008 No. 55 s 99

Punishment of attempts to commit misdemeanours
s 537 om 2008 No. 55 s 99

Reduction of punishment
s 538 amd 1988 No. 88 s 5 sch 2; 2008 No. 55 s 100

Attempts to procure commission of criminal acts
s 539 amd 1900 64 Vic No. 7 s 1 sch
sub 1989 No. 17 s 47

Preparation to commit crimes with dangerous things
s 540 amd 1900 64 Vic No. 7 s 1 sch; 1986 No. 1 s 75; 1988 No. 88 s 5 sch 2
sub 2008 No. 55 s 101

Conspiracy to commit crime
s 541 amd 1986 No. 1 s 76; 1988 No. 88 s 5 sch 2

Conspiracy to commit other offences
s 542 amd 1986 No. 1 s 77; 1988 No. 88 s 5 sch 2

Other conspiracies
s 543 amd 1986 No. 1 s 78; 1988 No. 88 s 5 sch 2

Industrial disputes
s 543A prev s 543A ins 1915 6 Geo 5 No. 31 s 37
om 1929 20 Geo 5 No. 28 s 119(2)
pres s 543A ins 1932 23 Geo 5 No. 36 s 85(2)
amd 1997 No. 82 s 3 sch; 2000 No. 46 s 3 sch; 2008 No. 55 s 102

Accessories after the fact to offences
s 544 amd 1988 No. 88 s 5 sch 2
sub 2008 No. 55 s 103

Punishment of accessories after the fact to offences
s 545 amd 1973 No. 88 s 11; 1988 No. 88 s 5 sch 2
sub 2008 No. 55 s 103

Chapter does not apply to police officers
s 545A ins 2000 No. 5 s 461 sch 3

Arrest without warrant generally
s 546 amd 2000 No. 5 s 461 sch 3; 2005 No. 70 s 166 sch

Arrest of persons found committing offences on aircraft
s 547A ins 1964 No. 14 s 17

Arrest of persons found committing offences
s 548 amd 2000 No. 5 s 461 sch 3

Duty of persons arresting
s 552 amd 2008 No. 55 s 104

CHAPTER 58A—INDICTABLE OFFENCES DEALT WITH SUMMARILY
ch hdg ins 1997 No. 3 s 96

Charges of indictable offences that must be heard and decided summarily on prosecution election
s 552A ins 1997 No. 3 s 96 (amd 1997 No. 9 ss 30(1), 3 sch 1)
sub 2010 No. 26 s 17

Charges of indictable offences that must be heard and decided summarily unless defendant elects for jury trial
s 552B ins 1997 No. 3 s 96 (amd 1997 No. 9 ss 30(2)–(4), 3 sch 1)
amd 1997 No. 32 s 3 sch; 1998 No. 19 s 23; 1999 No. 66 s 11; 2002 No. 8 s 52; 2003 No. 77 s 46; 2006 No. 45 s 5
sub 2010 No. 26 s 17

Charges of indictable offences that must be heard and decided summarily
s 552BA ins 2010 No. 26 s 17

Excluded offences
s 552BB ins 2010 No. 26 s 17

Constitution of Magistrates Court
s 552C ins 1997 No. 3 s 96 (amd 1997 No. 9 s 3 sch 1)
sub 1997 No. 32 s 4
amd 2004 No. 37 s 86 sch 1; 2007 No. 59 s 70; 2009 No. 17 s 331 sch 1

When Magistrates Court must abstain from jurisdiction
prov hdg amd 1997 No. 32 s 3 sch
s 552D ins 1997 No. 3 s 96
amd 1997 No. 32 s 3 sch; 2010 No. 26 s 18

Charge may be heard and decided where defendant arrested or served
s 552E ins 1997 No. 3 s 96 (amd 1997 No. 9 s 3 sch 1)
amd 2010 No. 26 s 19

Time for prosecution
s 552F ins 1997 No. 3 s 96 (amd 1997 No. 9 s 3 sch 1)
amd 1997 No. 32 s 3 sch; 2010 No. 26 s 20

Value of property affecting jurisdiction to be decided by Magistrates Court
prov hdg amd 1997 No. 32 s 3 sch
s 552G ins 1997 No. 3 s 96 (amd 1997 No. 9 s 3 sch 1)
amd 2010 No. 26 s 21

Maximum penalty for indictable offences dealt with summarily
s 552H ins 1997 No. 3 s 96
sub 1997 No. 32 s 5
amd 2006 No. 8 s 71; 2010 No. 26 s 22

Procedure under section 552B
s 552I ins 1997 No. 3 s 96 (amd 1997 No. 9 s 3 sch 1)
amd 1997 No. 32 s 3 sch

Appeals against decision to decide charge summarily
s 552J ins 1997 No. 3 s 96
amd 1997 No. 32 s 3 sch; 2010 No. 26 s 23

Bail
s 555 amd 1964 No. 14 s 18
om 1980 No. 35 s 4(1) sch 1

Forfeiture of recognizance before appointed day
s 555A ins 1975 No. 27 s 20
om 1980 No. 35 s 4(1) sch 1

Summary convictions—time
s 556 amd 1961 10 Eliz 2 No. 11 s 27
om 1997 No. 3 s 120 sch 1

Place of trial
s 557 amd 1956 5 Eliz 2 No. 5 s 4; 1989 No. 17 s 48

Change of place of trial
s 559 amd 1977 No. 13 s 16; 1980 No. 35 s 4(1) sch 1; 1989 No. 17 s 49; 2008 No. 59 s 26

Definition for ch 60
s 559A ins 2002 No. 68 s 303

Presenting indictments
prov hdg sub 1997 No. 3 s 97(1)
s 560 amd 1997 No. 3 s 97(2); 1999 No. 19 s 3 sch; 2002 No. 68 s 304

