

NORTHERN TERRITORY OF AUSTRALIA

CRIMINAL CODE AMENDMENT (PROPERTY OFFENCES) ACT 2022

Act No. 24 of 2022

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 24 of 2022

An Act to amend the Criminal Code and for related purposes

[Assented to 31 October 2022]

[Introduced 1 September 2022]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Criminal Code Amendment (Property Offences) Act 2022*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

Part 2 Amendment of Criminal Code

3 Act amended

This Part amends the Criminal Code.

4 Section 1 amended (Definitions)

- (1) Section 1, definitions ***belongs***, ***benefit***, ***deception***, ***indictable offence***, ***menace***, ***obtain***, ***property*** (both definitions) and ***public officer***

omit

(2) Section 1

insert

agent, for Part VII, Division 5, see section 236E.

appropriates, for Part VI, Division 5A, see section 193A(1).

appropriation, for Part VII, Division 1, see section 212.

belongs:

(a) in relation to property:

(i) for Part VII, Division 1 – see section 211; or

(ii) for Part VII, Division 2 – see section 228AC; or

(b) for Part VII, Division 6 – see section 239.

benefit:

(a) for Part IV – see section 75B; or

(b) for Part VII, Division 5 – see section 236E.

deals with, for Part VII, Division 3, see section 229.

deception:

(a) except for Part VII, Division 2:

(i) means intentional deception by word or conduct as to fact or law and includes a deception as to the present intention of the person using the deception or another person; and

(ii) includes an act or thing done or omitted to be done with the intention of causing the following to make a response that the person doing or omitting to do the act or thing is not authorised to cause the computer system or machine to make:

(A) a computer system;

(B) a machine that is designed to operate by means of payment or identification; or

(b) for Part VII, Division 2 – see section 228AC.

demand with a menace, for Part VII, Division 2, see section 228AF.

depriving, for Part VI, Division 5A, see section 193A(1).

dishonesty, for Part IIAA and Schedule 1 provisions, has the meaning in section 43AGA(1).

false document, for Part VII, Division 7, see section 251.

indictable offence:

- (a) see section 3(2); or
- (b) for Part VII, Division 3 – see section 229.

menace:

- (a) except for Part VII, Division 2, includes a threat of an injury, accusation or detriment of any kind to be caused or to be made against any person either by the offender or by any other person if the demand is not complied with; or
- (b) for Part VII, Division 2 – see section 228AD.

obtain:

- (a) for Part IV – see section 75A; or
- (b) for Part VII, except for sections 228AE and 228AH and Division 5, includes:
 - (i) obtain for another person; and
 - (ii) induce a third person to do something that results in another person obtaining; or
- (c) for section 228AH – see section 228AE; or
- (d) for Part VII, Division 5 – see section 236F.

principal, for Part VII, Division 5, see section 236E.

proceeds of crime, for Part VII, Division 3, see section 229.

property:

- (a) except for Part VII, Divisions 1 and 6, means every thing, animate or inanimate, capable of being the subject of ownership including:
 - (i) things in action and other intangible property; and
 - (ii) wild creatures that have been tamed or are ordinarily kept in captivity and other wild creatures or their carcasses if they have been reduced into possession that has not been lost or abandoned or are in the course of being reduced into possession; or
- (b) for Part VII, Division 1 – see section 210; or
- (c) for Part VII, Division 6 – see section 238.

public duty, for Part VII, Division 7, see section 250.

public officer, see section 4 of the *Independent Commissioner Against Corruption Act 2017*.

services, for Part VII, Division 1, see section 209.

steals, for Part VI, Division 5A, see section 193A(1).

supply, for Part VII, Division 1, see section 209.

theft, see section 217(3).

5 Section 43AGA inserted

After section 43AG, in Part IIAA, Division 2, Subdivision 2

insert

43AGA Dishonesty

- (1) Dishonesty, in relation to conduct, means dishonest according to the standards of ordinary people.
- (2) Absolute liability applies to the physical element of conduct in subsection (1).
- (3) In a prosecution for an offence to which this Part applies, dishonesty is a matter for the trier of fact.

6 Section 75A amended (Definitions)

Section 75A, definition **public officer**

omit

7 Section 80 amended

Section 80, heading

omit

dishonesty

insert

improper conduct

8 Section 103A amended (Threats or reprisals to persons involved in criminal investigations or judicial proceedings or against public officers)

Section 103A(6), definition **public officer**

omit

9 Part VI, Division 5A inserted

After section 193

insert

Division 5A Assault with intent to steal**193A Interpretation**

(1) In this Division:

appropriates means assumes the rights of the owner of the property and includes, if the person has come by the property without stealing it, any later assumption of a right to it by keeping or dealing with it as owner.

depriving means permanently depriving and appropriating or borrowing property without meaning the person to whom it belongs permanently to lose the property if the intention of the person appropriating or borrowing it is to treat the property as the person's own to dispose of (including to dispose of by lending or under a condition as to its return that the person may not be able to perform) regardless of the rights of the person to whom it belongs.

steals means unlawfully appropriates property of another with the intention of depriving that person of it whether or not at the time of the appropriation the person appropriating the property was willing to pay for it, but does not include the appropriation of property by a person with the reasonable belief that the property has been lost and the owner of the property cannot be discovered.

- (2) A person cannot steal land or things forming part of the land and severed from it by the person or at the person's directions, except:
 - (a) if the person has legal authority to sell or dispose of land belonging to another person and the person appropriates the land or anything forming part of it – by dealing with it in breach of the confidence reposed in the person; or
 - (b) if the person is not in possession of the land and the person appropriates anything forming part of the land – by severing it or causing it to be severed, or after it has been severed; or
 - (c) if, being in possession of the land under a tenancy or holding over after a tenancy – the person appropriates the whole or part of any fixture or structure let to be used with the land.
- (3) If property is subject to a trust, the persons to whom it belongs are to be regarded as including any person having a right to enforce the trust and an intention to defeat the trust is to be regarded as an intention to deprive any person having that right of the property.
- (4) If a person (**person A**) receives property from or on account of another person (**person B**) and is under an obligation to person B to retain or deal with it or its proceeds in a particular way, the property or proceeds are to be regarded, as against person A, as belonging to person B until the obligation is discharged.
- (5) If a person obtains property by another person's mistake and is under an obligation to make restoration, in whole or in part, of the property or its proceeds or its value, then, to the extent of that obligation, the property or proceeds are to be regarded, as against the person who has so obtained it, as belonging to the person entitled to restoration and an intention not to make restoration is to be regarded as an intention to deprive that person of the property or proceeds.
- (6) Property of a corporation sole belongs to the corporation despite a vacancy in the corporation.

193B Assault with intent to steal

- (1) Any person who assaults another person with intent to steal anything is guilty of an offence and is liable to imprisonment for 7 years.
- (2) If the offender is armed with a firearm or any other dangerous or offensive weapon or is in company with one or more person or persons or if the assault causes harm, the offender is liable to imprisonment for 14 years.
- (3) If the offender is armed with a firearm and immediately before, at or immediately after the assault the offender injures any person by discharging it, the offender is liable to imprisonment for life.

10 Part VII, Divisions 1, 1A and 2 replaced

Part VII, Divisions 1, 1A and 2

repeal, insert

Division 1 Theft and related offences**Subdivision 1 Interpretation****209 Definitions**

In this Division:

appropriation, see section 212.

belongs, in relation to property, see section 211.

property, see section 210.

services includes any rights, including rights in relation to, and interests in, property, benefits, privileges or facilities, but does not include rights or benefits that are the supply of goods.

supply includes:

- (a) in relation to goods – supply (or re-supply) by way of sale, exchange, lease, hire or hire-purchase; and
- (b) in relation to services – provide, grant and confer.

210 Meaning of *property* for this Division

In this Division, ***property*** means all real or personal property, including the following:

- (a) money;
- (b) things in action or other intangible property;
- (c) electricity;
- (d) a wild creature that is tamed or ordinarily kept in captivity or that is reduced or is being reduced into the possession of a person;
- (e) any organ or part of a human body and any blood, ova, semen or other substance extracted from the human body.

211 Person to whom property *belongs* for this Division

- (1) For this Division, property ***belongs*** to anyone having possession or control of it, or having any proprietary right or interest in it, other than an equitable interest arising only from an agreement to transfer or grant an interest, or from a constructive trust.
- (2) If property belongs to 2 or more persons, a reference to the person to whom property belongs is taken to be a reference to all of them.
- (3) Property of a corporation sole belongs to the corporation despite a vacancy in the corporation.
- (4) If property is subject to a trust:
 - (a) the person to whom the property belongs includes any person having a right to enforce the trust; and
 - (b) an intention to defeat the trust is an intention to deprive any person having that right of the property.
- (5) If a person (***person A***) receives property from or on account of another person (***person B***) and is under a legal obligation to person B to retain or deal with it or its proceeds in a particular way, the property or proceeds belongs (as against person A) to person B.

