

Notes

- ¹ This is a compilation of the *Criminal Code Act Compilation Act 1913* and includes the amendments made by the other written laws referred to in the following table ^{1a}. The table also contains information about any reprints.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Criminal Code Act Compilation Act 1913</i> ⁷	28 of 1913	30 Dec 1913	1 Jan 1914 (see s. 1)
<i>Criminal Code Amendment Act 1918</i>	32 of 1918	24 Dec 1918	24 Dec 1918
<i>Criminal Code (Chapter XXXVII) Amendment Act 1932</i>	51 of 1932	30 Dec 1932	30 Dec 1932
<i>Criminal Code Amendment Act 1942</i>	15 of 1942	26 Nov 1942	26 Nov 1942
<i>Criminal Code Amendment Act 1945</i>	40 of 1945	30 Jan 1946	30 Jan 1946
<i>Criminal Code Amendment Act 1952</i>	27 of 1952	28 Nov 1952	28 Nov 1952
<i>Criminal Code Amendment Act 1953</i>	55 of 1953	9 Jan 1954	9 Jan 1954
<i>Criminal Code Amendment Act 1954</i>	20 of 1954	28 Sep 1954	28 Sep 1954
<i>Betting Control Act 1954</i> s. 5	63 of 1954	30 Dec 1954	1 Aug 1955 (see s. 2(1) and <i>Gazette</i> 29 Jul 1955 p. 1767)
<i>Limitation Act 1935</i> s. 48A(1)	35 of 1935 (as amended by No. 73 of 1954 s. 8)	14 Jan 1955	Relevant amendments (see s. 48A and Second Sch. ⁸) took effect on 1 Mar 1955 (see No. 73 of 1954 s. 2 and <i>Gazette</i> 18 Feb 1955 p. 343)
Reprint of the <i>Criminal Code Act Compilation Act 1913</i> approved 29 Jun 1955 in Vol. 8 of Reprinted Acts (includes amendments listed above)			
<i>Criminal Code Amendment Act 1956</i>	11 of 1956	11 Oct 1956	11 Oct 1956
<i>Criminal Code Amendment Act (No. 2) 1956</i>	43 of 1956	18 Dec 1956	18 Dec 1956
<i>Traffic Act Amendment Act (No. 3) 1956</i> s. 25(2)	74 of 1956	14 Jan 1957	14 Jan 1957
<i>Juries Act 1957</i> s. 2	50 of 1957	9 Dec 1957	1 Jul 1960 (see s. 2 and <i>Gazette</i> 6 Mar 1959 p. 539)
<i>Criminal Code Amendment Act 1960</i>	25 of 1960	21 Oct 1960	21 Oct 1960

Short title	Number and year	Assent	Commencement
<i>Criminal Code Amendment Act 1961</i>	28 of 1961	Reserved for Royal Assent 31 Oct 1961. Assented to 23 May 1962	29 Jun 1962 (see <i>Interpretation Act 1918</i> s. 8 and <i>Gazette</i> 29 Jun 1962 p. 1657)
<i>Criminal Code Amendment Act 1962</i> ⁹	35 of 1962	29 Oct 1962	1 Jul 1966 (see s. 2 and <i>Gazette</i> 11 Mar 1966 p. 701)
<i>Criminal Code Amendment Act 1963</i>	21 of 1963	13 Nov 1963	1 Jan 1965 (see s. 2 and <i>Gazette</i> 11 Dec 1964 p. 3995)
<i>Criminal Code Amendment Act (No. 2) 1963</i>	55 of 1963	17 Dec 1963	1 Jul 1964 (see s. 2 and <i>Gazette</i> 26 Jun 1964 p. 2525)
<i>Convicted Inebriates' Rehabilitation Act 1963</i> s. 17	63 of 1963	18 Dec 1963	1 Jul 1966 (see s. 2 and <i>Gazette</i> 11 Mar 1966 p. 702)
<i>Traffic Act Amendment Act (No. 3) 1963</i> s. 8	74 of 1963	19 Dec 1963	1 Mar 1964 (see s. 2 and <i>Gazette</i> 28 Feb 1964 p. 906)
<i>Criminal Code Amendment Act 1964</i>	53 of 1964	30 Nov 1964	30 Nov 1964
<i>Criminal Code Amendment Act 1965</i>	91 of 1965	8 Dec 1965	8 Dec 1965
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	s. 4-9: 14 Feb 1966 (see s. 2(2)); balance: 21 Dec 1965 (see s. 2(1))
<i>Criminal Code Amendment Act 1966</i>	89 of 1966	12 Dec 1966	12 Dec 1966
<i>Criminal Code Amendment Act 1969</i>	1 of 1969	21 Apr 1969	21 Apr 1969
Reprint of the <i>Criminal Code Act Compilation Act 1913</i> approved 9 Jul 1969 (includes amendments listed above)			
<i>Criminal Code Amendment Act 1972</i>	21 of 1972	26 May 1972	1 Jul 1972 (see s. 2 and <i>Gazette</i> 30 Jun 1972 p. 2097)
<i>Criminal Code Amendment Act (No. 2) 1972</i>	41 of 1972	16 Jun 1972	1 Jul 1972 (see s. 2 and <i>Gazette</i> 30 Jun 1972 p. 2098)
<i>Metric Conversion Act 1972</i>	94 of 1972 (as amended by No. 19 & 83 of 1973, 42 of 1975)	4 Dec 1972	Relevant amendments (see Second Sch. ¹⁰) took effect on 1 Jan 1974 (see s. 4(2) and <i>Gazette</i> 2 Nov 1973 p. 4109)
<i>Acts Amendment (Road Traffic) Act 1974</i> Pt. I	58 of 1974	3 Dec 1974	29 Aug 1975 (see s. 2 and <i>Gazette</i> 29 Aug 1975 p. 3085)
<i>Criminal Code Amendment Act 1975</i>	49 of 1975	18 Sep 1975	18 Sep 1975

Short title	Number and year	Assent	Commencement
<i>Criminal Code Amendment Act 1976</i>	35 of 1976	9 Jun 1976	3 Sep 1976 (see s. 2 and <i>Gazette</i> 3 Sep 1976 p. 3271)
<i>Criminal Code Amendment Act (No. 2) 1976</i> ¹¹	62 of 1976	16 Sep 1976	16 Sep 1976
<i>Criminal Code Amendment Act (No. 3) 1976</i>	133 of 1976	9 Dec 1976	9 Dec 1976
<i>Criminal Code Amendment Act 1977</i>	38 of 1977	7 Nov 1977	7 Nov 1977
<i>Criminal Code Amendment Act (No. 3) 1977</i>	71 of 1977	28 Nov 1977	28 Nov 1977
Reprint of the <i>Criminal Code Act Compilation Act 1913</i> approved 8 Dec 1978 (includes amendments listed above)			
<i>Acts Amendment (Master, Supreme Court) Act 1979 Pt. XVIII</i>	67 of 1979	21 Nov 1979	11 Feb 1980 (see s. 2 and <i>Gazette</i> 8 Feb 1980 p. 383)
<i>Criminal Code Amendment Act 1979</i>	68 of 1979	21 Nov 1979	21 Nov 1979
<i>Criminal Code Amendment Act (No. 2) 1979</i>	107 of 1979	17 Dec 1979	17 Dec 1979
<i>Acts Amendment (Strict Security Life Imprisonment) Act 1980 Pt. I</i>	96 of 1980	9 Dec 1980	9 Dec 1980
<i>Acts Amendment (Lotto) Act 1981 Pt. II</i>	103 of 1981	2 Dec 1981	18 Dec 1981 (see s. 2 and <i>Gazette</i> 18 Dec 1981 p. 5163)
<i>Acts Amendment (Prisons) Act 1981 Pt. I</i>	116 of 1981	14 Dec 1981	1 Aug 1982 (see s. 2 and <i>Gazette</i> 23 Jul 1982 p. 2841)
<i>Acts Amendment (Jurisdiction of Courts) Act 1981 Pt. I</i>	118 of 1981	14 Dec 1981	1 Feb 1982 (see s. 2 and <i>Gazette</i> 22 Jan 1982 p. 175)
<i>Companies (Consequential Amendments) Act 1982 s. 28</i>	10 of 1982	14 May 1982	1 Jul 1982 (see s. 2(1) and <i>Gazette</i> 25 Jun 1982 p. 2079)
<i>Acts Amendment (Criminal Penalties and Procedure) Act 1982 Pt. II</i>	20 of 1982	27 May 1982	27 May 1982
<i>Acts Amendment (Bail) Act 1982 Pt. III</i>	87 of 1982	17 Nov 1982	6 Feb 1989 (see s. 2 and <i>Gazette</i> 27 Jan 1989 p. 263)

Short title	Number and year	Assent	Commencement
<i>Acts Amendment (Betting and Gaming) Act 1982 Pt. III</i>	108 of 1982	7 Dec 1982	31 Dec 1982 (see s. 2 and <i>Gazette</i> 31 Dec 1982 p. 4968)
<i>Acts Amendment (Trade Promotion Lotteries) Act 1983 Pt. II</i>	21 of 1983	22 Nov 1983	22 Nov 1983
Reprint of the Criminal Code Act Compilation Act 1913 approved 13 Dec 1983 (includes amendments listed above except those in the <i>Acts Amendment (Bail) Act 1982</i>)			
<i>Criminal Code Amendment Act 1983</i>	77 of 1983	22 Dec 1983	22 Dec 1983
<i>Reprints Act 1984 s. 9(2)</i>	13 of 1984	31 May 1984	1 Feb 1985 (see s. 2 and <i>Gazette</i> 11 Jan 1985 p. 175)
<i>Acts Amendment (Abolition of Capital Punishment) Act 1984 Pt. I</i>	52 of 1984	5 Sep 1984	3 Oct 1984
<i>Acts Amendment (Department for Community Services) Act 1984 Pt. XI</i>	121 of 1984	19 Dec 1984	1 Jan 1985 (see s. 2 and <i>Gazette</i> 28 Dec 1984 p. 4197)
<i>Artificial Conception Act 1985 s. 8</i>	14 of 1985	12 Apr 1985	1 Jul 1985 (see s. 2 and <i>Gazette</i> 28 Jun 1985 p. 2291)
<i>Acts Amendment (Sexual Assaults) Act 1985 Pt. II</i>	74 of 1985	20 Nov 1985	1 Apr 1986 (see s. 2 and <i>Gazette</i> 28 Feb 1986 p. 605)
<i>Criminal Law Amendment Act 1985 Pt. II</i>	119 of 1985	17 Dec 1985	1 Sep 1986 (see s. 2 and <i>Gazette</i> 8 Aug 1986 p. 2815)
<i>Criminal Law Amendment Act 1986 Pt. II</i> ¹²	89 of 1986	10 Dec 1986	s. 3-9: 14 Mar 1988 (see s. 2 and <i>Gazette</i> 11 Mar 1988 p. 781); s. 11 and 12: 1 Jan 1989 (see s. 2 and <i>Gazette</i> 2 Dec 1988 p. 4781)
<i>Acts Amendment (Corrective Services) Act 1987 Pt. V</i>	47 of 1987	3 Oct 1987	11 Dec 1987 (see s. 2 and <i>Gazette</i> 11 Dec 1987 p. 4363)
<i>Acts Amendment and Repeal (Gaming) Act 1987 Pt. IX</i>	74 of 1987	26 Nov 1987	2 May 1988 (see s. 2 and <i>Gazette</i> 29 Apr 1988 p. 1292)
<i>Criminal Code Amendment Act (No. 2) 1987</i> ¹³	106 of 1987	16 Dec 1987	14 Mar 1988 (see s. 2 and <i>Gazette</i> 11 Mar 1988 p. 781)
<i>Acts Amendment (Imprisonment and Parole) Act 1987 Pt. IV</i>	129 of 1987	21 Jan 1988	15 Jun 1988 (see s. 2 and <i>Gazette</i> 20 May 1988 p. 1664)