Place where indictment is presented
s 560A ins 2003 No. 55 s 13

Ex officio indictments
prov hdg amd 2002 No. 68 s 305(1)
s 561 amd 1956 5 Eliz 2 No. 5 s 5; 2002 No. 68 s 305(2)–(4)

Arrest of person charged in ex officio indictment
prov hdg amd 2002 No. 68 s 306
s 562 amd 1900 64 Vic No. 7 s 1 sch; 1980 No. 35 s 4(1) sch 1

Nolle prosequi
s 563 amd 1997 No. 3 s 98; 2002 No. 68 s 307

Particular indictments
s 566 amd 1979 No. 2 s 6; 1997 No. 3 s 99; 2008 No. 55 s 105; 2011 No. 7 s 9

Joinder of charges
s 567 amd 1971 No. 41 s 7
sub 1976 No. 25 s 13

Cases in which several charges may be joined
s 568 amd 1945 9 Geo 6 No. 11 s 11; 1961 10 Eliz 2 No. 11 s 28; 1964 No. 14 s 19; 1976 No. 25 s 14; 1979 No. 2 s 7; 1986 No. 1 s 79; 1997 No. 3 s 100; 1997 No. 82 s 3 sch; 2002 No. 23 s 29; 2007 No. 24 s 770 sch 1; 2008 No. 55 s 106; 2010 No. 2 s 89 sch 1; 2011 No. 7 s 10

Accessories
s 569 amd 1997 No. 3 s 101

Amendment of indictments
s 572 amd 1997 No. 3 s 102

Indictment containing count of murder or manslaughter
s 576 amd 1971 No. 41 s 7
sub 1976 No. 25 s 15

Charge of homicide of child
s 577 amd 1971 No. 41 s 7; 1997 No. 3 s 103

Charge of offence of a sexual nature
s 578 amd 1913 4 Geo 5 No. 25 s 2(v); 1976 No. 25 s 19 sch
sub 1989 No. 17 s 50
amd 1997 No. 3 s 104; 2000 No. 43 s 28; 2008 No. 55 s 107

Offences of dishonesty
prov hdg sub 1997 No. 3 s 105(1)
s 581 amd 1979 No. 2 s 8; 1986 No. 1 s 80; 1997 No. 3 s 105(2)–(4)

Charge of stealing stock
prov hdg amd 2002 No. 23 s 30(1)
s 588 amd 1986 No. 1 s 81; 2002 No. 23 s 30(2)–(3)

Charges of stealing certain animals and of killing certain animals with intent to steal
s 588A ins 1986 No. 1 s 82
amd 2002 No. 23 s 31

CHAPTER 62—TRIAL—ADJOURNMENT—PLEAS—PRACTICE
Chapter division 1—Bringing accused person to trial
ch div hdg ins 2003 No. 55 s 14

Bringing accused to trial
s 590 sub 1975 No. 27 s 21; 1997 No. 3 s 106
amd 1997 No. 82 s 3 sch

Chapter division 2—Directions and rulings before trial
ch div hdg ins 2003 No. 55 s 15

Pre-trial directions and rulings
s 590AA (prev s 592A) ins 1997 No. 3 s 108
amd 2000 No. 16 s 590 sch 1 pt 2; 2000 No. 43 s 30; 2003 No. 55 s 19(1)–(4)
reloc and renum 2003 No. 55 s 19(5)
amd 2008 No. 50 s 3; 2008 No. 59 s 27; 2010 No. 26 s 24

Noncompliance with direction about disclosure
s 590AAA ins 2010 No. 26 s 25

Chapter division 3—Disclosure by the prosecution
ch div hdg ins 2003 No. 55 s 15

Chapter subdivision A—Preliminary provisions
ch sdiv hdg ins 2003 No. 55 s 15

Disclosure obligation
s 590AB ins 2003 No. 55 s 15

Chapter division does not have particular consequences
s 590AC ins 2003 No. 55 s 15
amd 2010 No. 26 s 26

Chapter subdivision B—Interpretation
ch sdiv hdg ins 2003 No. 55 s 15

Definitions for ch div 3
s 590AD ins 2003 No. 55 s 15
def **"disclose"** a thing om 2008 No. 55 s 108(1)
def **"disclose"** particulars om 2008 No. 55 s 108(1)
def **"Evidence Act section 93A device statement"** ins 2008 No. 55 s 108(2)

def **"prescribed summary trial"** sub 2010 No. 26 s 27
def **"view"** ins 2008 No. 55 s 108(2)

Meaning of "possession of the prosecution"
s 590AE ins 2003 No. 55 s 15

Meaning of "sensitive evidence"
s 590AF ins 2003 No. 55 s 15
amd 2005 No. 9 s 7

Meaning of "Evidence Act section 93A device statement"
s 590AFA ins 2008 No. 55 s 109

Particular references to an accused person include references to a lawyer acting for the accused person
s 590AG ins 2003 No. 55 s 15

Chapter subdivision C—Disclosure
ch sdiv hdg ins 2003 No. 55 s 15

Disclosure that must always be made
s 590AH ins 2003 No. 55 s 15
amd 2010 No. 26 s 28

When mandatory disclosure must be made
s 590AI ins 2003 No. 55 s 15
amd 2007 No. 37 s 42 sch; 2008 No. 55 s 110; 2010 No. 26 s 29

Disclosure that must be made on request
s 590AJ ins 2003 No. 55 s 15

When requested disclosure must be made
s 590AK ins 2003 No. 55 s 15
amd 2007 No. 37 s 42 sch; 2008 No. 55 s 111; 2010 No. 26 s 30

Ongoing obligation to disclose
s 590AL ins 2003 No. 55 s 15

How disclosure may be made
s 590AM ins 2003 No. 55 s 15

Chapter subdivision D—Limitations on disclosure
ch sdiv hdg ins 2003 No. 55 s 15

Limit on disclosure of things accused person already has
s 590AN ins 2003 No. 55 s 15
amd 2010 No. 26 s 31