(6) If a person (**person A**) obtains property by another person's fundamental mistake and is under an obligation to make restoration, in whole or in part, of the property or its proceeds or its value:

- (a) to the extent of that obligation, the property or proceeds belongs (as against person A) to the person entitled to restoration (**person B**); and
- (b) an intention not to make restoration is an intention to deprive person B of the property or proceeds without the consent of person B.

(7) For subsection (6):

fundamental mistake, in relation to property, means any of the following:

- (a) a mistake about the identity of the person getting the property;
- (b) a mistake about the essential nature of the property;
- (c) a mistake about the amount of any money, direct credit into an account, cheque or other negotiable instrument if the person getting the property is aware of the mistake at the time of getting the property.

212 Appropriation of property

- (1) For this Division, any assumption of the rights of an owner to ownership, possession or control of property, without the consent of a person to whom the property belongs, is an **appropriation** of the property.
- (2) If a person has come by property (innocently or not) without committing the offence of theft, subsection (1) applies to any later assumption of those rights without consent by keeping or dealing with it as owner.
- (3) If property is, or purports to be, transferred or given to a person acting in good faith, a later assumption by the person of rights the person believed the person was acquiring is not an appropriation of the property because of any defect in the transferor's title.

213 Intention of permanently depriving

- (1) A person (**person A**) has the intention of permanently depriving someone else (**person B**) of property belonging to person B if:
 - (a) person A appropriates property belonging to person B without meaning person B to permanently lose the property; and
 - (b) person A intends to treat the property as person A's own to dispose of regardless of person B's rights.
- (2) For subsection (1), if person A borrows or lends property belonging to person B, the borrowing or lending may amount to treating the property as person A's own to dispose of regardless of person B's rights only if the borrowing or lending is for a period and in circumstances making it equivalent to an outright taking or disposal.
- (3) Without limiting this section, person A parting with property amounts to person A treating the property as person A's own to dispose of regardless of person B's rights if:
 - (a) person A has possession or control (lawfully or not) of property belonging to person B; and
 - (b) person A parts with the property under a condition about its return that person A may not be able to carry out; and
 - (c) the parting is done for person A's own purposes and without person B's authority.
- (4) This section does not limit the circumstances in which a person can be taken to have the intention of permanently depriving someone else of property.

214 Dishonesty

- (1) A person's appropriation of property belonging to someone else is not dishonest if the person appropriates the property with the reasonable belief that the property is lost and the owner of the property cannot be discovered.
- (2) Subsection (1) does not apply to a person appropriating the property as a trustee or personal representative.
- (3) A person who appropriates the property of another person may be dishonest even if they are willing to pay for the property.

215 Theft of land

- (1) A person cannot commit the offence of theft of land or things forming part of the land and severed from it by the person or at the person's directions, except in the following circumstances:
- (a) when the person has legal authority to sell or dispose of land belonging to another person and the person appropriates the land or anything forming part of it by dealing with it in breach of the confidence reposed in the person;
 - (b) when the person is not in possession of the land and appropriates anything forming part of the land:
 - (i) by severing it or causing it to be severed; or
 - (ii) after it has been severed;
 - (c) when in possession of the land under a tenancy, the person appropriates the whole or part of any fixture or structure that is let under the tenancy.
- (2) For subsection (1)(c), a **tenancy** is a tenancy for years or any shorter period, and includes an agreement for a tenancy, but a person who after the end of a tenancy remains in possession as statutory tenant or otherwise is to be treated as having possession under the tenancy, and **let** is to be construed accordingly.
- (3) In this section:

land does not include incorporeal hereditaments.

216 General deficiency

A person may be found guilty of the offence of theft in relation to all or any part of a general deficiency in money or other property even though the deficiency is made up of a number of particular amounts of money or items of other property that were appropriated over a period of time.

Subdivision 2 Theft and related offences**217 Theft**

- (1) A person commits an offence if:
- (a) the person appropriates property; and
 - (b) the property belongs to another person and the person has knowledge of that circumstance; and

(c) the person engages in the conduct mentioned in paragraph (a) with the intention of permanently depriving the other person of the property; and

(d) the conduct mentioned in paragraph (a) is dishonest.

Maximum penalty: Imprisonment for 10 years.

Note for subsection (1)(d)

See section 43AGA in relation to the meaning of and fault element for dishonest conduct.

(2) Subsection (1)(c) is the fault element for the conduct in subsection (1)(a).

(3) An offence against subsection (1) is to be known as the offence of ***theft***.

218 Robbery

(1) A person commits an offence if:

(a) the person commits the offence of theft; and

(b) the person:

(i) uses force on another person; or

(ii) threatens to use force then and there on another person;
and

(c) the person engages in the conduct mentioned in paragraph (b) with the intention of committing the offence of theft or escaping from the scene of the offence; and

(d) the force was used or threatened when the person committed the offence of theft or immediately before or immediately after committing the offence.

Maximum penalty: Imprisonment for 14 years or, for an aggravated offence, imprisonment for life.

(2) Subsection (1)(c) is the fault element for the conduct in subsection (1)(b).

(3) Strict liability applies to subsection (1)(d).

219 Circumstances of aggravation for robbery

- (1) Each of the following is a circumstance of aggravation in relation to an offence committed against section 218(1) if the defendant is reckless in relation to the circumstance:
- (a) the offence is committed in company with one or more persons;
 - (b) the defendant has possession of a firearm or any other dangerous or offensive weapon when committing the offence;
 - (c) when committing the offence or immediately before or immediately after committing the offence, the defendant causes harm to another person.
- (2) If the prosecution intends to prove an offence against section 218(1) with any aggravating circumstance mentioned in subsection (1), the relevant circumstance of aggravation must be contained in the charge.

220 Entering building with intention to commit offence

- (1) A person commits an offence if the person:
- (a) enters or remains in a building; and
 - (b) engages in the conduct mentioned in paragraph (a) with the intention of committing an offence, other than an offence against the *Trespass Act 1987*, in the building; and
 - (c) is a trespasser and the person is reckless in relation to that circumstance.

Maximum penalty: Imprisonment for 4 years.

- (2) Subsection (1)(b) is the fault element for the conduct in subsection (1)(a).
- (3) In a prosecution for an offence against subsection (1), proof of subsection (1)(a) and (c) is evidence of the fault element in subsection (1)(b).
- (4) For this section, a person is not a trespasser merely because the person is permitted to enter or remain in the building:
- (a) for a purpose that is not the person's intended purpose; or
 - (b) as a result of fraud, misrepresentation or another person's mistake.

221 Burglary

- (1) A person commits an offence if the person:
- (a) enters or remains in a building; and
 - (b) engages in the conduct mentioned in paragraph (a) with the intention of committing an indictable offence or an offence against section 188(1) in the building; and
 - (c) is a trespasser and the person is reckless in relation to that circumstance.

Maximum penalty: Imprisonment for 14 years.

Note for subsection (1)

If the circumstances of aggravation in section 222(1) apply to the offence, the maximum penalty is the maximum penalty under section 222(2) or (3).

- (2) Subsection (1)(b) is the fault element for the conduct in subsection (1)(a).
- (3) For this section, a person is not a trespasser merely because the person is permitted to enter or remain in the building:
- (a) for a purpose that is not the person's intended purpose; or
 - (b) as a result of fraud, misrepresentation or another person's mistake.

222 Circumstances of aggravation for burglary

- (1) Each of the following is a circumstance of aggravation for an offence committed against section 221(1) if the defendant is reckless in relation to the circumstance:
- (a) the building is a dwelling-house and the offence is committed at night;
 - (b) the offence is committed in company with one or more persons;
 - (c) the defendant has possession of a firearm or any other dangerous or offensive weapon when committing the offence;
 - (d) the building is a dwelling-house and the defendant has possession of a firearm or any other dangerous or offensive weapon when committing the offence.

- (2) The maximum penalty for an offence against section 221(1) is imprisonment for 20 years if a circumstance of aggravation in subsection (1)(a), (b) or (c) applies to the offence.
- (3) The maximum penalty for an offence against section 221(1) is life imprisonment if the circumstance of aggravation in subsection (1)(d) applies to the offence.
- (4) If the prosecution intends to prove an offence against section 221(1) with any aggravating circumstances mentioned in subsection (1), the relevant circumstance of aggravation must be contained in the charge.

