



Queensland

Criminal Code and Other Acts Amendment Act 2008

Act No. 55 of 2008



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Queensland

Criminal Code and Other Acts Amendment Act 2008

Act No. 55 of 2008

An Act to amend the Criminal Code, the Bail Act 1980, the Criminal Law Amendment Act 1945, the Criminal Law (Sexual Offences) Act 1978, the Penalties and Sentences Act 1992 and the Summary Offences Act 2005 for particular purposes and make particular consequential amendments to other Acts as listed in the schedule

[Assented to 23 October 2008]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Criminal Code and Other Acts Amendment Act 2008*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

Part 2 Amendment of Criminal Code

3 Act amended by pt 2

This part amends the Criminal Code.

4 Amendment of s 1 (Definitions)

(1) Section 1, definitions *disclose* and *intellectually impaired person*—

omit.

(2) Section 1—

insert—

‘*canal* includes aqueduct.

damage, in relation to a document, includes—

(a) obliterate the document; and

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

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

inland water includes river, canal and reservoir.

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

- (a) is attributable to an intellectual, psychiatric, cognitive or neurological impairment or a combination of these; and
- (b) results in—
- (i) a substantial reduction of the person's capacity for communication, social interaction or learning; and
- (ii) the person needing support.

port includes harbour and dock.'

- (3) Section 1, definition *vehicle*, paragraph (a), 'motor cycle,'—
omit.

5 Amendment of s 31 (Justification and excuse—compulsion)

Section 31(2), ', or any of the crimes defined in sections 81(2) and 82'—

omit.

6 Omission of ss 47–49

Sections 47 to 49—

omit.

7 Amendment of s 54 (Interference with Governor or Ministers)

- (1) Section 54(1), 'advisedly'—

omit.

[s 8]

- (2) Section 54(1)(a) and (b), ‘calculated’—
omit, insert—
‘with intention’.

8 Amendment of s 54A (Demands with menaces upon agencies of government)

- (1) Section 54A(6), definition *injury or detriment*, paragraph (a), after ‘;’—
insert—
‘or’.
- (2) Section 54A(1), (2), (3)(b) and (6), definition *injury or detriment*, ‘injury or’—
omit.

9 Amendment of s 55 (Interference with the Legislature)

- (1) Section 55(1), ‘advisedly’—
omit.
- (2) Section 55(1), before ‘interferes’—
insert—
‘intentionally’.

10 Amendment of ch 9 heading

Chapter 9, heading, ‘Unlawful assemblies—breaches’—
omit, insert—
‘Breaches’.

11 Replacement of ss 61–66

Sections 61 to 66—
omit, insert—

‘61 Riot

‘(1) If—

- (a) 12 or more persons who are present together (*assembled persons*) use or threaten to use unlawful violence to a person or property for a common purpose; and
- (b) the conduct of them taken together would cause a person in the vicinity to reasonably fear for the person’s personal safety;

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

Maximum penalty—

- (a) if the offender causes grievous bodily harm to a person, causes an explosive substance to explode or destroys or starts to destroy a building, vehicle or machinery—life imprisonment; or
- (b) if —
 - (i) the offender is armed with a dangerous or offensive weapon, instrument or explosive substance; or
 - (ii) property is damaged, whether by the offender or another of the assembled persons—7 years imprisonment; or
- (c) otherwise—3 years imprisonment.

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

‘(3) In this section—

building includes structure.

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

12 Amendment of s 70 (Forcible entry)

- (1) Section 70(1), ‘a breach of the peace or’ to ‘a breach of the peace,’—

omit, insert—

‘, or cause reasonable fear of, unlawful violence to a person or to property.’.

- (2) Section 70(1), from ‘is guilty’—

omit, insert—

‘commits a misdemeanour.

Maximum penalty—2 years imprisonment.’.