Limit on disclosure of sensitive evidence
s 590AO ins 2003 No. 55 s 15
amd 2008 No. 55 s 112; 2010 No. 26 s 32

Evidence Act section 93A device statement
s 590AOA ins 2008 No. 55 s 113

Limit on disclosure of witness contact details
s 590AP ins 2003 No. 55 s 15

Limit on disclosure contrary to the public interest
s 590AQ ins 2003 No. 55 s 15

Chapter subdivision E—Viewing
ch sdiv hdg ins 2003 No. 55 s 15

Viewing evidence that is not original evidence
s 590AR ins 2003 No. 55 s 15
sub 2008 No. 55 s 114

Viewing particular evidence
prov hdg sub 2008 No. 55 s 115(1)
s 590AS ins 2003 No. 55 s 15
amd 2008 No. 55 s 115(2); 2010 No. 26 s 33

Chapter subdivision F—Miscellaneous provisions
ch sdiv hdg ins 2003 No. 55 s 15

Accused person may waive entitlement
s 590AT ins 2003 No. 55 s 15

Court may waive requirement
s 590AU ins 2003 No. 55 s 15

Disclosure directions under particular provisions
prov hdg amd 2010 No. 26 s 34
s 590AV ins 2003 No. 55 s 15
amd 2008 No. 55 s 116

When issues about disclosure must be resolved
s 590AW ins 2003 No. 55 s 15

Unauthorised copying of sensitive evidence
s 590AX ins 2003 No. 55 s 15

Chapter division 4—Disclosure by an accused person
ch div hdg ins 2003 No. 55 s 15

Notice of alibi
s 590A ins 1975 No. 27 s 22
amd 1986 No. 1 s 83; 1997 No. 82 s 3 sch; 2005 No. 70 s 166 sch

Advance notice of expert evidence
prov hdg amd 2003 No. 55 s 16(1)
s 590B ins 1997 No. 3 s 107
amd 2003 No. 55 s 16(2)–(3)

Advance notice of representation if person who made it is unavailable
s 590C ins 2000 No. 43 s 29
amd 2003 No 55 s 17

Chapter division 4A—Disclosure obligation directions
ch div 4A (ss 590D–590G) ins 2010 No. 26 s 35

Chapter division 5—Bringing on trial and ordering adjournment
ch div hdg ins 2003 No. 55 s 18

Adjournment of trial
s 592 sub 1975 No. 27 s 23
amd 2005 No. 70 s 166 sch

Directions as to trial upon adjournment
s 593 sub 1975 No. 27 s 24

Warrant to bring witness before court
s 593A ins 1975 No. 27 s 25
amd 1977 No. 13 s 17
sub 1980 No. 35 s 4(1) sch 1; 2008 No. 59 s 28

Effect of enlargement of recognizance
s 593B ins 1975 No. 27 s 25
amd 1988 No. 13 s 18
om 1980 No. 35 s 4(1) sch 1

Chapter division 6—Corporation as accused person
ch div hdg ins 2003 No. 55 s 21

Presence in court and plea where accused person is a corporation
s 594A ins 1978 No. 10 s 6

Chapter division 7—Applications by accused person about indictment
ch div hdg ins 2003 No. 55 s 22

Chapter division 8—Separate trials
ch div hdg ins 2003 No. 55 s 23

Separate trials where 2 or more charges against the same person
s 597A ins 1976 No. 25 s 16
amd 1980 No. 35 s 4(1) sch 1; 1997 No. 3 s 110; 2008 No. 59 s 29

Separate trials
s 597B (prev s 606) reloc and renum 2003 No. 55 s 25

Chapter division 9—Pleas
ch div hdg ins 2003 No. 55 s 24

Accused person to be called on to plead to indictment
prov hdg amd 2003 No. 55 s 20(1)
s 597C (prev s 594) amd 1975 No. 27 s 26; 1997 No. 3 s 109; 1999 No. 65 s 6
reloc and renum 2003 No. 55 s 20(2)

Pleas
s 598 amd 1976 No. 25 s 17

Defence of justification for defamation to be specially pleaded
s 599 sub 2005 No. 55 s 48 sch 4

Trial by jury
s 604 amd 1997 No. 3 s 111; 2008 No. 50 s 4

Accused person to be informed of the person's right of challenge
s 608 om 1995 No. 42 s 76 sch 2

Challenge to array
s 609 om 1995 No. 42 s 76 sch 2

Challenges to individual jurors for cause
s 610 om 1995 No. 42 s 76 sch 2

Time for challenging
s 611 om 1995 No. 42 s 76 sch 2

Ascertainment of facts as to challenge
s 612 om 1995 No. 42 s 76 sch 2

Want of understanding of accused person
s 613 amd 1961 10 Eliz 2 No. 11 s 29

Chapter division 9A—Trial by judge alone
ch div hdg ins 2008 No. 50 s 5

Application for order
s 614 prev s 614 om 1995 No. 42 s 76 sch 2
pres s 614 ins 2008 No. 50 s 5

Making a no jury order
s 615 prev s 615 om 1995 No. 42 s 76 sch 2
pres s 615 ins 2008 No. 50 s 5

More than 1 charge or accused person
s 615A ins 2008 No. 50 s 5

Law and procedure to be applied
s 615B ins 2008 No. 50 s 5

Judge's verdict and judgment
s 615C ins 2008 No. 50 s 5

Particular proceedings excluded from application
s 615D ins 2008 No. 50 s 5
amd 2009 No. 34 s 45(1) sch pt 1 amdt 12