223 Alternative verdict

In a proceeding against a person charged with an offence against section 221(1), the trier of fact may find the person not guilty of the offence against that section but guilty of an offence against section 220(1) if the trier of fact:

- (a) is not satisfied beyond reasonable doubt that the person entered or remained in a building with the intention of committing an offence mentioned in section 221(1)(b); and
- (b) is satisfied beyond reasonable doubt that the person intended to commit an offence, other than an offence against the *Trespass Act 1987*.

224 Damaging or interfering with property as trespasser

- (1) A person commits an offence if:
 - (a) the person intentionally enters a building; and
 - (b) the person is a trespasser and the person is reckless in relation to that circumstance; and
 - (c) the person intentionally damages or otherwise interferes with the building or any property in the building.

Maximum penalty: Imprisonment for 7 years.

- (2) For this section, it is immaterial whether the damage or interference:
 - (a) is of a permanent nature; or
 - (b) results in any monetary loss.

(3) In this section:

damage includes the following:

- (a) destroying the building or property;
- (b) defacing the building or property;
- (c) for a document – obliterating or rendering illegible the whole or any part of the document;
- (d) for an animal – harming or killing the animal;
- (e) for a plant or other thing forming part of land – severing it from the land.

225 Going equipped for theft and related offences

(1) A person commits an offence if the person:

- (a) is in a place other than the person's home; and
- (b) possesses an item; and
- (c) engages in the conduct mentioned in paragraph (b) with the intention of using the item in the course of or in relation to committing the offence of theft or a related offence.

Maximum penalty: Imprisonment for 3 years.

(2) Subsection (1)(c) is the fault element for the conduct in subsection (1)(b).

(3) A person commits an offence if the person:

- (a) is in a place other than the person's home; and
- (b) possesses a firearm or any other dangerous or offensive weapon; and
- (c) engages in the conduct mentioned in paragraph (b) with the intention of using it in the course of or in relation to committing the offence of theft or a related offence.

Maximum penalty: Imprisonment for 7 years.

(4) Subsection (3)(c) is the fault element for the conduct in subsection (3)(b).

(5) Strict liability applies to subsections (1)(a) and (3)(a).

(6) In this section:

related offence means an offence against any of the following:

- (a) section 218;
- (b) section 220;
- (c) section 221;
- (d) section 228AB.

226 Receiving stolen property

(1) A person commits an offence if:

- (a) the person intentionally receives property; and
- (b) the property is stolen property and the person:
 - (i) has knowledge of that circumstance; or
 - (ii) believes that the circumstance exists; and
- (c) the conduct mentioned in paragraph (a) is dishonest.

Maximum penalty: Imprisonment for 10 years.

Note for subsection (1)(c)

See section 43AGA in relation to the meaning of and fault element for dishonest conduct.

(2) In this section:

stolen property is any property that:

- (a) is appropriated; or
- (b) if the property was obtained before the commencement of this section – was obtained in the commission of an indictable offence or in the commission of an offence outside the Territory that would have constituted an indictable offence if it had been committed in the Territory.

227 Shoplifting

(1) A person commits an offence if:

- (a) the person appropriates property; and

- (b) the property is:
 - (i) offered for sale at a place where goods are for sale by retail; and
 - (ii) worth less than \$500; and
- (c) the person engages in the conduct mentioned in paragraph (a) with the intention of permanently depriving the owner of the property of that property; and
- (d) the conduct mentioned in paragraph (a) is dishonest.

Maximum penalty: 50 penalty units or imprisonment for 6 months.

Note for subsection (1)(d)

See section 43AGA in relation to the meaning of and fault element for dishonest conduct.

- (2) Subsection (1)(c) is the fault element for the conduct in subsection (1)(a).
- (3) Strict liability applies to subsection (1)(b).

228 Making off without payment

- (1) A person commits an offence if:
 - (a) the person is supplied with goods or services; and
 - (b) immediate payment for the goods or services is required or expected and the person has knowledge of that circumstance; and
 - (c) the person intentionally makes off without paying for the goods or services; and
 - (d) the conduct mentioned in paragraph (c) is dishonest.

Maximum penalty: Imprisonment for 2 years.

Note for subsection (1)(d)

See section 43AGA in relation to the meaning of and fault element for dishonest conduct.

- (2) Strict liability applies to subsection (1)(a).
- (3) It is not an offence if the supply of goods or services is unlawful.

- (4) In this section:

immediate payment includes payment at the time of collecting goods in relation to which a service is supplied.

228AA Removal of item from places open to public

- (1) A person commits an offence if:
- (a) the person intentionally removes an item from premises; and
 - (b) the premises are at any time open to the public; and
 - (c) the item is publicly exhibited or kept for public exhibition at the premises but is not exhibited or kept for the purpose of selling or any other commercial dealing; and
 - (d) the conduct mentioned in paragraph (a) is dishonest.

Maximum penalty: Imprisonment for 3 years.

Note for subsection (1)(d)

See section 43AGA in relation to the meaning of and fault element for dishonest conduct.

- (2) Strict liability applies to subsection (1)(b) and (c).

228AB Driving, using or riding motor vehicle, vessel or aircraft without consent

- (1) A person commits an offence if:
- (a) the person intentionally drives, uses or rides in or on a motor vehicle, vessel or aircraft; and
 - (b) the motor vehicle, vessel or aircraft:
 - (i) belongs to another person (the **owner**); and
 - (ii) was taken from the owner without the owner's consent; and
 - (c) the person is reckless in relation to the circumstances in paragraph (b); and

(d) the conduct mentioned in paragraph (a) is dishonest.

Maximum penalty: If the offence relates to a motor vehicle or vessel – imprisonment for 5 years.

If the offence relates to an aircraft – imprisonment for 7 years.

Note for subsection (1)(d)

See section 43AGA in relation to the meaning of and fault element for dishonest conduct.

(2) In this section:

motor vehicle means any vehicle for use on land that is designed to be wholly or partly self-propelled and includes any trailer or caravan attached to it.

Division 2 Deception, dishonesty and blackmail

Subdivision 1 Interpretation and general matters

228AC Definitions

In this Division:

belongs, in relation to property, means having possession or control of it, or having any proprietary right or interest in it, other than an equitable interest arising only from an agreement to transfer or grant an interest, or from a constructive trust.

deception means a deception whether by words or other conduct, and whether as to fact or as to law, and includes:

- (a) a deception about the intention of the person using the deception or anyone else; and
- (b) conduct by a person that causes a computer, a machine or an electronic device to make a response that the person is not authorised to cause it to do.

demand with a menace, see section 228AF.

menace, see section 228AD.

obtain, in relation to property, see section 228AE.

228AD Meaning of *menace*

- (1) A ***menace*** includes:
 - (a) an express or implied threat of action that is detrimental or unpleasant to another person; or
 - (b) if a person makes a demand – a general threat of detrimental or unpleasant action against another person that is implied because the person making the demand is a public officer.
- (2) A threat against an individual is a ***menace*** only if:
 - (a) the threat would likely cause an individual of normal stability and courage to act unwillingly; or
 - (b) the threat would likely cause an individual to act unwillingly because of a particular vulnerability of which the maker of the threat is aware.
- (3) A threat against an entity other than an individual is a ***menace*** only if:
 - (a) the threat would ordinarily cause an unwilling response; or
 - (b) the threat would likely cause an unwilling response because of a particular vulnerability of which the maker of the threat is aware.

228AE Meaning of *obtain*

- (1) For section 228AH, a person ***obtains*** property if:
 - (a) the person obtains ownership, possession or control of it for the person or another person; or
 - (b) the person enables ownership, possession or control of it to be retained by the person or another person; or
 - (c) the person induces a third person to pass ownership, possession or control of it to another person; or
 - (d) the person induces a third person to enable another person to retain ownership, possession or control of it; or
 - (e) section 228AI applies in relation to the property.
- (2) To avoid doubt, subsection (1) does not apply in relation to sections 228AK, 228AL and 228AO.

228AF Meaning of *demand with a menace*

For a ***demand with a menace***:

- (a) the demand need not be a demand for money or other property; and
- (b) it is irrelevant whether the menace relates to an action to be taken by the person making the demand.