13 Amendment of s 71 (Forcible detainer)

- (1) Section 71, ‘a breach of the peace or’ to ‘a breach of the peace,’—

omit, insert—

‘, or cause reasonable fear of, unlawful violence to a person or to property.’.

- (2) Section 71, from ‘is guilty’—

omit, insert—

‘commits a misdemeanour.

Maximum penalty—2 years imprisonment.’.

14 Amendment of s 72 (Affray)

- (1) Section 72, ‘highway’—

omit, insert—

‘place’.

- (2) Section 72, from ‘is guilty’—

omit, insert—

‘commits a misdemeanour.

Maximum penalty—1 year’s imprisonment.’.

15 Omission of s 73 (Challenge to fight a duel)

Section 73—

omit.

16 Omission of s 77 (Unlawful processions)

Section 77—

omit.

17 Replacement of ch 11 (Piracy)

Chapter 11—

omit, insert—

‘Chapter 11 Piracy

‘79 Definition of *act of piracy*

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

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

(i) to commit robbery; or

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

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

(i) commits robbery; or

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

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

[s 18]

- (d) having taken possession of the ship in contravention of paragraph (c), retains possession of the ship; or
 - (e) confines the ship's master against his or her will.
- '(2) A person also does *an act of piracy* if the person—
- (a) trades with or supplies provisions to a pirate when the person knows or ought reasonably to know the person is dealing with a pirate; or
 - (b) builds a ship with the intention that the ship will be used for an act of piracy.
- '(3) In this section—
- builds* includes fits out.
- master* means the person having command or charge of the ship and does not include a pilot having the conduct of the ship, but not belonging to the ship.
- pirate* means a person carrying out or intending to carry out an act of piracy.

'80 **Crime of piracy**

'A person who does an act of piracy commits a crime.
Maximum penalty—life imprisonment.'

18 **Amendment of pt 3 hdg (Offences against the administration of law and justice and against public authority)**

Part 3, heading, after 'justice'—

insert—

'**, against office**'.

19 **Replacement of s 97 (Personating public officers)**

Section 97—

omit, insert—

‘97 Personating public officers

‘(1) A person who—

- (a) personates a public officer on an occasion when the officer is required or authorised to do an act or attend in a place by virtue of the officer’s office; or
- (b) falsely represents himself or herself to be a public officer, and assumes to do an act or to attend in a place for the purpose of doing an act by virtue of being that officer;

commits a misdemeanour.

Maximum penalty—3 years imprisonment.

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

‘(3) In this section—

office includes appointment and employment.’.

20 Amendment of s 98 (Definitions)

Section 98—

insert—

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

21 Amendment of s 98B (False or misleading information)

Section 98B(3)—

omit.

22 Replacement of ss 99–106

Sections 99 to 106—

omit, insert—

[s 22]

‘99 Voting if not entitled

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

Maximum penalty—2 years imprisonment.

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

Maximum penalty—2 years imprisonment.

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

Maximum penalty—2 years imprisonment.

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

Maximum penalty—2 years imprisonment.

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

Maximum penalty—2 years imprisonment.

‘100 Hindering or interfering with voting conduct

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

- (a) acts fraudulently; or
 - (b) uses or threatens to use force against any person; or
 - (c) causes or threatens to cause a detriment to any person;
- commits a misdemeanour.

Maximum penalty—1 year’s imprisonment.

‘(2) A person who causes or threatens to cause a detriment to another person (the *affected person*) because of the voting

conduct of any person (whether or not the affected person) commits a misdemeanour.

Maximum penalty—1 year's imprisonment.

'(3) In this section—

voting conduct of a person means—

- (a) the person's voting or not voting at an election; or
- (b) the way in which the person votes at an election.

'101 Bribery

'(1) A person who—

- (a) asks for or receives; or
- (b) offers, or agrees, to ask for or receive;

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

Maximum penalty—1 year's imprisonment.

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

Maximum penalty—1 year's imprisonment.