Short title	Number and year	Assent	Commencement
<i>Criminal Law Amendment Act 1988 Pt. 2</i> ¹⁴	70 of 1988	15 Dec 1988	s. 3, 32 and 33: 15 Dec 1988 (see s. 2(3)); balance: 1 Feb 1989 (see s. 2(1) and <i>Gazette</i> 20 Jan 1989 p. 110)
<i>Acts Amendment (Children's Court) Act 1988 Pt. 4</i>	49 of 1988	22 Dec 1988	1 Dec 1989 (see s. 2 and <i>Gazette</i> 24 Nov 1989 p. 4327)
<i>Law Reform (Decriminalization of Sodomy) Act 1989 Pt. 1</i>	32 of 1989	19 Dec 1989	23 Mar 1990 (see s. 2 and <i>Gazette</i> 23 Mar 1990 p. 1469)
<i>Criminal Code Amendment (Racist harassment and incitement to racial hatred) Act 1990</i>	33 of 1990	9 Oct 1990	6 Nov 1990
<i>Criminal Law Amendment Act 1990 Pt. 2</i>	101 of 1990	20 Dec 1990	s. 51: 20 Dec 1990 (see s. 2(2)); Pt. 2 (other than s. 51): 14 Feb 1991 (see s. 2(1))
Reprint of the <i>Criminal Code Act Compilation Act 1913</i> as at 31 May 1991 (includes amendments listed above)			
<i>Criminal Law Amendment Act 1991</i> ¹⁵	37 of 1991	12 Dec 1991	Act other than s. 4 and 7 and Pt. 4 and 5: 12 Dec 1991 (see s. 2(1)); s. 4 and 7 and Pt. 4 and 5: 10 Feb 1992 (see s. 2(2) and <i>Gazette</i> 31 Jan 1992 p. 477)
<i>Acts Amendment (Evidence) Act 1991 Pt. 3</i> ¹⁶	48 of 1991	17 Dec 1991	31 Mar 1992 (see s. 2 and <i>Gazette</i> 24 Mar 1992 p. 1317)
<i>Criminal Law Amendment Act 1992 Pt. 2</i>	1 of 1992	7 Feb 1992	9 Mar 1992 (see s. 2)
<i>Acts Amendment (Confiscation of Criminal Profits) Act 1992 Pt. 3</i>	15 of 1992	16 Jun 1992	16 Jun 1992 (see s. 2)
<i>Acts Amendment (Sexual Offences) Act 1992 Pt. 2</i> ¹⁷	14 of 1992	17 Jun 1992	1 Aug 1992 (see s. 2 and <i>Gazette</i> 28 Jul 1992 p. 3671)
<i>Criminal Law Amendment Act (No. 2) 1992</i>	51 of 1992	9 Dec 1992	6 Jan 1993
<i>Acts Amendment (Jurisdiction and Criminal Procedure) Act 1992 Pt. 2</i>	53 of 1992	9 Dec 1992	s. 3, 4, 6 and 7: 1 Mar 1993 (see s. 2 and <i>Gazette</i> 26 Jan 1993 p. 823); s. 5: 4 Nov 1996 (see s. 2(1) and <i>Gazette</i> 25 Oct 1996 p. 5631)

Short title	Number and year	Assent	Commencement
<i>Acts Amendment (Ministry of Justice) Act 1993</i> Pt. 6 ¹⁸	31 of 1993	15 Dec 1993	1 Jul 1993 (see s. 2)
Reprint of the <i>Criminal Code Act Compilation Act 1913</i> as at 17 Dec 1993 (includes amendments listed above)			
<i>Acts Amendment (Public Sector Management) Act 1994</i> s. 10	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Statutes (Repeals and Minor Amendments) Act 1994</i> s. 4	73 of 1994	9 Dec 1994	9 Dec 1994 (see s. 2)
<i>Criminal Law Amendment Act 1994</i> Pt. 2-4	82 of 1994	23 Dec 1994	20 Jan 1995 (see s. 2(2))
<i>Acts Amendment (Fines, Penalties and Infringement Notices) Act 1994</i> Pt. 5	92 of 1994	23 Dec 1994	1 Jan 1995 (see s. 2(1) and <i>Gazette</i> 30 Dec 1994 p. 7211)
<i>Sentencing (Consequential Provisions) Act 1995</i> Pt. 19, 20 and s. 147 ⁶	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)
<i>Local Government (Consequential Amendments) Act 1996</i> s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Criminal Code Amendment Act 1996</i>	34 of 1996	27 Sep 1996	27 Sep 1996 (see s. 2)
<i>Criminal Law Amendment Act 1996</i> Pt. 2 ^{2, 3}	36 of 1996	10 Oct 1996	10 Oct 1996 (see s. 2)
<i>Censorship Act 1996</i> s. 152(1) and (2)	40 of 1996	10 Oct 1996	5 Nov 1996 (see s. 2 and <i>Gazette</i> 5 Nov 1996 p. 5845)
<i>Criminal Code Amendment Act (No. 2) 1996</i> ⁴	60 of 1996	11 Nov 1996	14 Nov 1996 (see s. 2 and <i>Gazette</i> 13 Nov 1996 p. 6439)
<i>Mental Health (Consequential Provisions) Act 1996</i> Pt. 4 ^{5, 7}	69 of 1996	13 Nov 1996	13 Nov 1997 (see s. 2)
Reprint of the <i>Criminal Code Act Compilation Act 1913</i> as at 21 Apr 1997 (includes amendments listed above except those in the <i>Mental Health (Consequential Provisions) Act 1996</i>)			
<i>Restraining Orders Act 1997</i> s. 83	19 of 1997	28 Aug 1997	15 Sep 1997 (see s. 2 and <i>Gazette</i> 12 Sep 1997 p. 5149)

Short title	Number and year	Assent	Commencement
<i>Sunday Observance Laws Amendment and Repeal Act 1997 s. 5</i>	49 of 1997	10 Dec 1997	10 Dec 1997 (see s. 2)
<i>Statutes (Repeals and Minor Amendments) Act 1997 s. 45</i>	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
<i>Acts Amendment (Abortion) Act 1998 Pt. 2</i>	15 of 1998	26 May 1998	26 May 1998 (see s. 2)
<i>Criminal Law Amendment Act (No. 2) 1998 Pt. 2</i>	29 of 1998	6 Jul 1998	3 Aug 1998
<i>Criminal Law Amendment Act (No. 1) 1998 Pt. 2</i>	38 of 1998	25 Sep 1998	23 Oct 1998
<i>Acts Repeal and Amendment (Births, Deaths and Marriages Registration) Act 1998 s. 10</i>	40 of 1998	30 Oct 1998	14 Apr 1999 (see s. 2 and <i>Gazette</i> 9 Apr 1999 p. 1433)
<i>Acts Amendment (Video and Audio Links) Act 1998 Pt. 2</i>	48 of 1998	19 Nov 1998	8 Jan 1999 (see s. 2 and <i>Gazette</i> 15 Jan 1999 p. 109)
<i>Acts Amendment (Criminal Procedure) Act 1999 Pt. 2</i>	10 of 1999	5 May 1999	1 Oct 1999 (see s. 2 and <i>Gazette</i> 17 Sep 1999 p. 4557)
Reprint of the Criminal Code Act Compilation Act 1913 as at 2 Oct 1999 (includes amendments listed above)			
<i>Criminal Code Amendment Act 1999</i>	35 of 1999	18 Oct 1999	15 Nov 1999
<i>Prisons Amendment Act 1999 s. 20</i>	43 of 1999	8 Dec 1999	18 Dec 1999 (see s. 2(2) and <i>Gazette</i> 17 Dec 1999 p. 6175)
<i>Court Security and Custodial Services (Consequential Provisions) Act 1999 Pt. 5</i>	47 of 1999	8 Dec 1999	18 Dec 1999 (see s. 2 and <i>Gazette</i> 17 Dec 1999 p. 6175-6)
<i>Prostitution Act 2000 s. 64</i>	17 of 2000	22 Jun 2000	29 Jul 2000 (see s. 2 and <i>Gazette</i> 28 Jul 2000 p. 3987)
<i>Criminal Code Amendment (Home Invasion) Act 2000</i>	45 of 2000	17 Nov 2000	17 Nov 2000 (see s. 2)
<i>Acts Amendment (Evidence) Act 2000 Pt. 5</i>	71 of 2000	6 Dec 2000	3 Jan 2001
Reprint of the Criminal Code Act Compilation Act 1913 as at 9 Feb 2001 (includes amendments listed above)			
<i>Criminal Law Amendment Act 2001 s. 2-9 and 11</i>	23 of 2001	26 Nov 2001	24 Dec 2001

Short title	Number and year	Assent	Commencement
<i>Criminal Code Amendment Act 2001</i>	34 of 2001	7 Jan 2002	7 Jan 2002 (see s. 2)
<i>Acts Amendment (Lesbian and Gay Law Reform) Act 2002 Pt. 7</i>	3 of 2002	17 Apr 2002	21 Sep 2002 (see s. 2 and <i>Gazette</i> 20 Sep 2002 p. 4693)
<i>Criminal Investigation (Identifying People) Act 2002 s. 96</i>	6 of 2002	4 Jun 2002	20 Nov 2002 (see s. 2 and <i>Gazette</i> 19 Nov 2002 p. 5505)
<i>Criminal Code Amendment (Corruption Penalties) Act 2002</i>	8 of 2002	28 Jun 2002	28 Jun 2002 (see s. 2)
<i>Criminal Law (Procedure) Amendment Act 2002 Pt. 3</i>	27 of 2002	25 Sep 2002	27 Sep 2002 (see s. 2 and <i>Gazette</i> 27 Sep 2002 p. 4875)
Reprint 10: <i>The Criminal Code as at 7 Feb 2003</i> (includes amendments listed above)			
<i>Juries Amendment Act 2003 s. 24</i>	25 of 2003	16 May 2003	18 Jun 2003 (see s. 2 and <i>Gazette</i> 17 Jun 2003 p. 2201)
<i>Acts Amendment (Equality of Status) Act 2003 Pt. 12 and s. 118</i>	28 of 2003	22 May 2003	1 Jul 2003 (see s. 2 and <i>Gazette</i> 30 Jun 2003 p. 2579)
<i>Censorship Amendment Act 2003 s. 42</i>	30 of 2003	26 May 2003	1 Jul 2003 (see s. 2 and <i>Gazette</i> 27 Jun 2003 p. 2383)
<i>Corruption and Crime Commission Act 2003 s. 62</i>	48 of 2003	3 Jul 2003	1 Jan 2004 (see s. 2 and <i>Gazette</i> 30 Dec 2003 p. 5723)
<i>Sentencing Legislation Amendment and Repeal Act 2003 s. 51</i>	50 of 2003	9 Jul 2003	15 May 2004 (see s. 2 and <i>Gazette</i> 14 May 2004 p. 1445)
<i>Acts Amendment and Repeal (Courts and Legal Practice) Act 2003 s. 26, 89, 97, 123</i>	65 of 2003	4 Dec 2003	1 Jan 2004 (see s. 2 and <i>Gazette</i> 30 Dec 2003 p. 5722)
<i>Statutes (Repeals and Minor Amendments) Act 2003 s. 150(2)</i>	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)
<i>Corruption and Crime Commission Amendment and Repeal Act 2003 s. 74(2)</i>	78 of 2003	22 Dec 2003	7 Jul 2004 (see s. 2 and <i>Gazette</i> 6 Jul 2004 p. 2697)
<i>Criminal Code Amendment Act 2004</i>	4 of 2004	23 Apr 2004	21 May 2004 (see s. 2)
Reprint 11: <i>The Criminal Code as at 3 Sep 2004</i> (includes amendments listed above)			
<i>Criminal Law Amendment (Criminal Property) Act 2004 Pt. 2</i>	26 of 2004	7 Oct 2004	7 Oct 2004 (see s. 2(1))

Short title	Number and year	Assent	Commencement
<i>Acts Amendment (Family and Domestic Violence) Act 2004</i> Pt. 4	38 of 2004	9 Nov 2004	1 Dec 2004 (see s. 2 and <i>Gazette</i> 26 Nov 2004 p. 5309)
<i>Criminal Law Amendment (Sexual Assault and Other Matters) Act 2004</i> Pt. 2	46 of 2004	9 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Criminal Code Amendment (Racial Vilification) Act 2004</i> ²³	80 of 2004	8 Dec 2004	8 Dec 2004 (see s. 2)

1a On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and Year	Assent	Commencement
<i>Acts Amendment (Court of Appeal) Act 2004</i> s. 30 ²⁰	45 of 2004	9 Nov 2004	To be proclaimed (see s. 2)
<i>Courts Legislation Amendment and Repeal Act 2004</i> Pt. 9 ²²	59 of 2004	23 Nov 2004	To be proclaimed (see s. 2)
<i>Criminal Law Amendment (Simple Offences) Act 2004</i> Pt. 2 and s. 73 ²⁴	70 of 2004	8 Dec 2004	To be proclaimed (see s. 2)

2 The *Criminal Law Amendment Act 1996* s. 5(2) reads as follows:

“

(2) Sections 12 and 13 of the Code as enacted by this section apply to acts, omissions, events, circumstances and states of affairs that occurred before the commencement of this section as well as to those that occur after that commencement.