228AG Intention of permanently depriving

- (1) A person (***person A***) has the intention of permanently depriving someone else (***person B***) of property belonging to person B if:
 - (a) person A obtains property belonging to person B without meaning person B to permanently lose the property; and
 - (b) person A intends to treat the property as person A's own to dispose of regardless of person B's rights.
- (2) For subsection (1), if person A borrows or lends property belonging to person B, the borrowing or lending may amount to treating the property as person A's own to dispose of regardless of person B's rights only if the borrowing or lending is for a period and in circumstances making it equivalent to an outright taking or disposal.
- (3) Without limiting this section, person A parting with property amounts to person A treating the property as person A's own to dispose of regardless of person B's rights if:
 - (a) person A has possession or control (lawfully or not) of property belonging to person B; and
 - (b) person A parts with the property under a condition about its return that person A may not be able to carry out; and
 - (c) the parting is done for person A's own purposes and without person B's authority.
- (4) This section does not limit the circumstances in which a person can be taken to have the intention of permanently depriving someone else of property.

Subdivision 2 Offences

228AH Obtaining property by deception

- (1) A person commits an offence if:
- (a) the person engages in deception; and
 - (b) the person engages in the conduct mentioned in paragraph (a) with the intention of permanently depriving another person of property; and
 - (c) the conduct mentioned in paragraph (a) results in the person obtaining the property belonging to the other person and the person intended that result; and
 - (d) the conduct mentioned in paragraph (a) is dishonest.

Maximum penalty: Imprisonment for 10 years.

Note for subsection (1)(d)

See section 43AGA in relation to the meaning of and fault element for dishonest conduct.

- (2) Subsection (1)(b) is the fault element for the conduct in subsection (1)(a).
- (3) For this section, a person who obtains the property of another person may be dishonest even if they are willing to pay for the property.
- (4) In this section:

property means all real or personal property, including the following:

- (a) money;
- (b) things in action or other intangible property;
- (c) electricity;
- (d) a wild creature that is tamed or ordinarily kept in captivity or that is reduced or is being reduced into the possession of a person;
- (e) any organ or part of a human body and any blood, ova, semen or other substance extracted from the human body.

228AI Transfers of money etc.

- (1) This section applies in relation to section 228AH.
- (2) If a person (**person A**) causes an amount to be transferred from an account held by someone else (**person B**) to an account held by person A:
 - (a) the amount is taken to be property that belongs to person B; and
 - (b) person A is taken to have obtained the property for person A with the intention of permanently depriving person B of the property.
- (3) If a person (**person A**) causes an amount to be transferred from an account held by someone else (**person B**) to an account held by a third person (**person C**):
 - (a) the amount is taken to be property that belongs to person B; and
 - (b) person A is taken to have obtained the property for person C with the intention of permanently depriving person B of the property.
- (4) An amount is transferred from an account (**account 1**) to another account (**account 2**) if:
 - (a) a credit is made to account 2; and
 - (b) a debit is made to account 1; and
 - (c) the credit results from the debit or the debit results from the credit.
- (5) A person causes an amount to be transferred from an account if the person induces someone else to transfer the amount from the account (whether or not the other person is the account holder).

228AJ General deficiency

A person may be found guilty of the offence of obtaining property by deception in relation to all or any part of a general deficiency in money or other property even though the deficiency is made up of a number of particular amounts of money or items of other property that were obtained over a period of time.

228AK Obtaining financial advantage by deception

A person commits an offence if:

- (a) the person intentionally engages in deception; and
- (b) the conduct mentioned in paragraph (a) results in the person obtaining a financial advantage from another person and the person intended that result; and
- (c) the conduct mentioned in paragraph (a) is dishonest.

Maximum penalty: Imprisonment for 10 years.

Note for paragraph (c)

See section 43AGA in relation to the meaning of and fault element for dishonest conduct.

228AL Dishonestly intending to obtain gain from Territory

(1) A person commits an offence if:

- (a) the person engages in conduct; and
- (b) the person engages in the conduct mentioned in paragraph (a) with the intention of obtaining a gain from another person; and
- (c) the conduct mentioned in paragraph (a) is dishonest; and
- (d) the other person is the Territory.

Maximum penalty: Imprisonment for 5 years.

Note for subsection (1)(c)

See section 43AGA in relation to the meaning of and fault element for dishonest conduct.

- (2) Subsection (1)(b) is the fault element for the conduct in subsection (1)(a).
- (3) Absolute liability applies to subsection (1)(d).

228AM Dishonestly intending to cause loss for Territory

(1) A person commits an offence if:

- (a) the person engages in conduct; and
- (b) the person engages in the conduct mentioned in paragraph (a) with the intention of causing a loss to another person; and

- (c) the conduct mentioned in paragraph (a) is dishonest; and
- (d) the other person is the Territory.

Maximum penalty: Imprisonment for 5 years.

Note for subsection (1)(c)

See section 43AGA in relation to the meaning of and fault element for dishonest conduct.

- (2) Subsection (1)(b) is the fault element for the conduct in subsection (1)(a).
- (3) Absolute liability applies to subsection (1)(d).

228AN Dishonestly causing loss or risk of loss for Territory

- (1) A person commits an offence if:
 - (a) the person intentionally engages in conduct; and
 - (b) the conduct results in a loss, or a risk of loss, to another person and the person knows the loss will happen or knows there is a substantial risk of the loss happening; and
 - (c) the conduct mentioned in paragraph (a) is dishonest; and
 - (d) the other person is the Territory.

Maximum penalty: Imprisonment for 5 years.

Note for subsection (1)(c)

See section 43AGA in relation to the meaning of and fault element for dishonest conduct.

- (2) Absolute liability applies to subsection (1)(d).

228AO Blackmail and extortion

- (1) A person commits an offence if:
 - (a) the person makes a demand with a menace of another person; and
 - (b) the person engages in the conduct mentioned in paragraph (a) with the intention of:
 - (i) obtaining a gain from the other person or a third person; or
 - (ii) causing the other person or a third person a loss; or

-
- (iii) influencing the other person or a third person in the exercise of their public duty; and
 - (c) there are no reasonable grounds for the demand; and
 - (d) the use of the menace is not a proper means of enforcing the demand.

Maximum penalty: Imprisonment for 14 years.

- (2) Subsection (1)(b) is the fault element for the conduct in subsection (1)(a).
- (3) Strict liability applies to subsection (1)(c) and (d).
- (4) In this section:

public duty means a duty of a public officer.

11 Part VII, Divisions 3 to 5 replaced

Part VII, Divisions 3 to 5

repeal, insert

Division 3 Money laundering

229 Definitions

In this Division:

deals with, in relation to money or other property, means:

- (a) receives or has possession or control of the money or other property; or
- (b) conceals or attempts to conceal the money or other property; or
- (c) passes the money or other property to another person or disposes of the money or other property in any other way.

indictable offence includes an offence against a law of the Commonwealth, a State, another Territory or a foreign state, that would be an indictable offence if committed in the Territory.

proceeds of crime means money or other property that is derived or realised, directly or indirectly, by any person from the commission of an indictable offence.

230 Money laundering with knowledge or belief

- (1) A person commits an offence if:
- (a) the person intentionally deals with money or other property;
and
 - (b) the money or other property:
 - (i) is the proceeds of crime; or
 - (ii) is being used or is intended to be used in the commission of, or to facilitate the commission of, an indictable offence; and
 - (c) the person:
 - (i) has knowledge of that circumstance; or
 - (ii) believes that that circumstance exists.

Maximum penalty: Imprisonment for 20 years.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant engaged in the conduct mentioned in subsection (1)(a) in order to assist the enforcement of a law of the Territory, the Commonwealth, a State or another Territory.

Note for section 230

The defendant has an evidential burden in relation to the matters in subsection (2) (see section 43BU of the Criminal Code).

231 Money laundering with recklessness

- (1) A person commits an offence if:
- (a) the person intentionally deals with money or other property;
and
 - (b) the money or other property:
 - (i) is the proceeds of crime; or
 - (ii) is being used or is intended to be used in the commission of, or to facilitate the commission of, an indictable offence; and
 - (c) the person is reckless in relation to that circumstance.

Maximum penalty: Imprisonment for 10 years.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant engaged in the conduct mentioned in subsection (1)(a) in order to assist the enforcement of a law of the Territory, the Commonwealth, a State or another Territory.

Note for section 231

The defendant has an evidential burden in relation to the matters in subsection (2) (see section 43BU of the Criminal Code).

232 Dealing with suspicious property

- (1) A person commits an offence if:
- (a) the person intentionally deals with money or other property; and
 - (b) it is reasonable to suspect that the money or other property is proceeds of crime.

Maximum penalty: Imprisonment for 2 years.