References to trial by jury
s 615E ins 2008 No. 50 s 5

Chapter division 10—Appearances and fair conduct
ch div hdg ins 2003 No. 55 s 27

Presence of accused
s 617 sub 1982 No. 34 s 2

Juries
s 617A (prev s 607) reloc and renum 2003 No. 55 s 26

Chapter division 11—Trial of issues
ch div hdg ins 2003 No. 55 s 28

Evidence in defence
s 618 sub 1961 10 Eliz 2 No. 11 s 30; 1975 No. 27 s 27

Prisoner and husband and wife of prisoner competent but not compellable witnesses
s 618A ins 1961 10 Eliz 2 No. 11 s 31
om 1977 No. 47 s 3(7) sch 1 pt G

Speeches by counsel
s 619 amd 1975 No. 27 s 28

Jury not to separate
s 621 amd 1922 13 Geo 5 No. 2 s 3(xvii); 1971 No. 41 s 7; 1973 No. 53 s 2
om 1995 No. 42 s 76 sch 2

Confinement of jury
s 622 amd 1976 No. 39 s 38
om 1995 No. 42 s 76 sch 2

View
s 623 om 1995 No. 42 s 76 sch 2

General verdict on charge of defamation
s 625 amd 2005 No. 55 s 48 sch 4

Discharge of jury
s 626 om 1995 No. 42 s 76 sch 2

Incapacity of Judge
s 627 om 1995 No. 42 s 76 sch 2

Incapacity and unavailability of juror
s 628 amd 1976 No. 39 s 39
sub 1982 No. 59 s 3
om 1995 No. 42 s 76 sch 2

Verdict on Sunday
s 629 om 1995 No. 42 s 76 sch 2

Chapter division 12—Other provisions
ch div hdg ins 2003 No. 55 s 29

Plea of guilty during trial
s 631A ins 1989 No. 17 s 51
amd 1997 No. 3 s 112

Corroboration
s 632 sub 1986 No. 1 s 84; 1997 No. 3 s 113
amd 2000 No. 43 s 31

Evidence on charge of treason
s 633 om 1997 No. 3 s 120 sch 1

Evidence of blood relationship
s 636 amd 1943 7 Geo 6 No. 14 s 24
sub 1989 No. 17 s 52
amd 1997 No. 3 s 114; 2005 No. 70 s 166 sch; 2008 No. 55 s 117

Evidence of gaming
s 637 om 2005 No. 70 s 60

Evidence of authority
s 638 amd 1986 No. 1 s 85; 2005 No. 55 s 48 sch 4

Averments about public officers and public service officers or employees
prov hdg sub 1997 No. 3 s 115(1)
s 639 amd 1997 No. 3 s 115(2)–(3)

Evidence on trial for defamation
s 640 reloc (as 1889 53 Vic No. 12 s 36) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Evidence on certain charges of stealing money
s 641 amd 1945 9 Geo 6 No. 11 s 12; 2007 No. 24 s 770 sch 1; 2008 No. 55 s 118

Intention to injure, deceive or defraud
s 643 prov hdg sub 1997 No. 3 s 116

Admissions
s 644 amd 1943 7 Geo 6 No. 14 s 25; 1961 10 Eliz 2 No. 11 s 32; 1986 No. 1 s 86

Witness giving incriminating answers
s 644A ins 1997 No. 3 s 117
amd 2008 No. 55 s 119

Accused person insane during trial
s 645 amd 1984 No. 66 s 58; 2000 No. 16 s 590 sch 1 pt 2

Acquittal on ground of insanity
s 647 amd 1984 No. 66 s 59; 2000 No. 16 s 590 sch 1 pt 2

Arrest of judgment
s 649 amd 1913 4 Geo 5 No. 23 s 2(2)

Sentence
s 650 amd 1948 12 Geo 6 No. 48 s 11; 1961 10 Eliz 2 No. 11 s 33; 1980 No. 35 s 4(1) sch 1
sub 1989 No. 17 s 53
amd 1992 No. 48 s 207 sch

Court may decide summary offences if a person is charged on indictment
prov hdg sub 1999 No. 66 s 12(1)
s 651 orig s 651 om 1922 13 Geo 5 No. 2 s 3(xviii)
prev s 651 ins 1986 No. 1 s 87
om 1992 No. 48 s 207 sch
pres s 651 ins 1997 No. 3 s 118 (amd 1997 No. 9 s 31)
amd 1997 No. 82 s 3 sch; 1999 No. 16 s 2 sch; 1999 No. 19 s 3 sch; 1999 No. 66 s 12(2)–(3); 2002 No. 35 s 13 sch; 2010 No. 26 s 36

Proceedings to transmit charge for summary offence
prov hdg amd 1999 No. 16 s 2 sch
s 652 prev s 652 om 1922 13 Geo 5 No. 2 s 3(xviii)
pres s 652 ins 1997 No. 3 s 118
amd 1997 No. 82 s 3 sch; 1999 No. 19 s 3 sch; 1999 No. 66 s 13; 2000 No. 46 s 3 sch

Remission of proceedings to court exercising summary jurisdiction
s 653 prev s 653 om 1922 13 Geo 5 No. 2 s 3(xviii)
pres s 653 ins 1999 No. 66 s 14

Solitary Confinement
s 654 om 1986 No. 1 s 88

Whipping
s 655 om 1986 No. 1 s 88

Conditional Suspension of Punishment on First Conviction
s 656 amd 1943 7 Geo 6 No. 14 s 26; 1948 12 Geo 6 No. 48 s 12; 1971 No. 41 s 8; 1988 No. 88 s 5 sch 2
om 1992 No. 48 s 207 sch

Discharge of Offender in certain Cases
s 657 om 1992 No. 48 s 207 sch

Power to permit release of certain persons charged
s 657A ins 1975 No. 27 s 29
om 1992 No. 48 s 207 sch

Assessment of Value of Property: Appropriation of Fines dependent on Value
s 658 om 1992 No. 48 s 207 sch