'(3) In this section—

election conduct of a person means—

- (a) the person's voting or not voting at an election; or
- (b) the way in which the person votes at an election; or
- (c) the person's nominating as a candidate for an election; or
- (d) the person's support of, or opposition to, a candidate at an election.

give includes promise and offer to give.

[s 22]

‘102 Publishing false information about a candidate

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

- (a) a candidate’s personal character or conduct; or
 - (b) whether a candidate has withdrawn from the election;
- commits a misdemeanour.

Maximum penalty—1 year’s imprisonment.

‘103 Providing money for illegal payments

‘A person who knowingly provides money—

- (a) for a payment that is contrary to this chapter division or the authorising Act for an election; or
- (b) to replace money that has been spent in making a payment mentioned in paragraph (a);

commits an offence.

Maximum penalty—10 penalty units.

‘104 Election notices to contain particular matters

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

Maximum penalty—3 penalty units.

- ‘(2) In this section—

address means address other than a post office box.

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

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

(b) affect the result of an election.

notice includes a poster, handbill and pamphlet.

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

23 Amendment of s 107 (Corrupt and illegal practices—time)

Section 107(1), ‘106’—

omit, insert—

‘104’.

24 Replacement of s 108 (Interference at elections)

Section 108—

omit, insert—

‘108 Interfering at elections

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

Maximum penalty—3 years imprisonment.’.

25 Amendment of s 109 (Electors attempting to violate secrecy of ballot)

Section 109, words after paragraph (c)—

omit, insert—

‘commits a misdemeanour.

Maximum penalty—3 years imprisonment.’.

26 Replacement of ss 110–117

Sections 110 to 117—

omit, insert—

[s 26]

‘110 Stuffing ballot boxes

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

Maximum penalty—7 years imprisonment.

‘111 Presiding officer helping an elector with a disability

‘If—

- (a) a presiding officer at an election agrees to help an elector who is blind, or otherwise unable to vote without help, by marking the elector’s ballot paper for the elector; and
- (b) the presiding officer wilfully fails to mark the ballot paper—
 - (i) in the way requested by the elector; and
 - (ii) in the sight of anyone else lawfully present;

the presiding officer commits a misdemeanour.

Maximum penalty—3 years imprisonment.

‘112 False or misleading information

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

Maximum penalty—7 years imprisonment.

- ‘(2) Subsection (1) does not apply if, when giving information in a document, the giver—
- (a) informs the recipient, to the best of the giver’s ability, how it is false or misleading; and
 - (b) if the giver has, or can reasonably obtain, the correct information—gives the correct information to the recipient.

‘113 Interfering with secrecy at elections

- ‘(1) This section applies to an election at which voting is by ballot.
- ‘(2) A person who unfolds a ballot paper that has been marked and folded by an elector at the election commits a misdemeanour.
Maximum penalty—2 years imprisonment.
- ‘(3) An officer who ascertains or discovers, or attempts to ascertain or discover, how an elector has voted at the election commits a misdemeanour.
Maximum penalty—2 years imprisonment.
- ‘(4) An officer who discloses any information about how an elector has voted at the election commits a misdemeanour.
Maximum penalty—2 years imprisonment.
- ‘(5) An officer who places a mark or writing on an elector’s ballot paper commits a misdemeanour.
Maximum penalty—2 years imprisonment.
- ‘(6) A person does not commit an offence against this section only by doing something the person is ordered by a court or authorised under the authorising Act to do.
- ‘(7) Also this section does not apply to a police officer doing a thing in the course of performing a duty of a police officer.
- ‘(8) In this section—
officer, in relation to an election, means a person performing duties at the election under the authorising Act.

‘114 Breaking the seal of a parcel at elections

- ‘(1) A person who wilfully opens or breaks the seal of a parcel sealed under the authorising Act for an election commits a misdemeanour.
Maximum penalty—2 years imprisonment.
- ‘(2) A person does not commit an offence against subsection (1) only by doing something the person is ordered by a court or authorised under the authorising Act to do.