”.

3 The *Criminal Law Amendment Act 1996* s. 6(2) reads as follows:

“

(2) Section 14 of the Code as amended by this section applies to acts and omissions that occurred before the commencement of this section as well as to those that occur after that commencement.

”.

4 The *Criminal Code Amendment Act (No. 2) 1996* s. 4(3) reads as follows:

“

(3) To avoid doubt it is declared that section 400(3) of *The Criminal Code* as enacted by this Act applies in respect of offences committed at any time and to convictions recorded at any time.

5

The *Mental Health (Consequential Provisions) Act 1996* s. 20 reads as follows:

“

20. Transitional provision

If immediately before the commencement of the *Mental Health Act 1996* a person —

- (a) is in custody under an order made under section 631 or 652 of the Code; and
- (b) is not in an approved hospital because of —
 - (i) a direction made under section 47(1)(b) of the *Mental Health Act 1962*; or
 - (ii) an order made by the Governor under section 48 of that Act,

on that commencement the person is to be taken to be a mentally impaired defendant as defined in Part 5 of the *Criminal Law (Mentally Impaired Defendants) Act 1996* and that Part applies accordingly.

”

6

The *Sentencing (Consequential Provisions) Act 1995* s. 27 reads as follows:

“

27. Transitional provisions

- (1) In this section, “**commencement**” means the commencement of the *Sentencing Act 1995*.
- (2) If immediately before commencement a person is subject to an indeterminate sentence to which section 665 of the Code applies, then on and after commencement that section continues to operate in respect of the person, despite its repeal.
- (3) If immediately before commencement a person is subject to a direction under section 666 of the Code, then on and after commencement that section continues to operate in respect of that person, despite its repeal.
- (4) If immediately before commencement a person is bound by a recognizance to which section 746A of the Code applies but to which that section as re-enacted by section 24 would not apply on and after commencement, then on and after commencement —
 - (a) section 746A(1) of the Code as it was immediately before commencement continues to operate in respect of that person in respect of the recognizance; and
 - (b) section 746A(2), (3) and (4) as re-enacted apply to and in respect of any order made under section 746A(1) as it was immediately before commencement.

”

7

The *Criminal Code* is the Schedule to the *Criminal Code Act 1913* which is Appendix B to the *Criminal Code Act Compilation Act 1913*.

8

Limitation Act 1935 s. 48A and the Second Schedule were inserted by No. 73 of 1954 s. 8.

9

Criminal Code Amendment Act 1962 s. 8 was repealed by No. 63 of 1963 s. 17.

10 *Metric Conversion Act 1972* Second Schedule was inserted by the *Metric*
Conversion Act Amendment Act 1973.
11 *Criminal Code Amendment Act (No. 2) 1976* s. 3 is a validation provision.
12 *Criminal Law Amendment Act 1986* s. 10 was repealed by No. 106 of 1987
s. 14(7).
13 *Criminal Code Amendment Act (No. 2) 1987* s. 25 is a savings provision.
14 *Criminal Law Amendment Act 1988* s. 50 deletes Schedule 2 item 8 of the *Acts*
Amendment (Public Service) Act 1987 which had purported to amend *The*
Criminal Code s. 384(1). Item 8 was ineffective and never took effect.
15 *Criminal Law Amendment Act 1991* s. 6(3) and (4) are savings provisions.
16 *Acts Amendment (Evidence) Act 1991* s. 3 is a transitional provision.
17 *Acts Amendment (Sexual Offences) Act 1992* s. 6(7) and Sch. 1 are transitional and
savings provisions.
18 *Acts Amendment (Ministry of Justice) Act 1993* s. 68 and 69 are savings and
transitional provisions respectively.
19 Footnote no longer applicable.
20 On the date as at which this compilation was prepared the *Acts Amendment (Court*
of Appeal) Act 2004 s. 30 had not come into operation. It reads as follows:
“

30. The Criminal Code amended

- (1) The amendments in this section are to *The Criminal Code*.
- (2) Section 687(1) is amended as follows:
 - (a) by deleting “Full Court (as defined by section 57 of the *Supreme Court Act 1935*)” and inserting instead —
“ Court of Appeal ”;
 - (b) by deleting “, and the expression Court of Criminal Appeal in this Code shall mean the said Full Court”.
- (3) Section 687(2), (4), (5), (6) and (7) are repealed.
- (4) Section 702 is repealed.
- (5) Section 703 is amended by inserting after the last paragraph the following paragraph —

“

The expression “**Registrar**” means the Court of Appeal Registrar appointed under the *Supreme Court Act 1935*.

”.

- (6) *The Criminal Code* is amended in each provision listed in the Table to this section by deleting “Court of Criminal Appeal” wherever it appears and in each place inserting instead —
“ Court of Appeal ”.

Table

s. 655	s. 691(2)	s. 694(2)
s. 687(3)	s. 693(1)	s. 695(1)

s. 688(1)	s. 693(1a)	s. 696
s. 688(1a)	s. 693(2)	s. 697
s. 688(2)	s. 693(3)	s. 699(1)
s. 689(1)	s. 693A(1)	s. 703
s. 689(2)	s. 693A(2)	s. 747
s. 689(3)	s. 693A(3)	
s. 689(4)	s. 693A(4)	

”.

21 Footnote no longer applicable.

22 On the date as at which this compilation was prepared, the *Courts Legislation Amendment and Repeal Act 2004* Pt. 9 had not come into operation. It reads as follows:

“

Part 9 — *The Criminal Code* amended

77. The Criminal Code amended by this Part

The amendments in this Part are to *The Criminal Code*.

78. Section 607B inserted

After section 607A the following section is inserted in Chapter LXIII —

“

607B. Summary convictions of indictable charges

The provisions of this Chapter that allow persons charged on indictment to be convicted of offences other than those with which they are charged apply to persons charged in courts of summary jurisdiction with indictable offences that may be heard and determined summarily.

”.

79. Section 714A inserted

After section 714 the following section is inserted —

“

714A. Orders as to seized property

- (1) If a police officer is in possession (whether by virtue of a search warrant or otherwise) of property that is alleged to have been stolen or obtained by fraud and —
 - (a) any proceedings in relation to an offence allegedly committed in respect of the property have been concluded; or
 - (b) no offender can be found,
 the Magistrates Court may order that the property —
 - (c) be delivered to the person who appears to be the rightful owner; or
 - (d) if the rightful owner cannot be identified or located, be forfeited to the State.
- (2) Such an order does not prevent a person from recovering the property from the person to whom it is delivered or from the

State, as the case may be, by action commenced within 6 months after the making of the order.

”.

80. Other amendments

The Criminal Code is amended as set out in the Table to this section.

Table

s. 1(1)	<p>After the definition of the term “conveyance”, insert the following definition —</p> <p>“</p> <p style="padding-left: 40px;">The term “court of summary jurisdiction” means the Children’s Court when constituted so as not to consist of or include a judge of that court, the Magistrates Court, or any other court or any person that another written law says is a court of summary jurisdiction;</p> <p style="text-align: right;">”.</p> <p>Delete the definition of the term “indictment” and insert instead —</p> <p>“</p> <p style="padding-left: 40px;">The term “indictment” means a written charge of an indictable offence presented to the Supreme Court or District Court in order that the accused person be tried by that court;</p> <p style="text-align: right;">”.</p>
	<p>Delete the definition of the term “summarily” and insert instead —</p> <p>“</p> <p style="padding-left: 40px;">The term “summarily” has the meaning given by subsection (5);</p> <p style="text-align: right;">”.</p> <p>Delete the definition of the term “summary conviction” and insert instead —</p> <p>“</p> <p style="padding-left: 40px;">The term “summary conviction” means conviction otherwise than on indictment;</p> <p style="text-align: right;">”.</p>
After s. 1(4)	<p>Insert the following subsections —</p> <p>“</p> <p style="padding-left: 40px;">(5) In this Code, unless the context otherwise indicates, a reference to a charge being dealt with summarily is a reference to the charge being dealt with otherwise than on an indictment.</p> <p style="padding-left: 40px;">(6) Nothing in this Code affects the operation of the <i>Children’s Court of Western Australia Act 1988</i> and in particular the jurisdiction of the Children’s Court to deal with indictable offences.</p> <p style="text-align: right;">”.</p>

s. 3(4) s. 5(5)(b) s. 133A s. 617A s. 618(3) s. 618(4) s. 618(5) s. 635B(1) s. 636A(1) s. 729(3)(a)	In each provision delete “ <i>Justices Act 1902</i> ” in each place it occurs and in each place insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”.
s. 3(5)	Repeal the subsection and insert instead — “ (5) If a person is convicted by a court of summary jurisdiction of an indictable offence, the conviction is to be regarded as being a conviction of a simple offence only, unless the person is convicted of the offence by the Children’s Court under section 19B(4) of the <i>Children’s Court of Western Australia Act 1988</i> or another written law provides otherwise. ”.
s. 5(1) s. 369 s. 593 s. 618(1) s. 618(3) s. 618(4)	In each provision delete “petty sessions” in each place it occurs and in each place insert instead — “ summary jurisdiction ”.
s. 5(11)	Delete “, or if there is no magistrate and the defendant consents, by 2 justices”.
s. 368	Delete “justices” and insert instead — “ a court of summary jurisdiction ”.
s. 433	Delete “petty sessions before whom” and insert instead — “ summary jurisdiction before which ”.
s. 540	In the first paragraph, after “proceedings” insert — “ before a court ”. In the proviso, delete “or justices” in the 4 places it occurs.
s. 541	Delete “or justices having cognizance of” and insert instead — “ dealing with ”.
s. 656	After “ <i>Sentencing Act 1995</i> ” insert — “ or under the <i>Young Offenders Act 1994</i> , as the case requires ”.

s. 682(4)	Delete “the money may be recovered as a judgment debt in a court of competent jurisdiction.” and insert instead — “ the person to whom the money is to be paid may enforce the payment order by lodging a certified copy of it, and an affidavit stating to what extent it has not been complied with, with a court of competent jurisdiction. ”.
s. 682(5)	Repeal the subsection and insert instead — “ (5) When lodged, the order is to be taken to be a judgment of the court and may be enforced accordingly. ”.
s. 715	Delete “justice or justices” and insert instead — “ court of summary jurisdiction ”. Delete “before 2 justices in a summary way.” and insert instead — “ in a court of competent jurisdiction. ”.
s. 731	Repeal the section.
s. 732	Repeal the section.
s. 740	Delete “or before any justice”. Delete “or before the justice”.
s. 742	Repeal the section.
s. 743	Repeal the section.
s. 747	Delete the first paragraph and insert instead — “ The Judges of the Supreme Court, or a majority of them, may make general rules prescribing forms to be used in courts trying persons on indictment. ”.

23 The amendments in the *Criminal Code Amendment (Racial Vilification) Act 2004* s. 7-9 do not have any effect as, before the Act received the Royal Assent, the provisions they would have amended were amended by the *Acts Amendment (Family and Domestic Violence) Act 2004* s. 67-69.