CHAPTER 64A—HABITUAL CRIMINALS
ch hdg ins 1914 5 Geo 5 No. 22 s 2(2)
om 1992 No. 48 s 197(1)

Judge may Declare Convicted Person an Habitual Criminal
s 659A ins 1914 5 Geo 5 No. 22 ss 2(2), 3
amd 1945 9 Geo 6 No. 11 s 13; 1961 10 Eliz 2 No. 11 s 34; 1988 No. 88 s 5 sch 2
om 1992 No. 48 s 197(1)

Reformatory Prisons
s 659B ins 1914 5 Geo 5 No. 22 ss 2(2), 4
om 1988 No. 88 s 5 sch 2

Prisons Act and Code to apply
s 659C ins 1914 5 Geo 5 No. 22 ss 2(2), 5
om 1988 No. 88 s 5 sch 2

Detention of Habitual Criminals
s 659D ins 1914 5 Geo 5 No. 22 ss 2(2), 6
amd 1988 No. 88 s 5 sch 2
om 1992 No. 48 s 197(1)

Alcoholic Liquor Prohibited
s 659E ins 1914 5 Geo 5 No. 22 ss 2(2), 7
om 1988 No. 88 s 5 sch 2

Prisoners to be Employed
s 659F ins 1914 5 Geo 5 No. 22 ss 2(2), 8
om 1988 No. 88 s 5 sch 2

Discharge
s 659G ins 1914 5 Geo 5 No. 22 ss 2(2), 9
om 1992 No. 48 s 197(1)

Conditions under which Offender may be Arrested
s 659H ins 1914 5 Geo 5 No. 22 ss 2(2), 10
amd 1988 No. 88 s 5 sch 2
om 1992 No. 48 s 197(1)

Regulations
s 659I ins 1914 5 Geo 5 No. 22 ss 2(2), 11
om 1988 No. 88 s 5 sch 2

Costs in cases of defamation
s 661 amd 1995 No. 37 s 459(2) sch 3 pt 1 div 2
reloc (as 1889 53 Vic No. 12 s 37) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

CHAPTER 65A—COMPENSATION FOR INJURY
ch hdg ins 1968 No. 44 s 4
om 1995 No. 54 s 45 sch 2

Interpretation
s 663A ins 1968 No. 44 s 4
def **"Minister"** amd 1990 No. 80 s 3 sch 1
def **"prescribed amount"** ins 1975 No. 27 s 30
amd 1984 No. 28 s 3
om 1995 No. 54 s 45 sch 2

Particular prescribed amounts
s 663AA ins 1984 No. 28 s 4
om 1995 No. 54 s 45 sch 2

Court may order payment for compensation
s 663B ins 1968 No. 44 s 4
amd 1975 No. 27 s 31; 1984 No. 28 s 5
om 1995 No. 54 s 45 sch 2

Further matters for consideration by court in determining amount of order
s 663BA ins 1984 No. 28 s 6
om 1995 No. 54 s 45 sch 2

Governor in Council may approve ex gratia payment where offender convicted
s 663C ins 1968 No. 44 s 4
amd 1975 No. 27 s 32
om 1995 No. 54 s 45 sch 2

Governor in Council may approve ex gratia payment in other cases
s 663D ins 1968 No. 44 s 4
amd 1975 No. 27 s 33
om 1995 No. 54 s 45 sch 2

General
s 663E ins 1968 No. 44 s 4
om 1995 No. 54 s 45 sch 2

Execution of Sentence of Death
s 664 om 1922 13 Geo 5 No. 2 s 3(xix)

Commutation of Capital Sentence
s 665 om 1922 13 Geo 5 No. 2 s 3(xix)

Whipping
s 666 om 1986 No. 1 s 89

CHAPTER 66—EXECUTION OF SENTENCE
ch hdg om 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Levy of fine and costs on conviction for defamation
s 667 reloc (as 1889 53 Vic No. 12 s 38) 1995 No. 37 s 459(2) sch 3 pt 1 div 2

Definitions
s 668 prev s 668 om 1913 4 Geo 5 No. 23 s 2(1)
pres s 668 ins 1913 4 Geo 5 No. 23 ss 3–4
amd 1961 10 Eliz 2 No. 11 s 35; 1992 No. 48 s 207 sch
def **"Court"** sub 1991 No. 68 s 111 sch 2
def **"sentence"** amd 1989 No. 17 s 54

Reference by Attorney-General of pre-trial direction or ruling
s 668A prev s 668A ins 1913 4 Geo 5 No. 23 ss 3, 5
amd 1986 No. 1 s 90
om 1991 No. 68 s 111 sch 2
pres s 668A ins 2003 No. 55 s 30

Reservation of points of law
s 668B ins 1913 4 Geo 5 No. 23 ss 3, 6
amd 1980 No. 35 s 4(1) sch 1

Appeal from arrest of judgment
s 668C ins 1913 4 Geo 5 No. 23 ss 3, 7

Right of appeal
s 668D ins 1913 4 Geo 5 No. 23 ss 3, 8
amd 1997 No. 82 s 3 sch; 1999 No. 66 s 15

Determination of appeal in ordinary cases
s 668E ins 1913 4 Geo 5 No. 23 ss 3, 9

Powers of Court in special cases
s 668F ins 1913 4 Geo 5 No. 23 ss 3, 10

Power to grant new trial

s 669 prev s 669 om 1913 4 Geo 5 No. 23 s 2(1)
pres s 669 ins 1913 4 Geo 5 No. 23 ss 3, 11
amd 2003 No. 55 s 31; 2006 No. 29 s 518 sch 3