[s 27]

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

27 Replacement of s 129 (Destroying evidence)

Section 129—

omit, insert—

‘129 Damaging evidence with intent

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

Maximum penalty—7 years imprisonment.’.

28 Amendment of s 130 (Preventing witnesses from attending)

Section 130, from ‘is guilty’—

omit, insert—

‘commits a misdemeanour.

Maximum penalty—3 years imprisonment.’.

29 Amendment of s 133 (Compounding crimes)

(1) Section 133, heading, ‘crimes’—

omit, insert—

‘an indictable offence’.

(2) Section 133(1), ‘a crime’—

omit, insert—

‘an indictable offence’.

(3) Section 133(2), ‘the crime’—

omit, insert—

‘the indictable offence’.

(4) Section 133—

insert—

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

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

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

(c) dispute resolution relating to the alleged offence;

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

30 Omission of s 134 (Compounding penal actions)

Section 134—

omit.

31 Omission of s 135 (Advertising a reward for the return of stolen property etc.)

Section 135—

omit.

32 Replacement of s 136 (Justices acting oppressively or when interested)

Section 136—

omit, insert—

[s 33]

‘136 Justices exercising jurisdiction in a matter of personal interest

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

Maximum penalty—3 years imprisonment.’.

33 Amendment of s 137 (Delay to take person arrested before Magistrate)

Section 137—

insert—

‘(2) For subsection (1)—

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

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

34 Omission of s 138 (Bringing fictitious action on penal statute)

Section 138—

omit.

35 Amendment of s 148 (Obstructing officers of courts of justice)

Section 148, from ‘is guilty’—

omit, insert—

‘commits a misdemeanour.

Maximum penalty—2 years imprisonment.’.

36 Replacement of s 193 (False statements in statements required to be under oath or solemn declaration)

Section 193—

omit, insert—

‘193 False verified statements

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

Maximum penalty—7 years imprisonment.

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

‘(3) In this section—

verified statement means—

- (a) a statement made on oath or under another sanction that may by law be substituted for an oath; or
- (b) a statement verified by solemn declaration or affirmation.’.

37 Omission of ss 201–203

Sections 201 to 203—

omit.

38 Amendment of s 208 (Unlawful sodomy)

(1) Section 208(1)—

omit, insert—

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

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

[s 39]

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

Maximum penalty—14 years imprisonment.’.

- (2) Section 208(2), ‘The offender’—

omit, insert—

‘For an offence other than an attempt, the offender’.

- (3) Section 208(2)(b) and (4)(a), ‘an intellectually impaired person’—

omit, insert—

‘a person with an impairment of the mind’.

- (4) Section 208(4)(b), ‘the intellectually impaired person’—

omit, insert—

‘the person with an impairment of the mind’.

39 Omission of s 209 (Attempted sodomy)

Section 209—

omit.

40 Amendment of s 216 (Abuse of intellectually impaired persons)

- (1) Section 216, heading, ‘intellectually impaired persons’—

omit, insert—

‘persons with an impairment of the mind’.

- (2) Section 216(1), (2)(a) to (f) and (4)(a), ‘an intellectually impaired person’—

omit, insert—

‘a person with an impairment of the mind’.

(3) Section 216(3), (3A) and (4)(b), ‘the intellectually impaired person’—

omit, insert—

‘the person with an impairment of the mind’.

41 Amendment of s 217 (Procuring young person etc. for carnal knowledge)

Section 217(1), ‘an intellectually impaired person’—

omit, insert—

‘a person with an impairment of the mind’.

42 Amendment of s 228G (Forfeiture of child exploitation material etc.)

Section 228G(1)(a), before ‘;’—

insert—

‘or 218A’.

43 Amendment of s 229B (Maintaining a sexual relationship with a child)

(1) Section 229B(10), definition *offence of a sexual nature*, ‘209,’—

omit.