- (2) Absolute liability applies to subsection (1)(b).
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant had no reasonable grounds for suspecting that the money or other property was derived or realised, directly or indirectly, from some unlawful activity.
- (4) The defendant has a legal burden of proof in relation to the matter mentioned in subsection (3).
- (5) For subsection (1)(b), it is taken to be reasonable to suspect that money or other property is proceeds of crime if:
- (a) the conduct mentioned in subsection (1)(a) involves a number of transactions that are structured or arranged to avoid the reporting requirements of the *Financial Transaction Reports Act 1988* (Cth) that would otherwise apply to the transactions; or
 - (b) the conduct mentioned in subsection (1)(a) involves a number of transactions that are structured or arranged to avoid the reporting requirements of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) that would otherwise apply to the transactions; or
 - (c) the conduct mentioned in subsection (1)(a) involves the use of one or more accounts held with ADIs in false names; or

- (d) the conduct mentioned in subsection (1)(a) amounts to an offence against section 139, 140 or 141 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth); or
- (e) the value of the money and property involved in the conduct mentioned in subsection (1)(a) is, in the opinion of the trier of fact, grossly out of proportion to the defendant's income and expenditure over a reasonable period within which the conduct occurs; or
- (f) the conduct mentioned in subsection (1)(a) involves a significant cash transaction within the meaning of the *Financial Transaction Reports Act 1988* (Cth), and the defendant:
 - (i) contravened the defendant's obligations under that Act relating to reporting the transaction; or
 - (ii) gave false or misleading information in purported compliance with those obligations; or
- (g) the conduct mentioned in subsection (1)(a) involves a threshold transaction within the meaning of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth), and the defendant:
 - (i) has contravened the defendant's obligations under that Act relating to reporting the transaction; or
 - (ii) has given false or misleading information in purported compliance with those obligations; or
- (h) the defendant:
 - (i) has stated that the conduct mentioned in subsection (1)(a) was engaged in on behalf of or at the request of another person; and
 - (ii) has not provided information enabling the other person to be identified and located.

Note for subsection (5)

Subsection (5) is not an exhaustive list of circumstances.

233 Proof of other offences not required

- (1) To avoid doubt, it is not necessary, in order to prove for the purposes of section 230, 231 or 232, that money or other property is the proceeds of crime, to establish that:
 - (a) a particular indictable offence was committed in relation to the money or other property; or
 - (b) a particular person committed an indictable offence in relation to the money or other property.
- (2) To avoid doubt, it is not necessary, in order to prove for the purposes of section 230 or 231, that money or other property is being used or is intended to be used in the commission of, or to facilitate the commission of, an indictable offence, to establish that:
 - (a) a particular indictable offence is being committed or an intention that a particular indictable offence will be committed in relation to the money or other property; or
 - (b) a particular person is committing an indictable offence or an intention that a particular person will commit an indictable offence in relation to the money or other property.

234 Prosecution requires consent of Director of Public Prosecutions

A prosecution for an offence against this Division must not be commenced without the consent of the Director of Public Prosecutions.

235 Alternative verdict for offence against section 230

- (1) In a proceeding against a person charged with an offence against section 230, the trier of fact may find the person not guilty of the offence against that section but guilty of an alternative offence if the trier of fact:
 - (a) is not satisfied beyond reasonable doubt that the person committed an offence against section 230; and
 - (b) is satisfied beyond reasonable doubt that the person committed an offence against the alternative offence.
- (2) In this section:

alternative offence means an offence against section 231 or 232.

236 Alternative verdict for offence against section 231

In a proceeding against a person charged with an offence against section 231, the trier of fact may find the person not guilty of the offence against that section but guilty of an offence against section 232 if the trier of fact:

- (a) is not satisfied beyond reasonable doubt that the person committed an offence against section 231; and
- (b) is satisfied beyond reasonable doubt that the person committed an offence against section 232.

236A Recklessness as to nature of money or property sufficient for offence of attempt against section 231

Despite section 43BF(4), for an offence of attempting to commit an offence against section 231, recklessness is the fault element in relation to the physical element in section 231(1)(b).

Division 4 False accounting and false statements**236B False accounting**

- (1) A person commits an offence if:
 - (a) the person damages, destroys or conceals an accounting document; and
 - (b) the person engages in the conduct mentioned in paragraph (a) with the intention of obtaining a gain from another person or causing a loss for another person; and
 - (c) the conduct mentioned in paragraph (a) is dishonest.

Maximum penalty: Imprisonment for 7 years.

Note for subsection (1)(c)

See section 43AGA in relation to the meaning of and fault element for dishonest conduct.

- (2) Subsection (1)(b) is the fault element for the conduct in subsection (1)(a).

(3) A person commits an offence if:

(a) the person:

- (i) makes, or concurs in making, an entry that is false or misleading in a material particular in an accounting document; or
- (ii) omits, or concurs in omitting, a material particular from an accounting document; and

(b) the person engages in the conduct mentioned in paragraph (a) with the intention of obtaining a gain from another person or causing a loss for another person; and

(c) the conduct mentioned in paragraph (a) is dishonest.

Maximum penalty: Imprisonment for 7 years.

Note for subsection (3)(c)

See section 43AGA in relation to the meaning of and fault element for dishonest conduct.

(4) Subsection (3)(b) is the fault element for the conduct in subsection (3)(a).

(5) A person commits an offence if:

(a) the person produces to another person, or makes use of, an accounting document; and

(b) the person engages in the conduct mentioned in paragraph (a) with the intention of obtaining a gain from another person or causing a loss for another person; and

(c) the document is false or misleading in a material particular and the person is reckless in relation to that circumstance; and

(d) the conduct mentioned in paragraph (a) is dishonest.

Maximum penalty: Imprisonment for 7 years.

Note for subsection (5)(d)

See section 43AGA in relation to the meaning of and fault element for dishonest conduct.

(6) Subsection (5)(b) is the fault element for the conduct in subsection (5)(a).

(7) In this section:

accounting document means any account, record or document made or required for any accounting purpose or any similar purpose or for any financial transaction.

236C False statements by officer of body corporate etc.

(1) A person commits an offence if:

- (a) the person is an officer of a body corporate or unincorporated association or purports to be an officer of a body corporate or unincorporated association; and
- (b) the person publishes or concurs in the publishing of a document containing a statement or account; and
- (c) the person engages in the conduct mentioned in paragraph (b) with the intention of deceiving members or creditors of the body corporate or unincorporated association about the body corporate's or unincorporated association's affairs; and
- (d) the document is false or misleading in a material particular and the person has knowledge of that circumstance.

Maximum penalty: Imprisonment for 7 years.

(2) Subsection (1)(c) is the fault element for the conduct in subsection (1)(b).

(3) Strict liability applies to subsection (1)(a).

(4) In this section:

creditor, of a body corporate or unincorporated association, includes a person who has entered into a security for the benefit of the body corporate or unincorporated association.

officer, of a body corporate or unincorporated association, includes:

- (a) any member of the body corporate or unincorporated association who is concerned in its management; and
- (b) any person purporting to act as an officer of the body corporate or unincorporated association.

236D Falsification of registers

A person commits an offence if:

- (a) the person intentionally makes or concurs in making an entry in a register or record kept by a body, office or position established by an Act; and
- (b) the entry is false or misleading in a material particular and the person has knowledge of that circumstance.

Maximum penalty: Imprisonment for 7 years.

Division 5 Bribery and secret commissions**236E Interpretation**

- (1) In this Division:

agent includes the following:

- (a) a person acting for another person with that other person's actual or implied authority;
- (b) a public officer;
- (c) an employee of an employer;
- (d) a lawyer acting for a client;
- (e) a partner in a partnership;
- (f) an officer of a body corporate (whether or not employed by it);
- (g) an officer of another body (whether or not employed by it);
- (h) a consultant to a person.

benefit means a benefit of any kind, including a non-pecuniary benefit.

obtain, see section 236F.

principal, for an agent, means the following:

- (a) if the agent is a person acting for another person with that other person's actual or implied authority – the other person;
- (b) if the agent is a public officer – the government or other body for which the public officer acts;

- (c) if the agent is an employee of an employer – the employer;
 - (d) if the agent is a lawyer acting for a client – the client;
 - (e) if the agent is a partner in a partnership – the partnership;
 - (f) if the agent is an officer of a body corporate (whether or not employed by it) – the body corporate;
 - (g) if the agent is an officer of another body (whether or not employed by it) – the body;
 - (h) if the agent is a consultant to a person – the person.
- (2) A person is an agent or a principal if the person is, or has been or intends to be, an agent or a principal.

236F Meaning of *obtain*

- (1) In this Division, ***obtain*** includes:
- (a) obtain for another person; and
 - (b) induce a third person to do something that results in another person obtaining; or
- (2) A person (***person A***) is taken to ***obtain*** a benefit for another person (***person B***) if person A induces a third person to do something that results in person B obtaining the benefit.