Appeal by Attorney-General

s 669A ins 1939 3 Geo 6 No. 28 s 4
sub 1975 No. 27 s 34
amd 1989 No. 17 s 55; 1993 No. 68 s 11; 1997 No. 3 s 119; 1997 No. 38 s 13; 2002 No. 39 s 145; 1992 No. 44 s 341 sch 3 (ins 2002 No. 39 ss 115, 118); 2005 No. 70 s 166 sch; 2009 No. 34 s 45(1) sch pt 1 amdt 12

Revesting and restitution of property on conviction

s 670 prev s 670 om 1913 4 Geo 5 No. 23 s 2(1)
pres s 670 ins 1913 4 Geo 5 No. 23 ss 3, 12
amd 1986 No. 1 s 91; 1992 No. 48 s 207 sch

Time for appealing

s 671 prev s 671 om 1913 4 Geo 5 No. 23 s 2(1)
pres s 671 ins 1913 4 Geo 5 No. 23 ss 3, 13
amd 1922 13 Geo 5 No. 2 s 3(xx); 1986 No. 1 s 92; 1997 No. 9 s 25

Judge's notes and report to be furnished on appeal

s 671A ins 1913 4 Geo 5 No. 23 ss 3, 14

Supplemental powers

s 671B ins 1913 4 Geo 5 No. 23 ss 3, 15

Legal Assistance to Appellant

s 671C ins 1913 4 Geo 5 No. 23 ss 3, 16
om 1974 No. 3 s 3(1)(b)

Right of appellant to be present

s 671D ins 1913 4 Geo 5 No. 23 ss 3, 17

Appeals permitted in writing

s 671E ins 1913 4 Geo 5 No. 23 ss 3, 18

Costs of appeal

s 671F ins 1913 4 Geo 5 No. 23 ss 3, 19
amd 1975 No. 27 s 35

Grant of bail to appellant and custody when attending Court

s 671G ins 1913 4 Geo 5 No. 23 ss 3, 20
amd 1980 No. 35 s 4(1) sch 1; 1986 No. 1 s 93; 1988 No. 88 s 5 sch 2; 2002 No. 23 s 32

Duties of registrar

s 671H ins 1913 4 Geo 5 No. 23 ss 3, 21
amd 1961 10 Eliz 2 No. 11 s 36; 1975 No. 27 s 36; 2000 No. 63 s 276 sch 2; 2006 No. 29 s 518 sch 3

Documents, exhibits etc.

s 671J ins 1913 4 Geo 5 No. 23 ss 3, 22

Recording of trial proceedings
s 671K ins 1913 4 Geo 5 No. 23 ss 3, 23
sub 1986 No. 1 s 94
amd 1997 No. 82 s 3 sch; 2000 No. 46 s 3 sch; 2005 No. 70 s 166 sch

Powers exercisable by a Judge
s 671L ins 1913 4 Geo 5 No. 23 ss 3, 24
amd 1980 No. 35 s 4(1) sch 1

Appeals from the decisions of the Court
s 672 prev s 672 om 1913 4 Geo 5 No. 23 s 2(1)
pres s 672 ins 1913 4 Geo 5 No. 23 ss 3, 25
amd 1980 No. 35 s 4(1) sch 1

Pardoning power preserved
s 672A ins 1913 4 Geo 5 No. 23 ss 3, 26
amd 1922 13 Geo 5 No. 2 s 3(xxi); 2005 No. 70 s 166 sch

Appeals from summary convictions
s 673 sub 1975 No. 27 s 37
om 1997 No. 38 s 14

Appeal from Summary Convictions to District Court
s 674 om 1975 No. 27 s 38

Conditional remission of sentence by Governor
s 675 amd 1988 No. 88 s 5 sch 2

Pardon in case of imprisonment for non-payment of money
s 676 amd 1997 No. 82 s 3 sch

CHAPTER 68—EXCEPTIONS TO DOUBLE JEOPARDY RULES
ch hdg prev ch 68 hdg om 1992 No. 44 s 235 sch 3
pres ch 68 hdg ins 2007 No. 49 s 4

Definitions
s 678 prev s 678 amd 1971 No. 41 s 7; 1986 No. 1 s 95
om 1992 No. 44 s 235 sch 3
pres s 678 ins 2007 No. 49 s 4

Application of ch 68
s 678A ins 2007 No. 49 s 4

Court may order retrial for murder—fresh and compelling evidence
s 678B ins 2007 No. 49 s 4

Court may order retrial for 25 year offence—tainted acquittal
s 678C ins 2007 No. 49 s 4

Fresh and compelling evidence—meaning
s 678D ins 2007 No. 49 s 4

Tainted acquittal—meaning
s 678E ins 2007 No. 49 s 4

Interests of justice—matters for consideration
s 678F ins 2007 No. 49 s 4

Application for retrial—procedure
s 678G ins 2007 No. 49 s 4

Retrial
s 678H ins 2007 No. 49 s 4

Authorisation of police investigations
s 678I ins 2007 No. 49 s 4

Bail
s 678J ins 2007 No. 49 s 4

Restrictions on publication
s 678K ins 2007 No. 49 s 4

Search warrant
s 679 amd 1943 7 Geo 6 No. 14 s 27; 1964 No. 14 s 20
om 2000 No. 5 s 373 sch 2

CHAPTER 69—SEIZURE AND DETENTION OF PROPERTY CONNECTED WITH OFFENCES—RESTITUTION OF PROPERTY UNLAWFULLY ACQUIRED
ch hdg amd 2000 No. 43 s 32

Search of aircraft
s 679A ins 1964 No. 14 s 21
amd 2007 No. 37 s 42 sch

Powers of police officers in respect of offences relating to certain animals
s 679B ins 1973 No. 88 s 12
amd 1986 No. 1 s 96
om 2000 No. 5 s 461 sch 3

Power of search on arrest
s 680A ins 1943 7 Geo 6 No. 14 s 28
om 2000 No. 5 s 373 sch 2