(2) Section 229B(10), definition *prescribed age*, paragraph (a), ‘or 209’—

omit.

44 Amendment of s 229E (Meaning of prostitution)

Section 229E(2)(b), ‘an intellectually impaired person’—

omit, insert—

‘a person with an impairment of the mind’.

[s 45]

45 Omission of s 229F (Meaning of *intellectually impaired person*)

Section 229F—

omit.

46 Amendment of s 229G (Procuring prostitution)

Section 229G(2) and (3), ‘an intellectually impaired person’—

omit, insert—

‘a person with an impairment of the mind’.

47 Amendment of s 229H (Knowingly participating in provision of prostitution)

Section 229H(2), (3)(b), (4)(b) and (5)(c), ‘an intellectually impaired person’—

omit, insert—

‘a person with an impairment of the mind’.

48 Amendment of s 229I (Persons found in places reasonably suspected of being used for prostitution etc.)

Section 229I(2) and (4)(a) and (b), ‘an intellectually impaired person’—

omit, insert—

‘a person with an impairment of the mind’.

49 Amendment of s 229K (Having an interest in premises used for the purposes of prostitution etc.)

(1) Section 229K, heading, ‘the purposes of’—

omit.

(2) Section 229K(3) and (3B), ‘an intellectually impaired person’—

omit, insert—

‘a person with an impairment of the mind’.

50 Amendment of s 229L (Permitting young person etc. to be at place used for prostitution)

Section 229L, ‘an intellectually impaired person’—

omit, insert—

‘a person with an impairment of the mind’.

51 Omission of ch 25 (Miscellaneous offences)

Chapter 25—

omit.

52 Amendment of s 317A (Carrying or sending dangerous goods in a vehicle)

(1) Section 317A—

insert—

‘(1A) A person who knowingly sends by a vehicle any dangerous goods under a false description of the goods or with a false description of the sender of the goods commits a misdemeanour.

Maximum penalty—3 years imprisonment.’.

(2) Section 317A(2), ‘this section’—

omit, insert—

‘subsection (1)’.

(3) Section 317A(1A) to (3)—

renumber as section 317A(2) to (4).

[s 53]

53 Replacement of ss 319 and 319A

Sections 319 and 319A—

omit, insert—

‘319 Endangering the safety of a person in a vehicle with intent

‘(1) A person who does anything that endangers, or is likely to endanger, the safe use of a vehicle, with intent to injure or endanger the safety of any person in the vehicle, whether a particular person or not, commits a crime.

Maximum penalty—life imprisonment.

‘(2) In this section—

do anything, for a person who has a duty to do the thing, includes omit to do the thing.

in includes on.’.

54 Replacement of ss 322 and 323

Sections 322 and 323—

omit, insert—

‘322 Administering poison with intent to harm

‘A person who unlawfully, and with intent to injure or annoy another person, causes a poison or another noxious thing to be administered to, or taken by, any person commits a crime.

Maximum penalty—

(a) if the poison or other noxious thing endangers the life of, or does grievous bodily harm to, the person to whom it is administered or by whom it is taken—14 years imprisonment; or

(b) otherwise—7 years imprisonment.

‘323 Wounding

‘(1) A person who unlawfully wounds anyone else commits a misdemeanour.

Maximum penalty—7 years imprisonment.

‘(2) The offender may be arrested without warrant.’.

55 Amendment of s 326 (Endangering life of children by exposure)

Section 326, from ‘is guilty’—

omit, insert—

‘commits a crime.

Maximum penalty—7 years imprisonment.’.

56 Omission of ss 331 and 332

Sections 331 and 332—

omit.

57 Amendment of s 333 (Evading laws as to equipment of ships and shipping dangerous goods)

(1) Section 333, heading, ‘and shipping dangerous goods’—

omit.

(2) Section 333, from ‘—’ to ‘being’—

omit, insert—

‘, being’.

(3) Section 333, before paragraph (b), ‘; or’—

omit.