236G Bribery – offence by person in relation to agent

- (1) A person commits an offence if:
- (a) the person:
 - (i) provides a benefit to an agent or another person; or
 - (ii) causes a benefit to be provided to an agent or another person; or
 - (iii) offers to provide, or promises to provide, a benefit to an agent or another person; or
 - (iv) causes an offer to provide, or causes a promise to provide, a benefit to be made to an agent or another person; and

- (b) the person engages in the conduct mentioned in paragraph (a) with the intention that the agent will:
 - (i) be influenced or affected in the exercise of the agent's function as agent; or
 - (ii) do or not do something as agent, or because of the agent's position as agent; or
 - (iii) cause or influence the agent's principal, or another agent of the principal, to do or not do something; and
- (c) the conduct mentioned in paragraph (a) is dishonest.

Maximum penalty: Imprisonment for 7 years.

Note for subsection (1)(c)

See section 43AGA in relation to the meaning of and fault element for dishonest conduct.

- (2) Subsection (1)(b) is the fault element for the conduct in subsection (1)(a).

236H Bribery – offence by agent

- (1) A person commits an offence if:
 - (a) the person is an agent (***the agent***); and
 - (b) the agent:
 - (i) requests a benefit from a person for the agent or another person; or
 - (ii) obtains a benefit from a person for the agent or another person; or
 - (iii) agrees to obtain a benefit from a person for the agent or another person; and
 - (c) the agent engages in the conduct mentioned in paragraph (b) with the intention:
 - (i) that the agent will:
 - (A) be influenced or affected in the exercise of the agent's function as agent; or
 - (B) do or not do something as agent, or because of the agent's position as agent; or

- (C) cause or influence the agent's principal, or another agent of the principal, to do or not do something; or
- (ii) of inducing, fostering or sustaining a belief that the agent will:
 - (A) be influenced or affected in the exercise of the agent's function as agent; or
 - (B) do or not do something as agent, or because of the agent's position as agent; or
 - (C) cause or influence the agent's principal, or another agent of the principal, to do or not do something; and
- (d) the conduct mentioned in paragraph (b) is dishonest.

Maximum penalty: Imprisonment for 7 years.

Note for subsection (1)(d)

See section 43AGA in relation to the meaning of and fault element for dishonest conduct.

- (2) Subsection (1)(c) is the fault element for the conduct in subsection (1)(b).
- (3) Strict liability applies to subsection (1)(a).

236J Other corrupting benefits – offence by person in relation to agent

A person commits an offence if:

- (a) the person intentionally:
 - (i) provides a benefit to an agent or another person; or
 - (ii) causes a benefit to be provided to an agent or another person; or
 - (iii) offers to provide, or promises to provide, a benefit to an agent or another person; or
 - (iv) causes an offer to provide, or causes a promise to provide, a benefit to be made to an agent or another person; and
- (b) the conduct mentioned in paragraph (a) is dishonest; and

- (c) obtaining, or expecting to obtain, the benefit would tend to influence the agent to:
 - (i) be influenced or affected in the exercise of the agent's function as agent; or
 - (ii) do or not do something as agent, or because of the agent's position as agent; or
 - (iii) cause or influence the agent's principal, or another agent of the principal, to do or not do something; and
- (d) the person is reckless in relation to the circumstance mentioned in paragraph (c).

Maximum penalty: Imprisonment for 5 years.

Note for paragraph (b)

See section 43AGA in relation to the meaning of and fault element for dishonest conduct.

236K Other corrupting benefits – offence by agent

- (1) A person commits an offence if:
 - (a) the person is an agent (***the agent***); and
 - (b) the agent intentionally:
 - (i) requests a benefit from a person for the agent or another person; or
 - (ii) obtains a benefit from a person for the agent or another person; or
 - (iii) agrees to obtain a benefit from a person for the agent or another person; and
 - (c) the conduct mentioned in paragraph (b) is dishonest; and
 - (d) obtaining, or expecting to obtain, the benefit would tend to influence the agent to:
 - (i) be influenced or affected in the exercise of the agent's function as agent; or
 - (ii) do or not do something as agent, or because of the agent's position as agent; or
 - (iii) cause or influence the agent's principal, or another agent of the principal, to do or not do something; and

- (e) the agent is reckless in relation to the circumstance mentioned in paragraph (d).

Maximum penalty: Imprisonment for 5 years.

Note for subsection (1)(c)

See section 43AGA in relation to the meaning of and fault element for dishonest conduct.

- (2) Strict liability applies to subsection (1)(a).

236L Alternative verdict for offence against section 236G

In a proceeding against a person charged with an offence against section 236G, the trier of fact may find the person not guilty of the offence against that section but guilty of an offence against section 236J if the trier of fact:

- (a) is not satisfied beyond reasonable doubt that the person committed an offence against section 236G; and
- (b) is satisfied beyond reasonable doubt that the person committed an offence against section 236J.

236M Alternative verdict for offence against section 236H

In a proceeding against a person charged with an offence against section 236H, the trier of fact may find the person not guilty of the offence against that section but guilty of an offence against section 236K if the trier of fact:

- (a) is not satisfied beyond reasonable doubt that the person committed an offence against section 236H; and
- (b) is satisfied beyond reasonable doubt that the person committed an offence against section 236K.

236N Independent advisor accepting secret commission

- (1) A person commits an offence if:
 - (a) the person intentionally holds themselves out to the public as being engaged in a business or activity of:
 - (i) making independent selections or examinations; or
 - (ii) expressing disinterested opinions in respect of property or services; and
 - (b) the person requests, receives or obtains, or agrees to receive or obtain, a benefit from another person; and

(c) the person engages in the conduct mentioned in paragraph (b) with the intention that the benefit will influence the person's selection, examination or opinion; and

(d) the conduct mentioned in paragraph (b) is dishonest.

Maximum penalty: Imprisonment for 3 years.

Note for subsection (1)(d)

See section 43AGA in relation to the meaning of and fault element for dishonest conduct.

(2) Subsection (1)(c) is the fault element for the conduct in subsection (1)(b).

12 Section 241 amended (Damage to property)

Section 241(1), penalty provision

omit

14

insert

10

13 Part VII, Divisions 7, 8 and 9 replaced

Part VII, Divisions 7, 8 and 9

repeal, insert

Division 7 Forgery and other similar offences

250 Definitions

In this Division:

false document, see section 251.

public duty means a duty of a public officer.

251 Meaning of false document

(1) For this Division, a document is a **false document** only if the document, or any part of the document, purports:

(a) to have been made in the form in which it is made by a person who did not make it in that form; or

- (b) to have been made in the form in which it is made on the authority of a person who did not authorise its making in that form; or
 - (c) to have been made in the terms in which it is made by a person who did not make it in those terms; or
 - (d) to have been made in the terms in which it is made on the authority of a person who did not authorise its making in those terms; or
 - (e) to have been changed in any way by a person who did not change it in that way; or
 - (f) to have been changed in any way on the authority of a person who did not authorise it to be changed in that way; or
 - (g) to have been made or changed by an existing person who did not exist; or
 - (h) to have been made or changed on the authority of an existing person who did not exist; or
 - (i) to have been made or changed on a date on which, at a time or place at which, or otherwise in circumstances in which it was not made or changed.
- (2) For this Division, making a false document includes changing the document so as to make it a false document under subsection (1) (whether or not it already was false in some other way).
- (3) For this Division, a document that purports to be a true copy of another document is to be treated as if it were the original document.

252 Inducing acceptance that document genuine

For this Division, a reference to inducing a person to accept a document as genuine includes a reference to causing a computer, machine or electronic device to respond to the document as if it were genuine.

253 Forgery

- (1) A person commits an offence if:
- (a) the person (**person A**) makes a false document; and

- (b) person A engages in the conduct mentioned in paragraph (a) with the intention:
 - (i) that person A or another person (**person B**) will use the document to induce another person (**person C**) to accept it as genuine; and
 - (ii) because person C accepts it as genuine – that person A, person B or another person obtains a gain, causes a loss or influences the exercise of a public duty; and
- (c) the conduct mentioned in paragraph (a) is dishonest.

Maximum penalty: Imprisonment for 10 years.

Note for subsection (1)(c)

See section 43AGA in relation to the meaning of and fault element for dishonest conduct.

- (2) Subsection (1)(b) is the fault element for the conduct in subsection (1)(a).
- (3) To avoid doubt, for subsection (1)(b)(i), it is not necessary to prove an intention to induce a particular person to accept the false document as genuine.