24 On the date as at which this compilation was prepared, the *Criminal Law Amendment (Simple Offences) Act 2004* Pt. 2 and s. 73 had not come into operation. They read as follows:

“

Part 2 — *The Criminal Code* amended

3. *The Criminal Code* amended

The amendments in this Part are to *The Criminal Code*.

4. Section 1 amended

- (1) Section 1(1) is amended in the definition of the term “public officer” as follows:
- (a) by deleting “a person exercising authority under a written law, and includes —” and inserting instead —
“ any of the following — ”;
 - (b) by inserting after paragraph (ac) the following paragraph —

“

- (ad) a person exercising authority under a written law;

”;

- (c) by deleting “or” after paragraph (d).

- (2) Section 1(1) is amended by inserting in the appropriate alphabetical positions —

“

The term “**public place**” includes —

- (a) a place to which the public, or any section of the public, has or is permitted to have access, whether on payment or otherwise;
- (b) a privately owned place to which the public has access with the express or implied approval of, or without interference from, the owner, occupier or person who has the control or management of the place; and
- (c) a school, university or other place of education, other than a part of it to which neither students nor the public usually have access;

”.

5. Sections 63 to 67 replaced

Sections 63 to 67 are repealed and the following sections are inserted instead —

“

63. Taking part in an unlawful assembly

Any person who takes part in an unlawful assembly is guilty of an offence and is liable to imprisonment for 12 months and a fine of \$12 000.

64. Unlawful assembly may be ordered to disperse

- (1) If 3 or more persons form an unlawful assembly, a justice or a police officer may orally order them to disperse within a time that is reasonable and that is stated in the order.
- (2) Any person who does not disperse in accordance with an order given under subsection (1) is guilty of a crime and is liable to imprisonment for 3 years.

Summary conviction penalty: imprisonment for 2 years and a fine of \$24 000.

65. Taking part in a riot

Any person who takes part in a riot is guilty of a crime and is liable to imprisonment for 5 years.

Summary conviction penalty: imprisonment for 2 years and a fine of \$24 000.

66. Rioters may be ordered to disperse

- (1) If 12 or more persons are riotously assembled, a justice or a police officer may orally order them to disperse within an hour and shall state so in the order.
- (2) Any person who does not disperse in accordance with an order given under subsection (1) is guilty of a crime.
- (3) Any person who forcibly prevents a person from giving an order under subsection (1) is guilty of a crime.
- (4) If 12 or more persons are riotously assembled, each person who continues to be so assembled knowing that a person has been forcibly prevented from ordering them to disperse is guilty of a crime.
- (5) A person who is guilty of a crime under this section is liable to imprisonment for 10 years.

67. Rioters causing damage

- (1) If as a result of persons being riotously assembled any property is unlawfully destroyed or damaged, each person among those so assembled is guilty of a crime and is liable to imprisonment for 10 years.
- (2) If the property is destroyed or damaged by fire, each person is liable to imprisonment for 14 years.

”.

6. Sections 70A and 70B inserted

After section 70 the following sections are inserted —

“

70A. Trespass

- (1) In this section —

“**person in authority**”, in relation to a place, means —

- (a) in the case of a place owned by the Crown, or an agency or instrumentality of the Crown — the occupier or person having control or management of the place or a police officer; or
- (b) in any other case —
 - (i) the owner, occupier or person having control or management of the place; or
 - (ii) a police officer acting on a request by a person referred to in subparagraph (i);

“**police officer**” means a person who holds an appointment under Part I, III or IIIA of the *Police Act 1892*, other than a police cadet;

“**trespass**” on a place, means —

- (a) to enter or be in the place without the consent or licence of the owner, occupier or person having control or management of the place;
- (b) to remain in the place after being requested by a person in authority to leave the place; or

- (c) to remain in a part of the place after being requested by a person in authority to leave that part of the place.
- (2) A person who, without lawful excuse, trespasses on a place is guilty of an offence and is liable to imprisonment for 12 months and a fine of \$12 000.
- (3) In a prosecution for an offence under subsection (2), the accused has the onus of proving that the accused had a lawful excuse.

70B. Trespassers may be asked for name and address

- (1) In this section —
 - “**enclosed land**” means land that is visibly enclosed, whether by means of artificial structures alone or a combination of artificial structures and natural features, but does not include a road on the land that is open to or used by the public;
 - “**owner**”, in relation to land, includes the occupier and a person who has the control or management of the land.
- (2) If the owner of any enclosed land finds a person on the land who has entered the land without the owner’s consent, the owner may request the person to give the person’s name and address to the owner.
- (3) A person who does not comply with such a request is guilty of an offence and is liable to a fine of \$500.
- (4) A person who in response to such a request gives a name or address that is false is guilty of an offence and is liable to a fine of \$500.

”.

7. Section 74A inserted

After section 74 the following section is inserted in Chapter IX —

“

74A. Disorderly behaviour in public

- (1) In this section —
 - “**behave in a disorderly manner**” includes —
 - (a) to use insulting, offensive or threatening language; and
 - (b) to behave in an insulting, offensive or threatening manner.
- (2) A person who behaves in a disorderly manner —
 - (a) in a public place or in the sight or hearing of any person who is in a public place; or
 - (b) in a police station or lock-up,
 is guilty of an offence and is liable to a fine of \$6 000.
- (3) A person who has the control or management of a place where food or refreshments are sold to or consumed by the public and who permits a person to behave in a disorderly manner in that place is guilty of an offence and is liable to a fine of \$4 000.
- (4) It is lawful for any person to arrest without warrant any person who is, or whom the person suspects, on reasonable grounds, to be, in the course of committing an offence under this section.

8. **Section 85 amended**

Section 85 is amended by inserting after “who” —

“

, in the performance or discharge of the functions of his office or employment,

”.

9. **Section 87 replaced**

Section 87 is repealed and the following section is inserted instead —

“

87. Impersonating a public officer

- (1) For the purposes of this section a person impersonates a public officer if the person —
 - (a) wears what is or purports to be the uniform of a public officer; or
 - (b) represents himself or herself by word or conduct to be a public officer,

when the person is not such a public officer.

- (2) A person who impersonates a public officer and who —
 - (a) purports to do or exercise; or
 - (b) attends any place for the purposes of doing or exercising,any act or power of such a public officer is guilty of a crime and is liable to imprisonment for 2 years.
Summary conviction penalty: imprisonment for 12 months and a fine of \$12 000.

- (3) For the purposes of subsection (2) it is immaterial whether the power referred to exists at law.
- (4) An allegation in a charge of an offence under this section that at the material time the accused was not a public officer, or not a public officer of the kind that the accused is alleged to have impersonated, must be taken to be proved, unless the contrary is proved.

”.

10. **Chapter XIV replaced**

Chapter XIV is repealed and the following chapter is inserted instead —

“

Chapter XIV — Offences at elections

93. **Interpretation**

In this Chapter —

“**election**” includes an election held under a written law that provides for the choice of persons to fill a public office;
“**elector**” includes any person entitled to vote in an election;

“electoral conduct” means —

- (a) candidature in an election;
- (b) withdrawal of candidature from an election;
- (c) a vote, or an omission to vote, in an election;
- (d) support of, or opposition to, a candidate in an election;
or
- (e) an application for a postal vote in an election;

“electoral officer” means a person who is authorised to conduct or assist in conducting an election.

94. Application of this Chapter

This Chapter does not apply to or in respect of parliamentary or local government elections.

95. Liability for acts of others

- (1) For the purposes of this Chapter, the act of a candidate’s authorised agent is to be taken to be the act of the candidate unless the candidate proves —
 - (a) that the act was committed without the candidate’s knowledge or consent; and
 - (b) that the candidate had neither directly nor indirectly authorised or approved the act.
- (2) For the purposes of this Chapter, a person is liable for an illegal act or omission committed directly or indirectly by the person, or by another person on the person’s behalf, except as provided by subsection (1).

96. Bribery

- (1) In this section —

“reward” means a reward in the form of property or any kind of advantage, benefit, consideration or recompense.
- (2) A person who —
 - (a) promises, offers or suggests a reward for, or on account of, or to induce, electoral conduct or a promise of electoral conduct; or
 - (b) gives, takes or seeks a reward for, or on account of, electoral conduct or a promise of electoral conduct,is guilty of an offence and is liable to imprisonment for 2 years and a fine of \$24 000.
- (3) The making of a declaration of public policy or a promise of public action does not give rise to an offence under this section.

97. Undue influence

- (1) In this section —

“detriment” means violence, injury, punishment, damage, loss or disadvantage.
- (2) A person who —
 - (a) threatens, offers or suggests detriment for, or on account of, or to induce, electoral conduct or a promise of electoral conduct;
 - (b) uses, causes, inflicts or procures detriment for, or on account of, electoral conduct; or

- (c) interferes with the free exercise of the franchise of an elector,

is guilty of an offence and is liable to imprisonment for 12 months and a fine of \$12 000.

- (3) The making of a declaration of public policy or a promise of public action does not give rise to an offence under this section.

98. Electoral material, printing and publication of

- (1) In this section —

“electoral material” means any advertisement, article, handbill, letter, notice, pamphlet, placard or poster the purpose of which is to influence voters in an election but does not include —

- (a) a newspaper advertisement announcing the holding of a meeting;
- (b) articles of apparel, lapel buttons, lapel badges, pens, pencils or balloons;
- (c) business or visiting cards that promote the candidacy of any person in an election;
- (d) letters or cards that —
 - (i) bear the name and address of the sender; and
 - (ii) do not contain a representation or purported representation of a ballot paper for use in an election;

“print” includes to photocopy and to reproduce by any means;

“publish” electoral material, includes to distribute it and to publish it by radio, television or electronic means.

- (2) A person who prints or publishes electoral material, or who causes electoral material to be printed or published, is guilty of an offence and is liable to a fine of \$2 000 unless there appears at the end of the material —

- (a) the name and address (not being a post office box or email address) of the person who authorised the material; and
- (b) the name and address (not being a post office box or email address) of the publisher.

99. False or defamatory statements or deceptive material, publication of

- (1) In this section —

“deceptive material” means any matter or thing that is likely to mislead or deceive an elector about how to vote or for whom to vote in an election;

“print” includes to photocopy and to reproduce by any means;

“publish” any material or statement, includes to distribute it and to publish it by radio, television or electronic means;

“relevant period” of an election, means the period beginning when nominations for the election are first officially invited and ending when the entitlement to vote in the election ceases.

- (2) If during the relevant period of an election deceptive material is published, a person who made or who authorised the publishing of the material is guilty of an offence and is liable to imprisonment for 12 months and a fine of \$12 000.
- (3) It is a defence to a charge of an offence under subsection (2) to prove the accused did not know, and could not reasonably have been expected to know, that the material was deceptive material.
- (4) If during the relevant period of an election a false or defamatory statement in relation to the personal character or conduct of a candidate in the election is published, a person who made or who authorised the publishing of the statement is guilty of an offence and is liable to imprisonment for 12 months and a fine of \$12 000.
- (5) It is a defence to a charge of an offence under subsection (4) to prove the accused believed the statement to be true and had reasonable grounds for doing so.

100. Postal voting, offences in connection with

A candidate in an election who —

- (a) interferes with an elector while the elector is applying for a postal vote in the election;
- (b) communicates or interferes with or assists an elector in the process of completing and lodging a postal vote in the election; or
- (c) takes custody of, or causes any other person other than the elector to take custody of, an envelope in which there is an elector's postal vote in the election,

is guilty of an offence and is liable to imprisonment for 12 months and a fine of \$12 000.