Seizure of counterfeit coin, tools for coining etc.
s 681 om 1997 No. 3 s 120 sch 1

Women detained for immoral purposes
s 684 om 2000 No. 43 s 33

Restitution of Property
s 685 om 1992 No. 48 s 207 sch

Orders for restitution and compensation
s 685A ins 1975 No. 27 s 39
amd 1988 No. 88 s 5 sch 2; 1989 No. 17 s 56(a)
om 1992 No. 48 s 207 sch

Orders for delivery of certain property
s 685B ins 1986 No. 1 s 97
amd 2000 No. 5 s 373 sch 2

Information by leave of the Court by private prosecutors
s 686 amd R1 (see RA s 39)

Effect of judgment for prosecutor on demurrer
s 692 prov hdg amd 1908 8 Edw 7 No. 18 s 5 sch 3

Costs of defence
s 694 amd 2010 No. 2 s 89 sch 1; 2010 No. 42 s 22

Practice to be applied on ex officio indictment
s 695 prov hdg amd 2002 No. 68 s 308

Power to protect victim of violence by prohibiting publication of information about proceedings
s 695A ins 1995 No. 54 s 45 sch 2
amd 2009 No. 35 s 203

Names of jury to be given to person charged with treason or concealment of treason
s 696 om 1997 No. 3 s 120 sch 1

Court may direct certain persons to be prosecuted for perjury
s 697 amd 1980 No. 35 s 4(1) sch 1

Committal of fraudulent debtors
s 698 amd 1900 64 Vic No. 7 s 1 sch; 1980 No. 35 s 4(1) sch 1
om 1997 No. 3 s 120 sch 1

Custody of girls under 18
prov hdg amd 1913 4 Geo 5 No. 25 s 2(vi); 1974 No. 57 s 8 sch
s 701 amd 1913 4 Geo 5 No. 25 s 2(vi); 1943 7 Geo 6 No. 14 s 29; 1974 No. 57 s 8 sch
om 2000 No. 43 s 34

Limitation of Proceeding
s 703 om 1974 No. 75 s 4 sch

Copies of depositions to be allowed to persons committed for trial
s 705 amd 1980 No. 35 s 4(1) sch 1

Development of administrative arrangements
s 706A ins 2010 No. 26 s 37

Forms of criminal proceedings
s 707 amd 1913 4 Geo 5 No. 23 s 2(3); 1980 No. 35 s 4(1) sch 1; 1989 No. 17 s 57
sub 1995 No. 58 s 4 sch 1

Regulation-making power
s 708 prev s 708 ins 1997 No. 38 s 15
exp 1 August 1999 (see prev s 708(3))
pres s 708 ins 2003 No. 55 s 32

PART 1—TRANSITIONAL PROVISION FOR THE COURTS REFORM AMENDMENT ACT 1997

pt hdg ins 1999 No. 18 s 4
om 1999 No. 66 s 6 sch

PART 2—TRANSITIONAL PROVISION FOR THE CRIMINAL CODE (STALKING) AMENDMENT ACT 1999

pt hdg ins 1999 No. 18 s 5
om 1999 No. 66 s 6 sch

PART 9—TRANSITIONAL AND VALIDATION PROVISIONS

pt hdg ins 1999 No. 66 s 6 sch
amd 2002 No. 68 s 309

CHAPTER 72—TRANSITIONAL PROVISION FOR ACT NO. 18 OF 1999

ch hdg prev ch 72 hdg ins 1999 No. 18 s 4
om 1999 No. 66 s 6 sch
pres ch 72 hdg ins 1999 No. 66 s 6 sch