254 Using false document

- (1) A person commits an offence if:
 - (a) the person (**person A**) uses a document; and
 - (b) the document is a false document and person A has knowledge of that circumstance; and
 - (c) person A engages in the conduct mentioned in paragraph (a) with the intention:
 - (i) to induce another person (**person B**) to accept it as genuine; and
 - (ii) because person B accepts it as genuine – that person A or another person obtains a gain, causes a loss or influences the exercise of a public duty; and

- (d) the conduct mentioned in paragraph (a) is dishonest.

Maximum penalty: Imprisonment for 10 years.

Note for subsection (1)(d)

See section 43AGA in relation to the meaning of and fault element for dishonest conduct.

- (2) Subsection (1)(c) is the fault element for the conduct in subsection (1)(a).
- (3) To avoid doubt, for subsection (1)(c)(i), it is not necessary to prove an intention to induce a particular person to accept the false document as genuine.

255 Possess false document

- (1) A person commits an offence if:
- (a) the person (**person A**) has a document in person A's possession; and
 - (b) the document is a false document and person A has knowledge of that circumstance; and
 - (c) person A engages in the conduct mentioned in paragraph (a) with the intention:
 - (i) to induce another person (**person B**) to accept it as genuine; and
 - (ii) because person B accepts it as genuine – that person A or another person obtains a gain, causes a loss or influences the exercise of a public duty; and
 - (d) the conduct mentioned in paragraph (a) is dishonest.

Maximum penalty: Imprisonment for 10 years.

Note for subsection (1)(d)

See section 43AGA in relation to the meaning of and fault element for dishonest conduct.

- (2) Subsection (1)(c) is the fault element for the conduct in subsection (1)(a).
- (3) To avoid doubt, for subsection (1)(c)(i), it is not necessary to prove an intention to induce a particular person to accept the false document as genuine.

Division 8 Preparation for forgery**256 Making or adapting instrument or material for forgery**

- (1) A person commits an offence if:
- (a) the person makes or adapts a device, material or other thing;
and
 - (b) the device, material or other thing is designed or adapted to make a false document and the person has knowledge of that circumstance; and
 - (c) the person engages in the conduct mentioned in paragraph (a) with the intention:
 - (i) to use the device, material or other thing to commit an offence against section 253; or
 - (ii) for another person to use the device, material or other thing to commit an offence against section 253.

Maximum penalty: Imprisonment for 7 years.

- (2) Subsection (1)(c) is the fault element for the conduct in subsection (1)(a).

257 Possessing instrument or material for forgery

- (1) A person commits an offence if:
- (a) the person possesses a device, material or other thing; and
 - (b) the device, material or other thing is designed or adapted to make a false document and the person has knowledge of that circumstance; and
 - (c) the person engages in the conduct mentioned in paragraph (a) with the intention:
 - (i) to use the device, material or other thing to commit an offence against section 253; or
 - (ii) for another person to use the device, material or other thing to commit an offence against section 253.

Maximum penalty: Imprisonment for 7 years.

- (2) Subsection (1)(c) is the fault element for the conduct in subsection (1)(a).

(3) A person commits an offence if:

- (a) the person intentionally possesses a device, material or other thing; and
- (b) the device, material or other thing is designed or adapted to make a false document and the person has knowledge of that circumstance.

Maximum penalty: Imprisonment for 2 years.

(4) It is a defence to a prosecution for an offence against subsection (3) if the defendant has a reasonable excuse.

Note for section 257

The defendant has an evidential burden in relation to the matters in subsection (4) (see section 43BU of the Criminal Code).

14 Part VII, Division 10 heading replaced

Part VII, Division 10, heading

repeal, insert

Part VIIA Miscellaneous offences

Division 1 Computer offences

15 Section 276E amended

Section 276E, heading

omit

appropriation

insert

use

16 Part VIIA, Division 2 inserted

After section 276F

insert

Division 2 Unlawfully obtaining confidential information**276G Unlawfully obtaining confidential information**

Any person who unlawfully abstracts any confidential information from any register, document, computer or other repository of information with intent to cause loss to a person or with intent to publish the same to a person who is not lawfully entitled to have or to receive it, or with intent to use it to obtain a benefit or advantage for the person or another, is guilty of an offence and is liable to imprisonment for 3 years.

17 Section 309 amended (Circumstances in which more than one charge may be joined against the one person)

(1) Section 309(1)

omit

he is

insert

the person is

(2) Section 309(2)

omit, insert

(2) Charges of theft of any property or, alternatively, of receiving that property may be joined in the same indictment.

18 Section 310 amended (Circumstances where more than one offence may be charged as one offence)

(1) Section 310(1)

omit

(1)

(2) Section 310(2)

omit

19 Sections 322 and 323 replaced

Sections 322 and 323

repeal, insert

322 Charge of theft and criminal deception

- (1) A person charged on indictment with the offence of theft in relation to property may alternatively be found guilty of obtaining the property by deception.
- (2) A person charged on indictment with the offence of obtaining property by deception may alternatively be found guilty of theft of the property.

323 Charge of theft or receiving

- (1) Subsection (2) applies in relation to a person who is charged on indictment with any of the following offences:
 - (a) theft of property;
 - (b) receiving property;
 - (c) theft of property or, alternatively, receiving the same property.
- (2) The person may be found guilty of:
 - (a) theft of the property; or
 - (b) receiving the property; or
 - (c) either theft of or receiving the property.

20 Section 328 replaced

Section 328

repeal, insert

328 Charge of theft of animal

A person charged on indictment with the offence of theft in relation to property that is an animal may alternatively be found guilty of an offence under regulation 23 of the *Livestock Regulations 2009*.

21 Section 385 replaced

Section 385

omit, insert

385 Finding of guilt of theft or receiving

If, on the trial of a person charged on indictment for theft of property or, alternatively, receiving that property, the trier of fact finds that the person committed the offence of theft or receiving but cannot decide which of the offences the person committed, the trier of fact must enter a finding of guilt for the first offence charged in the indictment.

22 Part XI, Division 17 inserted

Before Schedule 1

insert

Division 17 Criminal Code Amendment (Property Offences) Act 2022**464 Application of repealed provisions**

- (1) The repealed provisions, as in force immediately before the commencement, continue to apply in relation to offences committed before the commencement.
- (2) For subsection (1), if any of the conduct constituting an offence occurred before the commencement, the offence is taken to have been committed before the commencement.
- (3) In this section:

commencement means the commencement of section 10 of the *Criminal Code Amendment (Property Offences) Act 2022*.

repealed provisions means Part VII, Divisions 1, 1A, 2, 3, 3A, 4, 5, 7, 8 and 9 of this Act as in force immediately before their repeal by the *Criminal Code Amendment (Property Offences) Act 2022*.

23 Schedule 1 amended (Provisions of Code to which Part IIAA applies)

Schedule 1

omit

Part VII (Property offences and related matters), Division 2A (Identity crime)

Part VII (Property Offences and Related Matters), Division 5A (Cheating at Gambling)

Part VII (Property offences and related matters), Division 6 (Criminal damage)

insert (in numerical order)

Part VII (Property offences and related matters)

Part 3 Amendment of Expungement of Historical Homosexual Offence Records Act 2018**24 Act amended**

This Part amends the *Expungement of Historical Homosexual Offence Records Act 2018*.

25 Section 26 amended (Dishonestly obtaining information)

Section 26(1)(d) and (e)

omit, insert

(d) the conduct mentioned in paragraph (a) is dishonest.

Note for subsection (1)(d)

See section 43AGA of the Criminal Code in relation to the meaning of and fault element for dishonest conduct.

Part 4 Amendment of Local Court (Criminal Procedure) Act 1928**26 Act amended**

This Part amends the *Local Court (Criminal Procedure) Act 1928*.

27 Section 120 amended (Property offences that may be dealt with summarily)

- (1) Section 120(1)(a)
omit
all words from "210" to "229"
insert
217, 226, 228AA, 228AH or 228AK
- (2) Section 120(1)(b), after "property"
insert
or financial advantage

28 Section 121A amended (Offences that may be dealt with summarily)

- Section 121A(1)(a)(ii) and (iii)
omit, insert
- (ii) against section 218 of the Criminal Code, except an offence to which an aggravating circumstance in section 219(1) applies; or
 - (iii) against section 221 of the Criminal Code, except an offence to which an aggravating circumstance in section 222(1)(c) or (d) of the Code applies; or
 - (iv) against section 228AO of the Criminal Code; and

29 Part VIII, Division 8 inserted

After section 217

insert

**Division 8 Transitional matter for Criminal Code Amendment
(Property Offences) Act 2022**

218 Offences that may be dealt with summarily

Section 121A(1)(a), as in force immediately before the commencement of section 28 of the *Criminal Code Amendment (Property Offences) Act 2022*, continues to apply in relation to an offence committed before the commencement.