101. Polling place, offences at or near

- (1) A person who is in, or within 6 metres from an entrance to, a polling place on a polling day in an election and who —
 - (a) canvasses for votes in the election;
 - (b) solicits the vote of an elector in the election;
 - (c) attempts to induce an elector not to vote in the election; or
 - (d) attempts to induce an elector not to vote for a particular candidate in the election,is guilty of an offence and is liable to a fine of \$2 000.
- (2) A person who, at a polling place or at a place where the votes cast in an election are being counted —
 - (a) interrupts, disturbs or obstructs proceedings in the place;
 - (b) disobeys the reasonable instructions of an electoral officer; or
 - (c) wilfully destroys, damages or removes a notice or other document that an electoral officer, acting within the scope of his or her authority, has displayed or caused to be displayed,is guilty of an offence and is liable to a fine of \$2 000.
- (3) A person who, while an elector is in a compartment or booth for the purpose of marking a ballot paper —

- (a) unlawfully enters the compartment or booth;
 - (b) unlawfully communicates with the elector; or
 - (c) unlawfully assists the elector in marking the ballot paper,
- is guilty of an offence and is liable to imprisonment for 12 months and a fine of \$12 000.

- (4) Subsection (3) does not apply to a person who, with the permission of an electoral officer —
- (a) having been nominated by the elector to do so, assists an elector who is illiterate or who is so disabled as to be unable to vote without assistance; or
 - (b) is present to witness the person assisting the elector.

102. Voting offences

- (1) A person who votes in an election in the knowledge that he or she is not entitled to vote in the election is guilty of an offence and is liable to imprisonment for 12 months and a fine of \$12 000.
- (2) A person who, in the knowledge that another person is not entitled to vote in the election, procures that person to vote in the election, is guilty of an offence and is liable to imprisonment for 12 months and a fine of \$12 000.
- (3) A person who personates an elector is guilty of an offence and is liable to imprisonment for 12 months and a fine of \$12 000.
- (4) A person who votes more often in an election than the person is entitled is guilty of an offence and is liable to imprisonment for 12 months and a fine of \$12 000.
- (5) A person who is entitled to cast more than one vote in an election and who casts more votes in the election than the person is entitled to cast is guilty of an offence and is liable to imprisonment for 12 months and a fine of \$12 000.

103. Ballot paper and ballot box offences

- (1) A person who —
- (a) forges a ballot paper;
 - (b) fraudulently damages or destroys a ballot paper;
 - (c) fraudulently puts a ballot paper in a ballot box; or
 - (d) wilfully and without authority destroys, takes, opens or otherwise interferes with a ballot paper or ballot box,
- is guilty of an offence and is liable to imprisonment for 12 months and a fine of \$12 000.
- (2) A person who —
- (a) supplies a ballot paper without authority;
 - (b) is in possession of an unauthorised ballot paper;
 - (c) marks a ballot paper without authority; or
 - (d) takes a ballot paper from a polling place without authority,
- is guilty of an offence and is liable to imprisonment for 12 months and a fine of \$12 000.

104. Secrecy offences

- (1) A person who without authority —

- (a) looks at the ballot paper of any particular elector; or
 - (b) ascertains how any particular elector voted in an election,
- is guilty of an offence and is liable to imprisonment for 12 months and a fine of \$12 000.

- (2) A person who discloses the vote of any particular elector is guilty of an offence and is liable to imprisonment for 12 months and a fine of \$12 000.

105. Electoral officer, offences by

An electoral officer who —

- (a) attempts to influence the vote of an elector;
- (b) by any unauthorised act or omission attempts to influence the result of an election; or
- (c) discloses, except under compulsion of law, knowledge officially acquired concerning the vote of a particular elector,

is guilty of an offence and is liable to imprisonment for 12 months and a fine of \$12 000.

106. False statements in connection with an election

- (1) A person who makes a statement that is false in a material particular —

- (a) in a nomination to be a candidate in an election;
- (b) in an application to be included on a list of electors in an election;
- (c) in any other application or in any declaration, form, certificate or other document that the person completes in connection with an election; or
- (d) in an answer to a question in connection with an election that is put by an electoral officer with authority to do so,

is guilty of an offence and is liable to imprisonment for 12 months and a fine of \$12 000.

- (2) A person who induces another person to commit an offence under subsection (1) is also guilty of an offence under that subsection.

107. Evidentiary provision

In a prosecution for an offence under this Chapter in relation to an election, a certificate purporting to be signed by the officer responsible for conducting the election —

- (a) as to when nominations for the election were first officially invited and when the entitlement to vote in the election ceased;
- (b) that a person named in the certificate was or was not a candidate in the election;
- (c) that a person named in the certificate was or was not an elector in the election;
- (d) that a place was or was not a polling place for the purpose of the election;
- (e) that a day was or was not a polling day for the election; or
- (f) that the election was duly held,

is admissible without calling the officer and is proof of its contents in the absence of evidence to the contrary.

”.

11. Sections 136 and 137 replaced

Sections 136 and 137 are repealed and the following section is inserted instead —

“

136. Compounding or concealing offences

(1) In this section —

“**compound**”, in relation to an offence, includes —

- (a) to abstain from, to discontinue, and to delay, prosecuting the offence; and
- (b) to withhold evidence in relation to the offence.

(2) A person who obtains, or who seeks or agrees to receive, any property or benefit, pecuniary or otherwise, for any person, upon an agreement or understanding that the person will compound or conceal an offence is guilty of a crime and is liable to imprisonment for 7 years.

”.

12. Section 138 replaced

Section 138 is repealed and the following section is inserted instead —

“

138. Advertising reward for stolen property

(1) A person who, in any public offer of a reward for the return of any stolen or lost property, uses any words to the effect that no questions will be asked of, or that no action will be taken against, the person returning the property is guilty of an offence and is liable to a fine of \$2 000.

(2) A person who offers publicly to pay another person who may have purchased any stolen or lost property or advanced any money by way of loan on the security of any such property —

- (a) a refund of the purchase price or the money loaned; or
- (b) a reward or any other sum of money for the return of any such property,

is guilty of an offence and is liable to a fine of \$2 000.

(3) A person who prints or publishes an offer of the kind referred to in subsection (1) or (2) is guilty of an offence and is liable to a fine of \$2 000.

”.

13. Sections 145 and 146 replaced

Sections 145 and 146 are repealed and the following sections are inserted instead —

“

145. Aiding a person to escape from lawful custody

(1) In this section —

“**prison**” includes any place where a person is or may be held in lawful custody.

(2) A person who conveys anything or causes anything to be conveyed into a prison with intent to facilitate the escape of a person from that or another prison is guilty of a crime and is liable to imprisonment for 7 years.

Summary conviction penalty: imprisonment for 3 years and a fine of \$36 000.

(3) A person who aids a person in escaping or attempting to escape from lawful custody is guilty of a crime and is liable to imprisonment for 7 years.

Summary conviction penalty: imprisonment for 3 years and a fine of \$36 000.

146. Escaping from lawful custody

A person who escapes from lawful custody is guilty of a crime and is liable to imprisonment for 7 years.

Summary conviction penalty: imprisonment for 3 years and a fine of \$36 000.

”

14. Section 148 replaced

Section 148 is repealed and the following section is inserted instead —

“

148. Aiding an escapee

(1) In this section —

“**aid**” includes to harbour, to maintain and to employ.

(2) A person who aids a person who is, to the person’s knowledge, a person who has escaped from lawful custody is guilty of a crime and is liable to imprisonment for 3 years.

Summary conviction penalty: imprisonment for 12 months and a fine of \$12 000.

”

15. Section 171 inserted

After section 170 the following section is inserted —

“

171. Creating false belief

(1) In this section —

“**belief**” means a belief or suspicion that —

- (a) an offence has been or is about to be committed;
- (b) human safety is or may be endangered;
- (c) human life has or may have been lost;
- (d) property is or may be endangered;
- (e) property has or may have been destroyed;

(f) there is a fire that needs to be put out,
and that is of such a nature as would reasonably call for
action by the Police Force or by emergency services.

- (2) A person who does or omits to do any act with the intention of creating a false belief is guilty of a crime and is liable to imprisonment for 2 years.
Summary conviction penalty: imprisonment for 12 months and a fine of \$12 000.
- (3) A court convicting a person of an offence under this section may order the person to pay all or some of the reasonable expenses of or incidental to any action that was reasonably taken as a result of the offence, whether or not by the Police Force or emergency services.
- (4) The order must specify the person or persons to whom the amount is to be paid.
- (5) Part 16 of the *Sentencing Act 1995* applies to and in respect of an order made under subsection (3) as if it were a compensation order made under that Part.

”.

16. Section 172 replaced

Section 172 is repealed and the following section is inserted instead —

“

172. Obstructing public officers

- (1) In this section —
“**obstruct**” includes to prevent, to hinder and to resist.
- (2) A person who obstructs a public officer, or a person lawfully assisting a public officer, in the performance of the officer’s functions is guilty of a crime and is liable to imprisonment for 3 years.
Summary conviction penalty: imprisonment for 18 months and a fine of \$18 000.

”.

17. Section 186 amended

After section 186(2) the following subsection is inserted —

“

- (3) It is no defence to a charge of an offence against this section that the act of the accused person by which the offence was committed was done with the consent of the person with respect to whom the act was done.

”.

18. Section 190 inserted

Before section 191 the following section is inserted —

“

190. Being involved with prostitution

- (1) Any person who —
 - (a) keeps or manages, or acts, or assists in the management of any premises for purposes of prostitution;
 - (b) being the tenant, lessee, or occupier of any premises, permits such premises, or any part thereof, to be used for purposes of prostitution; or
 - (c) being the lessor or landlord of any premises, or the agent of such lessor or landlord, lets the same, or any part thereof, or collects the rent with the knowledge that such premises, or some part thereof, are or is to be used for purposes of prostitution, or is a party to the continued use of such premises, or any part thereof, for purposes of prostitution,

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

Summary conviction penalty: imprisonment for 12 months and a fine of \$12 000.

- (2) For the purposes of subsection (1)(a), a person who appears, acts, or behaves as the person having control of, or the care or management of, any premises is to be taken to be keeping the premises, whether the person is or is not the real keeper.
- (3) Any person who lives wholly or partly on earnings that the person knows are the earnings of prostitution is guilty of a crime and is liable to imprisonment for 3 years.
Summary conviction penalty: imprisonment for 12 months and a fine of \$12 000.
- (4) For the purposes of subsection (3), if a person lives with, or is habitually in the company of a prostitute, and has no visible means of subsistence, the person shall, unless he or she can satisfy the court to the contrary, be taken to be living on earnings that the person knows are the earnings of prostitution.

”.

19. Section 191 amended and *Evidence Act 1906* consequentially amended

- (1) Section 191 is amended as follows:
 - (a) by inserting before “Any person” the subsection designation “(1)”;
(b) by redesignating paragraphs (1), (2), (3), (4) and (5) respectively as paragraphs (a), (b), (c), (d) and (e).
- (2) At the end of section 191 the following subsection is inserted —

“

- (2) It is no defence to a charge of an offence against this section that the act of the accused person by which the offence was committed was done with the consent of the person with respect to whom the act was done.

”.

- (3) The *Evidence Act 1906* section 36A(1) is amended in paragraph (a) of the definition of “sexual offence” by deleting “or 191(1)” and inserting instead —
“ or 191(1)(a) ”.

20. Section 192 amended

- (1) Section 192 is amended as follows:
- (a) by inserting before “Any person” the subsection designation “(1)”;
 - (b) by redesignating paragraphs (1), (2), (3) and (4) respectively as paragraphs (a), (b), (c) and (d).
- (2) At the end of section 192 the following subsection is inserted —
- “
- (2) It is no defence to a charge of an offence against this section that the act of the accused person by which the offence was committed was done with the consent of the person with respect to whom the act was done.

”.

21. Sections 202, 203 and 204 replaced

Sections 202, 203 and 204 are repealed and the following sections are inserted instead —

“

202. Obscene acts in public

- (1) A person who does an obscene act —
- (a) in a public place or in the sight of any person who is in a public place; or
 - (b) in a police station or lock-up,
- is guilty of a crime and is liable to imprisonment for 3 years.
Alternative offence: s. 203(1).
Summary conviction penalty: imprisonment for 12 months and a fine of \$12 000.
- (2) A person who owns, or has the control or management of, a place to which the public is admitted, whether on payment of consideration or not, and who permits a person to do an obscene act in that place is guilty of a crime and is liable to imprisonment for 3 years.
Alternative offence: s. 203(2).
Summary conviction penalty: imprisonment for 12 months and a fine of \$12 000.
- (3) It is a defence to a charge of an offence under this section to prove that it was for the public benefit that the act complained of should be done.
- (4) Whether the doing of any such act is or is not for the public benefit is a question of fact.