Transitional provision for Act No. 18 of 1999

prov hdg sub 1999 No. 66 s 6 sch
s 709 ins 1999 No. 18 s 5

CHAPTER 73—TRANSITIONAL PROVISION FOR JUSTICE LEGISLATION (MISCELLANEOUS PROVISIONS) ACT (No. 2) 1999

ch 73 (s 710) ins 1999 No. 66 s 16

CHAPTER 74—TRANSITIONAL PROVISION FOR CRIMINAL LAW AMENDMENT ACT 2000

ch 74 (s 711) ins 2000 No. 43 s 35

CHAPTER 75—TRANSITIONAL PROVISION FOR CRIMINAL LAW AMENDMENT ACT 2002

ch 75 (s 712) ins 2002 No. 23 s 33

CHAPTER 76—TRANSITIONAL PROVISION FOR SEXUAL OFFENCES (PROTECTION OF CHILDREN) AMENDMENT ACT 2003

ch 76 (s 713) ins 2003 No. 3 s 19

CHAPTER 77—VALIDATION PROVISION FOR CRIMINAL PROCEEDS CONFISCATION ACT 2002

ch 77 (s 714) ins 2002 No. 68 s 310

CHAPTER 78—TRANSITIONAL PROVISION FOR EVIDENCE (PROTECTION OF CHILDREN) AMENDMENT ACT 2003

ch 78 (s 715) ins 2003 No. 55 s 33

CHAPTER 79—TRANSITIONAL PROVISION FOR DEFAMATION ACT 2005

ch 79 (s 716) ins 2005 No. 55 s 48 sch 4

CHAPTER 80—TRANSITIONAL PROVISION FOR CRIMINAL CODE AMENDMENT ACT 2006

ch 80 (s 717) ins 2006 No. 30 s 5

CHAPTER 81—TRANSITIONAL PROVISION FOR JUSTICE AND OTHER LEGISLATION AMENDMENT ACT 2007

ch 81 (s 718) ins 2007 No. 37 s 44

CHAPTER 82—TRANSITIONAL PROVISION FOR CRIMINAL CODE AND OTHER ACTS AMENDMENT ACT 2008

ch hdg ins 2008 No. 55 s 120

References to particular offences

s 719 ins 2008 No. 55 s 120
amd 2010 No. 2 s 89 sch 1

CHAPTER 83—TRANSITIONAL PROVISION FOR CRIMINAL CODE AND JURY AND ANOTHER ACT AMENDMENT ACT 2008

ch 83 (s 720) ins 2008 No. 50 s 6

CHAPTER 84—TRANSITIONAL PROVISION FOR JUSTICE AND OTHER LEGISLATION AMENDMENT ACT 2008, PART 8

ch 84 (s 721) ins 2008 No. 59 s 30

CHAPTER 85—TRANSITIONAL PROVISION FOR THE CRIMINAL CODE (MEDICAL TREATMENT) AMENDMENT ACT 2009

ch 85 (s 722) ins 2009 No. 33 s 4

CHAPTER 86—TRANSITIONAL PROVISIONS FOR CRIMINAL CODE (ABUSIVE DOMESTIC RELATIONSHIP DEFENCE AND ANOTHER MATTER) AMENDMENT ACT 2010

ch 86 (s 723) ins 2010 No. 1 s 5

CHAPTER 87—TRANSITIONAL PROVISION FOR MEMBERS OF QR GROUP

ch 87 (s 724) ins 2010 No. 19 s 24

CHAPTER 88—TRANSITIONAL PROVISIONS FOR CIVIL AND CRIMINAL JURISDICTION REFORM AND MODERNISATION AMENDMENT ACT 2010

ch hdg (prev ch 87 hdg) ins 2010 No. 26 s 38
renum 2010 No. 42 s 23(1)

Definitions for ch 88

prov hdg amd 2010 No. 42 s 23(2)
s 725 (prev s 724) ins 2010 No. 26 s 38
renum 2010 No. 42 s 23(1)

New disclosure provisions apply only to prosecutions commenced after commencement

s 726 (prev s 725) ins 2010 No. 26 s 38
renum 2010 No. 42 s 23(1)

New summary disposition provisions apply only to prosecutions commenced after commencement

s 727 (prev s 726) ins 2010 No. 26 s 38
renum 2010 No. 42 s 23(1)

CHAPTER 89—TRANSITIONAL PROVISION FOR CRIMINAL CODE AND OTHER LEGISLATION AMENDMENT ACT 2011

ch 89 (s 728) ins 2011 No. 7 s 11

11 List of forms notified or published in the gazette

See forms published gazette 4 August 2000 pp 1217–18 and notified under the Supreme Court of Queensland Act 1991. Because failure by a department to notify or publish a form in the gazette does not invalidate the form, you should check with the relevant government department for the latest information about forms (see Statutory Instruments Act, section 58(8)).

12 Transitional and savings provisions for Criminal Code

Section 2 of the Criminal Code Amendment Act of 1922 provides—

2 Abolition of capital punishment

The sentence of punishment by death shall no longer be pronounced or recorded, and the punishment of death shall no longer be inflicted.

Section 3 of the Criminal Code Amendment Act 1968 provides—

3 Application of Act

This Act does not apply in respect of compensation for injury suffered before the commencement of this Act.

Sections 9–10 of the Criminal Code and the Offenders Probation and Parole Act Amendment Act 1971 provides—

9 References in Acts (other than this Act) to Wilful Murder

A reference in any Act (other than this Act), or in any instrument made under any such Act, to—

(a) “wilful murder”;

(b) “wilful murder or murder”;

(c) "wilful murder and murder";

(d) "wilful murder, murder",

shall, unless the context is such that it would be inappropriate or the contrary intention appears, be read as a reference to "murder" and the Act or instrument shall have effect accordingly.

10 Transitional

(1) Where a person is charged on indictment with an offence against section 301 of *The Criminal Code* before the commencement of this Act and the trial on the indictment is continued after that commencement, the trial shall be continued, and punishment shall be imposed and enforced upon a conviction in the proceedings, as if this Act had not been passed.

(2) Where before the commencement of this Act a person has committed an offence against section 301 of *The Criminal Code* in respect of which he has not been charged on indictment before that commencement, he may be charged under section 302 of *The Criminal Code* as amended by this part of this Act in respect of the act or omission constituting the offence as if at the time of doing the act or making the omission constituting the offence as if at the time of doing the act or making the omission the said section 302 as so amended had been of force and effect.

Section 19 of the Justices Act and the Criminal Code Amendment Act 1977 provides—

19 Notes to sections of Code deemed to be headings

Where, in the form in which a section inserted by way of amendment in *The Criminal Code* was enacted, there appears a note in and at the beginning of the section it shall be deemed that such note is and was enacted as a heading appearing immediately above the section in and at the beginning of which it appears.

Section 3 of the Regulatory Offences Act 1985 provides—

3 Act not to alter The Criminal Code

Subject to the provisions of section 10, nothing in this Act shall be construed to alter the provisions of The Criminal Code.

Section 16 the Criminal Code and Another Act Amendment Act 1990 provides—

16 Transitional

(1) Subject to subsection (2), a person who before the commencement of this Act commits—

(a) an offence defined in sections 208 (1) or (3) of *The Criminal Code* as it exists immediately before the commencement; or

(b) an offence defined in section 209 or 535 of *The Criminal Code* constituted by an attempt to commit an offence defined in paragraph (a);

cannot thereafter be convicted of the offence unless it is committed in respect of a person not an adult within the meaning of *The Criminal Code*

(3) A person who, before the commencement of this Act commits an offence defined in section 211 of *The Criminal Code* as it existed immediately before the commencement, cannot thereafter be convicted of the offence.

(4) A provision of this section stating that a person cannot be convicted after the commencement of this Act of an offence defined in a specified section of *The Criminal Code* committed before the commencement does not have the effect that such a person cannot be charged convicted and punished for an offence defined in some other section of *The Criminal Code* where the circumstances in question constitute an offence defined in that other section.

© State of Queensland 2011