Part 5 Amendment of Sentencing Act 1995

30 Act amended

This Part amends the *Sentencing Act 1995*.

31 Section 3 amended (Interpretation)

Section 3, definition ***aggravated property offence***

omit, insert

aggravated property offence, see section 78AA.

32 Section 78AA inserted

Before section 78A, in Part 3, Division 6

insert

78AA Aggravated property offences

Each of the following is an ***aggravated property offence***:

- (a) an offence against section 193B, 218, 220, 221 or 225(3) of the Criminal Code;
- (b) an offence against section 224 of the Criminal Code if the damage or interference causes damage of a serious nature or that results in a loss of more than \$5 000;

- (c) an offence against section 228AB of the Criminal Code if:
 - (i) in committing the offence, the offender:
 - (A) caused any injury to another person; or
 - (B) endangered the life or safety of the public or a member of the public; or
 - (ii) the vehicle, vessel or aircraft is worth \$20 000 or more; or
 - (iii) the vehicle, vessel or aircraft is damaged by the offender and either of the following applies:
 - (A) the cost of repairing or compensating for the damage is \$1 000 or more;
 - (B) the value of the vehicle, vessel or aircraft is reduced by \$1 000 or more; or
 - (iv) the vehicle, vessel or aircraft was taken with the intention of being used for or in connection with the commission of another offence other than a regulatory offence or an offence of strict liability; or
 - (v) as a result of the commission of the offence, the whereabouts of the vehicle, vessel or aircraft is unknown to the person entitled to possession of it for 48 hours or longer;
- (d) an offence against section 241 of the Criminal Code;
- (e) an attempt to commit an offence against section 220 or 221 of the Criminal Code.

33 Schedule 2 amended (Violent offences)

Schedule 2

omit

211

insert

218

34 Part 12, Division 9 inserted

After section 140

insert

**Division 9 Transitional matter for Criminal Code Amendment
(Property Offences) Act 2022****141 Definition *aggravated property offence***

(1) This Act, as in force immediately before the commencement, continues to apply in relation to an offence defined as an aggravated property offence immediately before the commencement that was committed before the commencement.

(2) In this section:

commencement means the commencement of section 31 of the *Criminal Code Amendment (Property Offences) Act 2022*.

Part 6 Other laws amended**35 Other laws amended**

The Schedule amends the laws mentioned in it.

Part 7 Repeals**36 Act repealed**

The *Unauthorized Documents Act 1969* (Act No. 35 of 1969) is repealed.

Part 8 Repeal of Act**37 Repeal of Act**

This Act is repealed on the day after it commences.

Schedule Other laws amended

section 35

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
Bail Act 1982		
section 3, definition serious violence offence , paragraph (a)	2;	2 or 5A;
section 3, definition serious violence offence , paragraph (c)	211 or 212	218
Bail Regulations 1983		
regulation 2A(a)	194, 210, 211, 212, 213, 218	193B, 194, 217, 218, 220, 221, 228AB
after regulation 2A(b)		(ba) an offence against section 210, 211, 212, 213 or 218 of the Criminal Code, as in force immediately before the commencement of section 10 of the <i>Criminal Code Amendment (Property Offences) Act 2022</i> ;
Commercial Passenger (Miscellaneous) Regulations 1992		
Schedule 3, entry 24	211	218
Firearms Regulations 1997		
regulation 1A(1)(n)	whole paragraph	(n) section 192 or 192B;
regulation 1A(1)(o)	212(1)	193B(1)
	212(2)	193B(2)

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
after regulation 1A(1)(o)		(oa) section 194, 195, 196, 201, 202, 202B, 202C, 202D or 218;
regulation 1A(1)(p)	213(1) 213(6)	221(1) 222(1)(c) or (d)
regulation 1A(1)(q) and (r)	whole paragraph	
regulation 1A(1)(s)	226B	224, 225(3)
after regulation 1A(1)		(1A) An offence against the following provisions of the Criminal Code, as in force before the commencement of this subregulation: (a) section 211; (b) section 212(1), where the circumstance of aggravation specified in section 212(2) or (3) exists; (c) section 213(1), where the circumstance of aggravation specified in section 213(6) exists; (d) section 215; (e) section 216, where the

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
		circumstance of aggravation specified in section 216(2) or (3) exists;
		(f) section 226B.
after regulation 1B(p)		(pa) section 193B(1), unless a circumstance of aggravation specified in section 193B(2) or (3) exists;
regulation 1B(q)	imposed;	imposed.
regulation 1B(r)	whole paragraph	
<i>Housing Regulations 1983</i>		
Schedule 1, Part A, clause 2	125C, 188(1) or 213(1)	125C or 188(1)
after Schedule 1, Part A, clause 2		3 An offence against section 213(1) of the Criminal Code, as in force immediately before the commencement of section 10 of the <i>Criminal Code Amendment (Property Offences) Act 2022</i> .
<i>Liquor Act 2019</i>		
section 209(1)(ba)	200, 212, 213, 215,	193B, 200, 220, 221, 225(3),

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
after section 209(1)(ba)		(bb) sections 212, 213 and 215 of the Criminal Code, as in force immediately before the commencement of section 10 of the <i>Criminal Code Amendment (Property Offences) Act 2022</i> ;
<i>National Disability Insurance Scheme (Worker Clearance) Regulations 2021</i>		
Schedule 3, clause 1		<i>(in numerical order)</i> 193B The circumstances mentioned in subsections (2) or (3) exist
Schedule 3, clause 1, entries for 212, 227, 235, 258, 259, 260 and 263	whole entry	228AH The person intended to be deceived is a child or a vulnerable person 228AK The person intended to be deceived is a child or a vulnerable person 253 The offence involves or affects a child or a vulnerable person 254 The offence involves or

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
		affects a child or a vulnerable person
Schedule 3, clause 1, entry for 272, 284	272,	
<i>Public Transport (Passenger Safety) Regulations 2008</i>		
Schedule, Part A, clause 2	199, 200 or 213(1)	199 or 200
Schedule, Part A, after clause 2		3 An offence against section 213(1) of the Criminal Code, as in force immediately before the commencement of section 10 of the <i>Criminal Code Amendment (Property Offences) Act 2022</i> .
<i>Serious Sex Offenders Act 2013</i>		
Schedule 2, entry for Criminal Code	213	220 or 221
<i>Summary Offences Regulations</i>		
regulation 9, after "177,"		193B,
regulation 9	211, 212, 213,	218, 220, 221,
regulation 9, entry for Criminal Code, at the end		sections 211, 212 and 213 as in force immediately before the commencement of section 10 of the <i>Criminal Code Amendment (Property Offences) Act 2022</i>

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
<i>Victims of Crime Assistance Regulations 2007</i>		
Schedule 2, item 9	all words after "against section"	218 of the Criminal Code in a circumstance mentioned in section 219(1) of the Code.
<i>Victims of Crime Rights and Services Act 2006</i>		
section 18(b)	section 213 of the Criminal Code.	the following provisions of the Criminal Code: (i) section 220 or 221; (ii) section 213, as in force immediately before the commencement of section 10 of the <i>Criminal Code Amendment (Property Offences) Act 2022</i> .
section 19(2)(d)	against section 213 of the Criminal Code	mentioned in section 18(b)
<i>Youth Justice Regulations 2006</i>		
regulation 3A, before "For section"		(1)
regulation 3A(c) to (e)	whole paragraph	(c) section 193B(1) of the Criminal Code in the circumstances mentioned in section 193B(2) or (3) of the Code; (d) section 218 of the Criminal Code in a circumstance mentioned in section 219(1) of

Provision	Amendment
	<i>omit</i> <i>insert</i>
	the Code;
	(e) section 221(1) of the Criminal Code in the circumstances mentioned in section 221(1)(c) or (d) of the Code;
regulation 3A, at the end	(2) For section 38A(a) of the Act, an offence against each of the following provisions of the Criminal Code as in force immediately before the commencement of section 10 of the <i>Criminal Code Amendment (Property Offences) Act 2022</i> is prescribed: <ul style="list-style-type: none"> (a) section 211(1) of the Code in the circumstances mentioned in section 211(2) of the Code; (b) section 212(1) of the Code in the circumstances mentioned in section 212(2) or (3) of the Code; (c) section 213(1) of the Code in

Provision		Amendment
	<i>omit</i>	<i>insert</i>
		the circumstances mentioned in section 213(6) of the Code.