203. Indecent acts in public

- (1) A person who does an indecent act —

- (a) in a public place or in the sight of any person who is in a public place; or
- (b) in a police station or lock-up,

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

Summary conviction penalty: imprisonment for 9 months and a fine of \$9 000.

- (2) A person who owns, or has the control or management of, a place to which the public is admitted, whether on payment of consideration or not, and who permits a person to do an indecent act in that place is guilty of a crime and is liable to imprisonment for 2 years.

Summary conviction penalty: imprisonment for 9 months and a fine of \$9 000.

- (3) It is a defence to a charge of an offence under this section to prove that it was for the public benefit that the act complained of should be done.
- (4) Whether the doing of any such act is or is not for the public benefit is a question of fact.

204. Indecent act with intent to offend

A person who does an indecent act in any place with intent to insult or offend any person is guilty of a crime and is liable to imprisonment for 3 years.

Summary conviction penalty: imprisonment for 12 months and a fine of \$12 000.

”.

22. Section 206 inserted

After section 205 the following section is inserted in Chapter XXII —

“

206. Supplying intoxicants to people likely to abuse them

- (1) In this section —
“**intoxicant**” means a drug, or a volatile or other substance, capable of intoxicating a person, but does not include liquor as defined in the *Liquor Licensing Act 1988*;
“**volatile substance**” means a substance that produces a vapour at room temperature.
- (2) A person who sells or supplies an intoxicant to another person in circumstances where the person knows, or where it is reasonable to suspect, that that or another person will use it to become intoxicated is guilty of an offence and is liable to imprisonment for 12 months and a fine of \$12 000.

”.

23. Sections 209 and 213 repealed and consequential amendment

- (1) Sections 209 and 213 are repealed.
- (2) The heading to Chapter XXIII is amended by deleting “Nuisances:”.

24. Sections 339 to 342 repealed and consequential amendment

- (1) Sections 339, 340, 341 and 342 are repealed.
- (2) The heading to Chapter XXXIV is amended by deleting “marriage and”.

25. Section 390A inserted

After section 390 the following section is inserted —

“

390A. Unlawful use of conveyance

- (1) In this section —
“conveyance” does not include a motor vehicle;
“use” a conveyance, includes —
 - (a) to take the conveyance for the purpose of using it; and
 - (b) to assume control of the conveyance in any way.
- (2) A person who unlawfully uses a conveyance without the consent of the owner or the person in charge of it is guilty of a crime and is liable —
 - (a) if during the commission of the offence, a person who is not an accomplice of the offender is in the conveyance, to imprisonment for 10 years;
 - (b) if immediately before or during or immediately after the commission of the offence, the offender —
 - (i) is armed with any dangerous or offensive weapon or instrument or pretends to be so armed;
 - (ii) is in company with another person or persons; or
 - (iii) does bodily harm to any person,to imprisonment for 10 years;
 - (c) in any other case, to imprisonment for 7 years.Summary conviction penalty in a case to which paragraph (c) applies: imprisonment for 3 years and a fine of \$36 000.

”.

26. Section 390B repealed

Section 390B is repealed.

27. Heading to Chapter XLIV replaced

The heading to Chapter XLIV is deleted and the following heading is inserted instead —

“

Chapter XLIV — Simple offences analogous to stealing

”.

28. Sections 428 to 435 replaced

Sections 428, 429, 430, 431, 432, 434 and 435 are repealed and the following sections are inserted instead —

“

428. Possessing stolen or unlawfully obtained property

- (1) A person who is in possession of any thing capable of being stolen that is reasonably suspected to be stolen or otherwise unlawfully obtained is guilty of an offence and is liable to imprisonment for 2 years and a fine of \$24 000.
- (2) It is a defence to a charge of an offence under subsection (1) to prove that at the time the accused was allegedly in possession of the thing, the accused had no reasonable grounds for suspecting that the thing was stolen or unlawfully obtained.

429. Unlawfully using another person’s animal

A person who —

- (a) unlawfully uses, or unlawfully takes for the purpose of using, any animal that is the property of another person without the consent of the owner or the person in lawful possession of the animal; or
- (b) takes any animal that is the property of another person for the purpose of secreting it or obtaining a reward for the return or pretended finding of it or for any fraudulent purpose,

is guilty of an offence and is liable to imprisonment for 2 years and a fine of \$24 000.

”.

29. Sections 439 and 440 repealed

Sections 439 and 440 are repealed.

30. Section 440A replaced

Section 440A is repealed and the following section is inserted instead —

“

440A. Unlawful use of computers

- (1) In this section —

“computer system” includes —

- (a) a part of a computer system;
- (b) an application of a computer system;

“password” includes a code, or set of codes, of electronic impulses;

“restricted-access computer system” means a computer system in respect of which —

- (a) the use of a password is necessary in order to obtain access to information stored in the system or to operate the system in some other way; and
- (b) the person who is entitled to control the use of the system —
 - (i) has withheld knowledge of the password, or the means of producing it, from all other persons; or

- (ii) has taken steps to restrict knowledge of the password, or the means of producing it, to a particular authorised person or class of authorised person;

“use” a computer system means —

- (a) to gain access to information stored in the system; or
 - (b) to operate the system in some other way.
- (2) For the purposes of this section a person unlawfully uses a restricted-access computer system —
- (a) if the person uses it when he or she is not properly authorised to do so; or
 - (b) if the person, being authorised to use it, uses it other than in accordance with his or her authorisation.
- (3) A person who unlawfully uses a restricted-access computer system is guilty of a crime and is liable —
- (a) if by doing so the person —
 - (i) gains a benefit, pecuniary or otherwise, for any person; or
 - (ii) causes a detriment, pecuniary or otherwise, to any person,of a value of more than \$5 000, to imprisonment for 10 years;
 - (b) if by doing so the person —
 - (i) gains or intends to gain a benefit, pecuniary or otherwise, for any person; or
 - (ii) causes or intends to cause a detriment, pecuniary or otherwise, to any person,to imprisonment for 5 years;
 - (c) in any other case, to imprisonment for 2 years.

Summary conviction penalty in a case to which paragraph (c) applies: imprisonment for 12 months and a fine of \$12 000.

”.

31. Sections 445 and 446 inserted

After section 444 the following sections are inserted —

“

445. Damaging property

A person who unlawfully destroys or damages the property of another person without that other person’s consent is guilty of an offence and is liable to imprisonment for 12 months and a fine of \$12 000.

446. Costs of cleaning graffiti

- (1) In this section —
- “offender” means a person who is guilty of an offence under section 444 or 445 where the damage consists of —
- (a) graffiti that are visible to the public; or
 - (b) graffiti applied to public property;

“**public property**” means property owned by, vested in, or under the control or management of —

- (a) the State;
 - (b) the Crown, or an agent or instrumentality of the Crown;
 - (c) a body corporate established by a written law; or
 - (d) a local government or regional local government.
- (2) A court convicting an offender may order the offender to pay to any person who has obliterated the graffiti, or caused it to be obliterated, a reasonable amount for doing so.
- (3) Such an order is in addition to any penalty imposed for the offence and may be in addition to a compensation order made under Part 16 of the *Sentencing Act 1995*.

”.

32. Section 557 amended

Section 557 is amended as follows:

- (a) by inserting before “Any person” the subsection designation “ (1) ”;
- (b) by inserting before “explosive” in the first 2 places where it occurs —
“ dangerous or ”;
- (c) by inserting at the foot of the first paragraph the following —

“

Summary conviction penalty: imprisonment for 3 years and a fine of \$36 000.

”;

- (d) by inserting before “In this section” the subsection designation “ (2) ”.

33. Chapter LVIIA inserted

After section 557 the following chapter is inserted —

“

Chapter LVIIA — Offences to do with preparing to commit offences

557A. Presumptions

A person is presumed to have an intention referred to in this Chapter in relation to a thing in the person’s possession if —

- (a) the person is in possession of the thing in circumstances that give rise to a reasonable suspicion that the person has the intention; and
- (b) the contrary is not proved.

557B. Investigative powers for offences in this Chapter

- (1) It is lawful for any person to arrest without warrant any person who is, or whom the person suspects, on reasonable grounds, to be, in the course of committing an offence under this Chapter that is not an arrestable offence as defined in section 564(1).

- (2) A police officer, without warrant, may —
 - (a) stop, detain and search any person who the officer suspects on reasonable grounds to be committing an offence under this Chapter; and
 - (b) seize anything that the officer suspects on reasonable grounds relates to the commission of the offence.
- (3) Before a police officer searches a person under subsection (2), the officer must explain to the person that it is an offence to obstruct the search.

557C. Forfeiture

A court that convicts a person of an offence under this Chapter may order that the thing giving rise to the offence be forfeited to the State.

557D. Possessing stupefying or overpowering drug or thing

A person who is in possession of a stupefying or overpowering drug or thing with the intention of using it to facilitate —

- (a) the commission of an offence; or
- (b) the flight of an offender after the commission or attempted commission of an offence,

is guilty of an offence and is liable to imprisonment for 2 years and a fine of \$24 000.

557E. Possessing things to assist unlawful entry to places

A person who is in possession of a thing with the intention of using it to facilitate the unlawful entry of any place is guilty of an offence and is liable to imprisonment for 12 months and a fine of \$12 000.

557F. Possessing things to assist unlawful use of conveyances

A person who is in possession of a thing with the intention of using it to facilitate the unlawful use of a conveyance is guilty of an offence and is liable to a fine of \$6 000.

557G. Possessing things for applying graffiti

A person who is in possession of a thing with the intention of using it to cause damage consisting of graffiti is guilty of an offence and is liable to a fine of \$6 000.

557H. Possessing a disguise

A person who is in possession of a thing with the intention of using it as a disguise in connection with committing an offence is guilty of an offence and is liable to a fine of \$6 000.

557I. Possessing bulletproof clothing

- (1) In this section —

“**bulletproof clothing**” means a protective jacket, vest, or other article of clothing, designed to resist the penetration of bullets or other missiles discharged from firearms;

“**Commissioner**” means the Commissioner of Police appointed under the *Police Act 1892*.

- (2) A person who is in possession of bulletproof clothing is guilty of an offence and is liable to a fine of \$6 000.

- (3) Subsection (2) does not apply to —
- (a) a person who —
 - (i) holds an appointment under Part I, III or IIIA of the *Police Act 1892*, other than a police cadet;
 - (ii) is employed in the department of the Public Service principally assisting in the administration of the *Police Act 1892*;
 - (iii) is a prison officer within the meaning of the *Prisons Act 1981*;
 - (iv) is employed or appointed under an Act of the Commonwealth, another State or a Territory, and who is lawfully in possession of bulletproof clothing in the course of duty;
 - (b) a person who is in possession of bulletproof clothing in accordance with a permit given under subsection (4);
 - (c) a person who is in possession of bulletproof clothing in the course of and for the purpose of supplying it to a person referred to in paragraph (a) or (b) to fulfil a request previously made for its supply.
- (4) The Commissioner, by a written permit, may permit a person or a class of persons to possess bulletproof clothing on any conditions (to be specified in the permit) that the Commissioner thinks fit.
- (5) The Commissioner may at any time amend or cancel such a permit.

557J. Declared drug traffickers, consorting by

- (1) In this section, unless the contrary intention appears —
“consort” includes to communicate in any manner;
“declared drug trafficker” means a person who is declared to be a drug trafficker under section 32A(1) of the *Misuse of Drugs Act 1981*.
- (2) A person who is a declared drug trafficker and who, having been warned by a police officer —
 - (a) that another person is also a declared drug trafficker; and
 - (b) that consorting with the other person may lead to the person being charged with an offence under this section,habitually consorts with the other person is guilty of an offence and is liable to imprisonment for 2 years and a fine of \$24 000.
- (3) It is a defence to a charge of an offence under subsection (2) to prove that the accused person —
 - (a) was the spouse or de facto partner of the other person; or
 - (b) was a de facto child or a lineal relative (as those terms are defined in section 329(1)) of the other person.

557K. Child sex offenders, offences by

- (1) In this section, unless the contrary intention appears —
“child” means a person under 18 years of age;
“child sex offender” means a person who has been convicted of —

- (a) an offence under any of these chapters of this Code that was committed against, in respect of, or in the sight of, a child —
 - (i) Chapter XXII — Offences against morality;
 - (ii) Chapter XXXI — Sexual offences;
 - (iii) Chapter XXXIII — Offences against liberty;
- (b) an offence under Chapter XXXIIIB that was committed against or in respect of a child;
- (c) an offence under any of these repealed enactments of this Code that was committed against a child —
 - (i) section 315 (Indecent assault on males);
 - (ii) Chapter XXXIA — Sexual assaults;
 - (iii) Chapter XXXII — Assaults on females: Abduction;
- (d) an offence under section 59 of the *Censorship Act 1996* that was committed in circumstances in which an indecent or obscene article was sold, supplied or offered to a child;
- (e) an offence under section 60 of the *Censorship Act 1996*;
- (f) an offence under section 101 of the *Censorship Act 1996* that was committed in circumstances in which —
 - (i) objectionable material was transmitted or demonstrated to a child; or
 - (ii) the objectionable material was child pornography;
- (g) an offence under section 102 of the *Censorship Act 1996*;
- (h) an offence committed under section 5(1), 6(1), 15, 16, 17 or 18 of the *Prostitution Act 2000* committed against or in respect of a child;
- (i) an offence under this section;
- (j) an offence under the repealed section 66(11) of the *Police Act 1892* committed in the sight of a child; or
- (k) an offence against a law of a jurisdiction other than Western Australia that is substantially similar to an offence referred to in any of paragraphs (a) to (j);

“consort” includes to communicate in any manner.

- (2) A reference in paragraph (a) or (b) of the definition of “child sex offender” in subsection (1) to a Chapter of this Code includes a reference to the Chapter as enacted at any time.
- (3) A reference in paragraph (c) of the definition of “child sex offender” in subsection (1) to an enactment of this Code includes a reference to the enactment as enacted at any time before it was repealed.
- (4) A person who is a child sex offender and who, having been warned by a police officer —
 - (a) that another person is also a child sex offender; and

- (b) that consorting with the other person may lead to the person being charged with an offence under this section, habitually consorts with the other person is guilty of an offence and is liable to imprisonment for 2 years and a fine of \$24 000.
- (5) It is a defence to a charge of an offence under subsection (4) to prove that the accused person —
 - (a) was the spouse or de facto partner of the other person; or
 - (b) was a de facto child or a lineal relative (as those terms are defined in section 329(1)) of the other person.
- (6) A child sex offender who, without reasonable excuse, is in or near a place that is —
 - (a) a school, kindergarten or child care centre; or
 - (b) a public place where children are regularly present, and where children are at the time is guilty of an offence and is liable to imprisonment for 2 years and a fine of \$24 000.

”.

34. “Misdemeanour” changed to “crime”

- (1) Each provision listed in the Table to this section is amended by deleting “misdemeanour” in each place where it occurs and in each place inserting instead —
“ crime ”.

Table

s. 51(2)	s. 149	s. 363
s. 52	s. 150	s. 384
s. 53	s. 151	s. 385
s. 54	s. 173	s. 386
s. 55	s. 176	s. 387
s. 56	s. 177	s. 389
s. 75	s. 178	s. 418
s. 86(1)	s. 191	s. 421
s. 123	s. 192	s. 460
s. 128	s. 214	s. 461
s. 131	s. 291	s. 462
s. 133	s. 336	s. 510
s. 139	s. 337	s. 514
s. 141	s. 344	s. 547
s. 142	s. 360	s. 548
s. 147	s. 361	s. 549

- (2) Section 552(1) is amended as follows:
 - (a) by deleting “of —” and inserting instead —
“ of a crime. ”;
 - (b) by deleting paragraphs (a) and (b).
- (3) Section 552(2) is amended by deleting “or misdemeanour”.
- (4) Section 553(1) is amended as follows:
 - (a) by deleting “of —” and inserting instead —
“ of a crime. ”;
 - (b) by deleting paragraphs (a) and (b).
- (5) Section 553(2) is amended by deleting “or misdemeanour”.

- (6) Section 558(1) is amended as follows:
 - (a) by deleting “of —” and inserting instead —
“ of a crime. ”;
 - (b) by deleting paragraphs (c) and (d).
- (7) Section 558(2) is amended by deleting “or misdemeanour”.
- (8) Section 562(1) is amended as follows:
 - (a) by deleting “of —” and inserting instead —
“ of a crime. ”;
 - (b) by deleting paragraphs (a) and (b).
- (9) Section 562(2) is amended by deleting “or misdemeanour”.

35. Summary conviction penalties, changes to

- (1) Each provision listed in the Table to this subsection is amended by deleting the summary conviction penalty at the foot of the provision and inserting instead —

“

Summary conviction penalty: imprisonment for 12 months and a fine of \$12 000.

”.

Table

s. 56	s. 150	s. 337
s. 74	s. 214	s. 488
s. 75	s. 305(3)	s. 549
s. 81(2)	s. 305(4)	

- (2) Each provision listed in the Table to this subsection is amended by deleting the summary conviction penalty at the foot of the provision and inserting instead —

“

Summary conviction penalty: imprisonment for 2 years and a fine of \$24 000.

”.

Table

s. 54	s. 304(1)	s. 424
s. 55	s. 323	s. 473(1)
s. 58	s. 407	s. 512

- (3) Each provision listed in the Table to this subsection is amended by deleting the summary conviction penalty at the foot of the provision and inserting instead —

“

Summary conviction penalty: imprisonment for 3 years and a fine of \$36 000.

”.

Table

s. 68(1)	s. 318(1)	s. 324
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- (4) Each provision listed in the first column of the Table to this subsection is amended by deleting the text opposite it in the second column and inserting instead the text opposite it in the third column.

Table

Provision	Delete	Insert instead
s. 59	or to a fine of \$8 000	and a fine of \$24 000
s. 151	\$2 000	\$6 000
s. 301	or a fine of \$12 000	and a fine of \$36 000
s. 301	or a fine of \$8 000	and a fine of \$24 000
s. 313(1)	or a fine of \$12 000	and a fine of \$36 000
s. 313(1)	or a fine of \$6 000	and a fine of \$18 000
s. 317(1)	or a fine of \$12 000	and a fine of \$36 000
s. 317(1)	or a fine of \$8 000	and a fine of \$24 000
s. 317A	or a fine of \$12 000	and a fine of \$36 000
s. 317A	or a fine of \$8 000	and a fine of \$24 000
s. 360	, and to a fine of \$4 000	and a fine of \$12 000
s. 360	\$1 000	\$4 000
s. 360	, and to a fine of \$8 000	and a fine of \$24 000
s. 360	\$2 000	\$8 000
s. 361	, and to a fine of \$8 000	and a fine of \$24 000
s. 361	\$2 000	\$8 000
s. 401(1) (in 2 places)	or a fine of \$12 000	and a fine of \$36 000
s. 401(1)	or a fine of \$8 000	and a fine of \$24 000
s. 401(2) (in 2 places)	or a fine of \$12 000	and a fine of \$36 000
s. 401(2)	or a fine of \$8 000	and a fine of \$24 000
s. 409(1)	or a fine of \$12 000	and a fine of \$36 000
s. 409(1)	or a fine of \$8 000	and a fine of \$24 000
s. 418	or to a fine of \$200	and a fine of \$12 000
s. 421	, and to a fine of \$400	and a fine of \$24 000
s. 426(2)	or a fine of \$8 000	and a fine of \$24 000
s. 426(3)	or a fine of \$8 000	and a fine of \$24 000
s. 426(4)	\$2 000	\$6 000
s. 427(a)	\$2 000	\$6 000
s. 436	or a fine of \$8 000	and a fine of \$24 000
s. 437	or a fine of \$8 000	and a fine of \$24 000
s. 444	or a fine of \$12 000	and a fine of \$36 000
s. 635A(5)	or a fine of \$10 000	and a fine of \$12 000

(5) Section 338B is amended by deleting “Imprisonment for 18 months or a fine of \$6 000.” and inserting instead —

“ imprisonment for 18 months and a fine of \$18 000. ”.

(6) Section 338C(3) is amended as follows:

(a) by deleting “Imprisonment for 3 years or a fine of \$12 000;” and inserting instead —

“ imprisonment for 3 years and a fine of \$36 000; ”;

(b) by deleting “Imprisonment for 18 months or a fine of \$6 000.” and inserting instead —

“

imprisonment for 18 months and a fine of \$18 000.

”.

(7) Section 338E(1) is amended as follows:

(a) by deleting “Imprisonment for 2 years or a fine of \$8 000;” and inserting instead —

- “ imprisonment for 2 years and a fine of \$24 000; ”;
- (b) by deleting “Imprisonment for 18 months or a fine of \$6 000.” and inserting instead —

“

imprisonment for 18 months and a fine of \$18 000.

”.

- (8) Section 338E(2) is amended by deleting “Penalty: Imprisonment for 12 months or a fine of \$4 000.” and inserting instead —

“

Penalty: imprisonment for 12 months and a fine of \$12 000.

”.

- (9) Section 343A(1) is amended by deleting “on summary conviction to imprisonment for one year, or to a fine of \$1 000.” and inserting instead —

“ to imprisonment for 12 months and a fine of \$12 000. ”.

- (10) Section 427 is amended as follows:

- (a) by deleting “one year or a fine of \$4 000;” and inserting instead —

“ 12 months and a fine of \$12 000; ”;

- (b) by deleting “or a fine of \$8 000.” and inserting instead —

“ and a fine of \$24 000. ”.

- (11) Sections 474(1) and 514 are each amended by deleting the summary conviction penalty at the foot of the provision and inserting instead —

“

Summary conviction penalty: imprisonment for 18 months and a fine of \$18 000.

”.

- (12) Section 527(1) is amended by deleting “Imprisonment for 2 years or a fine of \$8 000.” and inserting instead —

“ imprisonment for 2 years and a fine of \$24 000. ”.

- (13) Section 570C is amended by deleting the penalty provision and inserting instead —

“

Penalty:

- (a) for an individual, imprisonment for 12 months and a fine of \$12 000;

- (b) for a body corporate, a fine of \$100 000.

”.

36. Amendments about alternative verdicts and *Interpretation Act 1984* consequentially amended

- (1) After section 3(5) the following subsection is inserted —

- “
- (6) A person may be convicted and punished for an offence on indictment notwithstanding that the person might have been convicted of and punished for that offence summarily.

- ”
- (2) After section 10 the following Chapter is inserted —
- “

Chapter IIA — Alternative offences

10A. Conviction of alternative offence, when possible

- (1) A person charged with an offence cannot be convicted by the court dealing with the charge of any other offence instead of that offence unless —
- (a) the accused is charged with the other offence as an alternative to that offence; or
 - (b) this Chapter provides otherwise.
- (2) This Chapter does not authorise the conviction of a person of an offence if the prosecution for the offence was not commenced within the time (if any) limited by law for commencing a prosecution for the offence.

10B. “Alternative offence”, meaning and effect of

- (1) This section applies if a provision of this Code, or of another written law, that creates an offence (“**offence A**”) provides one or more alternative offences for offence A.
- (2) If a person is charged with an offence (“**offence A**”), whether or not on indictment, the person, instead of being convicted as charged, may be convicted of any alternative offence that is provided for offence A.
- (3) This section does not prevent —
- (a) this Code, or another written law, from providing a simple offence as an alternative offence for an indictable offence; or
 - (b) a person charged in an indictment with an indictable offence from being found guilty by a jury, and convicted and punished by a superior court, for a simple offence that is an alternative offence for the indictable offence.
- (4) This section does not limit the operation of the other sections in this Chapter.

10C. Conviction of alternative offence, consequences of

- (1) If a person is charged with an offence and, under this Code, is convicted by a court of some other offence, the person is liable to the penalty to which the person would be liable if the person had been charged before that court with the other offence.
- (2) If a person charged in an indictment with an indictable offence is convicted of a simple offence that is an alternative offence for the indictable offence, then, for the purposes of any appeal against the conviction, the person is to be taken to have been convicted of the simple offence on indictment.

10D. Charge of offence, alternative convictions of attempt etc.

If a person is charged with committing an offence (the “**principal offence**”), the person, instead of being convicted as charged, may be convicted of —

- (a) attempting to commit;
- (b) inciting another person to commit; or
- (c) becoming an accessory after the fact to,

the principal offence or any alternative offence of which a person might be convicted instead of the principal offence.

10E. Charge of attempt, alternative convictions on

If a person is charged with attempting to commit an offence (the “**principal offence**”) other than an offence under section 283, the person, instead of being convicted as charged, may be convicted of —

- (a) committing the principal offence; or
- (b) committing, or attempting to commit, any alternative offence of which any person charged with the principal offence might be convicted instead of the principal offence,

but the person shall not be liable to a punishment greater than the greatest punishment to which the person would have been liable if convicted of attempting to commit the principal offence.

10F. Charge of conspiracy, alternative convictions on

If a person is charged with conspiring to commit an offence (the “**principal offence**”), the person, instead of being convicted as charged, may be convicted of —

- (a) committing the principal offence;
- (b) attempting to commit the principal offence; or
- (c) inciting another person to commit the principal offence,

but the person shall not be liable to a punishment greater than the greatest punishment to which the person would have been liable if convicted of conspiring to commit the principal offence.

10G. Charge of procuring, alternative convictions on

(1) If a person is charged with procuring the commission of an offence (the “**principal offence**”), the person, instead of being convicted as charged, may be convicted of —

- (a) attempting to procure the commission of the principal offence; or
- (b) procuring the commission of, or attempting to procure the commission of, any offence of which any person charged with the principal offence might be convicted instead of the principal offence.

(2) If a person (the “**accused**”) is charged with procuring another person to do an act or make an omission of such a nature that if the accused had done the act or made the omission he or she would be guilty of an offence (the “**principal offence**”), the accused, instead of being convicted as charged, may be convicted of procuring the other person to do any other act or make any other omission that is of such a nature that if the accused had done the

act or made the omission he or she would be guilty of an offence of which any person charged with the principal offence might be convicted instead of the principal offence.

10H. Charge of attempting to procure, alternative convictions on

- (1) If a person is charged with attempting to procure the commission of an offence (the “**principal offence**”), the person, instead of being convicted as charged, may be convicted of attempting to procure the commission of any other offence of which any person charged with the principal offence might be convicted instead of the principal offence.
- (2) If a person (the “**accused**”) is charged with attempting to procure another person to do an act or make an omission of such a nature that if the act or omission had occurred an offence (the “**principal offence**”) would have been committed, the accused, instead of being convicted as charged, may be convicted of attempting to procure the other person to do any other act or make any other omission that is of such a nature that if the act or omission had occurred an offence would have been committed of such a nature that any person charged with the principal offence might be convicted of it instead of the principal offence.

10I. Joined charges of receiving, verdicts on

If 2 or more persons are charged jointly with an offence of which the receiving of any property is an element and the evidence establishes that any one or more of them separately received any part or parts of the property under such circumstances as to constitute an offence, one or more of the accused persons may be convicted of the offence or offences so established by the evidence.

- (3) *The Criminal Code* is amended by inserting at the foot of, and above any summary conviction penalty in, each provision listed in the first column of the Table to this subsection the text opposite the provision in the second column of the Table.

Table

Provision	Text to be inserted
s. 186(1)	Alternative offence: s. 191(1).
s. 280	Alternative offence: s. 290 or 291 or <i>Road Traffic Act 1974</i> s. 59.
s. 281A(1)	Alternative offence: s. 283, 290 or 291.
s. 283	Alternative offence: s. 292, 294, 297, 304, 305 or 317.
s. 290	Alternative offence: s. 291.
s. 292	Alternative offence: s. 301 or 317A.
s. 294	Alternative offence: s. 297, 304, 317 or 317A.
s. 294A(1)	Alternative offence: s. 68 or 451A.
s. 305(3)	Alternative offence: s. 305(4)
s. 317(1)	Alternative offence: s. 313.
s. 317A	Alternative offence: s. 313 or 317.
s. 318A	Alternative offence: s. 294A, 297, 304, 313, 317 or 317A.
s. 320(2)	Alternative offence: s. 320(4), 321(2) or (4) or 322(2) or (4).
s. 320(3)	Alternative offence: s. 320(4) or (5), 321(3), (4) or (5) or 322(3), (4) or (5).
s. 320(4)	Alternative offence: s. 321(4) or 322(4).

Provision	Text to be inserted
s. 320(5)	Alternative offence: s. 321(5) or 322(5).
s. 320(6)	Alternative offence: s. 321(6) or 322(6).
s. 321(2)	Alternative offence: s. 321(4) or 322(2) or (4).
s. 321(3)	Alternative offence: s. 321(4) or (5) or 322(3), (4) or (5).
s. 321(4)	Alternative offence: s. 322(4).
s. 321(5)	Alternative offence: s. 322(5).
s. 321(6)	Alternative offence: s. 322(6).
s. 322(2)	Alternative offence: s. 322(4).
s. 322(3)	Alternative offence: s. 322(4) or (5).
s. 324	Alternative offence: s. 321(4), 322(4) or 323.
s. 325	Alternative offence: s. 322(2) or (4), 323 or 324.
s. 326	Alternative offence: s. 321(2) or (4), 322(2) or (4), 323, 324 or 325.
s. 327	Alternative offence: s. 322(3), (4) or (5).
s. 328	Alternative offence: s. 321(3), (4) or (5), 322(3), (4) or (5) or 327.
s. 329(2)	Alternative offence: s. 321(2) or (4), 322(2) or (4) or 329(4).
s. 329(3)	Alternative offence: s. 321(3), (4) or (5), 322(3), (4) or (5) or 329(4) or (5).
s. 329(4)	Alternative offence: s. 321(4) or 322(4).
s. 329(5)	Alternative offence: s. 321(5) or 322(5).
s. 329(6)	Alternative offence: s. 321(6) or 322(6).
s. 330(2)	Alternative offence: s. 322(2) or (4), 323, 324, 325, 326 or 330(4).
s. 330(3)	Alternative offence: s. 322(3), 322(4), 322(5), 327, 328 or 330(4) or (5).
s. 330(4)	Alternative offence: s. 322(4), 323 or 324.
s. 330(5)	Alternative offence: s. 322(5).
s. 330(6)	Alternative offence: s. 322(6).
s. 332(2)	Alternative offence: s. 333.
s. 338A	Alternative offence: s. 338B.
s. 338E(1)	Alternative offence: s. 338E(2).
s. 379	Alternative offence: s. 424.
s. 388	Alternative offence: s. 378.
s. 392	Alternative offence: s. 68, 297, 313, 317, 317A, 378 or 393.
s. 393	Alternative offence: s. 68, 297, 313, 317 or 317A.
s. 409	Alternative offence: s. 378, 414 or 428.
s. 444	Alternative offence: s. 445.

(4) Section 191 is amended by inserting after the paragraph ending with “years.” the following paragraph —

“

Alternative offence for a charge of an offence under subsection (1)(a): s. 186(1).

”.

(5) Section 279 is amended by inserting at the foot of the section —

“

Alternative offence: s. 280, 281A, 283, 290 or 291 or *Road Traffic Act 1974* s. 59.

”.

(6) Section 297 is amended by inserting after the paragraph beginning with “Any person” —

- “
- Alternative offence: s. 304, 313 or 317 or *Road Traffic Act 1974* s. 59.
- ”.
- (7) Section 343 is amended by inserting before the paragraph beginning with “It is a defence” —
- “
- Alternative offence for a charge of an offence under paragraph (1): an offence under paragraph (2).
- ”.
- (8) Section 378 is amended by inserting after the paragraph beginning with “Any person” and before the heading “*Punishment in special cases*” —
- “
- Alternative offence: s. 382, 383, 388, 390A, 409, 414, 428 or 429.
- ”.
- (9) Section 397 is amended by inserting before the paragraph beginning with “The term” —
- “
- Alternative offence: s. 338A or 338B.
- ”.
- (10) Section 414 is amended by inserting after the first paragraph —
- “
- Alternative offence: s. 378, 409 or 428.
- ”.
- (11) Chapter LXIII is repealed.
- (12) The *Interpretation Act 1984* section 5 is amended by inserting in the appropriate alphabetical position —
- “
- “**alternative offence**”, when used in relation to an offence, has the meaning given by section 10B of *The Criminal Code*;
- ”.
- 37. Chapter XI (if not amended by *Criminal Code Amendment (Racial Vilification) Act 2004*) amended**
- (1) Sections 77 and 78 are each amended by deleting the summary conviction penalty and inserting instead —
- “
- Summary conviction penalty: imprisonment for 12 months and a fine of \$12 000.
- ”.
- (2) Sections 79 and 80 are each amended in the summary conviction penalty by deleting “\$1 000” and inserting instead —
- “ \$4 000 ”.

- (3) *The Criminal Code* is amended by inserting at the foot of, and above any summary conviction penalty in, each provision listed in the first column of the Table to this subsection the text opposite the provision in the second column of the Table.

Table

Provision	Text to be inserted
s. 77	Alternative offence: s. 78, 79 or 80.
s. 78	Alternative offence: s. 77, 79 or 80.
s. 79	Alternative offence: s. 80.
s. 80	Alternative offence: s. 79.

38. Amendments to Code if *Criminal Code Amendment (Racial Vilification) Act 2004* comes into operation

- (1) Sections 78, 80, 80A and 80C are each amended by deleting the summary conviction penalty and inserting instead —

“

Summary conviction penalty: imprisonment for 2 years and a fine of \$24 000.

”

- (2) Sections 80B and 80D are each amended by deleting the summary conviction penalty and inserting instead —

“

Summary conviction penalty: imprisonment for 12 months and a fine of \$12 000.

”

- (3) *The Criminal Code* is amended by inserting at the foot of, and above any summary conviction penalty in, each provision listed in the first column of the Table to this subsection the text opposite the provision in the second column of the Table.

Table

Provision	Text to be inserted
s. 77	Alternative offence: s. 78, 80A or 80B.
s. 78	Alternative offence: s. 80A or 80B.
s. 79	Alternative offence: s. 80, 80C or 80D.
s. 80	Alternative offence: s. 80C or 80D.
s. 80A	Alternative offence: s. 78 or 80B.
s. 80C	Alternative offence: s. 80 or 80D.

39. Amendments to Code if *Oaths, Affidavits and Statutory Declarations (Consequential Provisions) Act 2004* comes into operation

- (1) Section 169(1) is amended by deleting the summary conviction penalty and inserting instead —

“

Summary conviction penalty: imprisonment for 3 years and a fine of \$36 000.

”

- (2) Section 169(2) is amended by deleting the summary conviction penalty and inserting instead —

“

Summary conviction penalty: imprisonment for 2 years and a fine of \$24 000.

”.

- (3) Section 170(1) is amended by deleting the summary conviction penalty and inserting instead —

“

Summary conviction penalty: imprisonment for 18 months and a fine of \$18 000.

”.

“

73. Repealed offences may be investigated etc.

Despite section 11 of *The Criminal Code* and section 10 of the *Sentencing Act 1995* and the repeal by Division 1 of an enactment of the *Police Act 1892* that creates an offence —

- (a) an investigation or legal proceedings in respect of any such offence alleged to have been committed before the commencement of Division 1 may be commenced or continued; and
- (b) a person may be sentenced or otherwise dealt with for the alleged offence as if the enactment had not been repealed.

”.