(4) Section 333, paragraph (b)—

omit.

[s 58]

58 Amendment of s 334 (Landing explosives)

Section 334(2)—

omit.

59 Omission of s 338 (Assaults on persons protecting wrecks)

Section 338—

omit.

60 Amendment of s 338A (Assaults of member of crew on aircraft)

Section 338A, ‘injury’—

omit.

61 Amendment of s 340 (Serious assaults)

(1) Section 340(1)(c), (d) and (e)—

omit, insert—

‘(c) unlawfully assaults any person while the person is performing a duty imposed on the person by law; or

(d) assaults any person because the person has performed a duty imposed on the person by law; or’.

(2) Section 340(1)(g) and (h), before ‘assaults’—

insert—

‘unlawfully’.

(3) Section 340(2), after ‘who’—

insert—

‘unlawfully’.

(4) Section 340, before subsection (2A)—

insert—

‘(2AA) A person who—

- (a) unlawfully assaults, or resists or wilfully obstructs, a public officer while the officer is performing a function of the officer’s office; or

Example—

A person unlawfully assaults an authorised officer under the *Child Protection Act 1999* while the officer is investigating an allegation of harm to a child under that Act.

- (b) assaults a public officer because the officer has performed a function of the officer’s office;

commits a crime.

Maximum penalty—7 years imprisonment.’.

(5) Section 340(3)—

insert—

‘*office* includes appointment and employment.

public officer includes—

- (a) a member, officer or employee of a service established for a public purpose under an Act; and

Example of a service—

Queensland Ambulance Service established under the *Ambulance Service Act 1991*

- (b) a health service employee under the *Health Services Act 1991*; and

- (c) an authorised officer under the *Child Protection Act 1999*.’.

62 Amendment of s 354A (Kidnapping for ransom)

Section 354A(1)(a), ‘any injury or’—

omit.

[s 63]

63 Amendment of s 359 (Threats)

Section 359, from ‘Any person’ to ‘that other person’—

omit, insert—

‘A person (the *first person*) who threatens to cause a detriment to a second person with intent to prevent or hinder any person (the *other person*) other than the first person.’.

64 Replacement of s 364 (Cruelty to children under 16)

Section 364—

omit, insert—

‘364 Cruelty to children under 16

‘(1) A person who, having the lawful care or charge of a child under 16 years, causes harm to the child by any prescribed conduct that the person knew or ought reasonably to have known would be likely to cause harm to the child commits a crime.

Maximum penalty—7 years imprisonment.

‘(2) In this section—

harm, to a child, means any detrimental effect of a significant nature on the child’s physical, psychological or emotional wellbeing, whether temporary or permanent.

prescribed conduct means—

- (a) failing to provide the child with adequate food, clothing, medical treatment, accommodation or care when it is available to the person from his or her own resources; or
- (b) failing to take all lawful steps to obtain adequate food, clothing, medical treatment, accommodation or care when it is not available to the person from his or her own resources; or
- (c) deserting the child; or
- (d) leaving the child without means of support.

‘364A Leaving a child under 12 unattended

‘(1) A person who, having the lawful care or charge of a child under 12 years, leaves the child for an unreasonable time without making reasonable provision for the supervision and care of the child during that time commits a misdemeanour.

Maximum penalty—3 years imprisonment.

‘(2) Whether the time is unreasonable depends on all the relevant circumstances.’.

65 Amendment of s 392 (Special cases)

Section 392(3)—

omit.

66 Omission of s 397 (Husband and wife)

Section 397—

omit.

67 Amendment of s 398 (Punishment of stealing)

(1) Section 398(2)—

omit.

(2) Section 398, punishment in special cases, clause 1, ‘imprisonment for life’—

omit, insert—

‘14 years imprisonment’.

(3) Section 398, punishment in special cases—

insert—

‘2 Stealing stock

‘(1) If the thing stolen is 1 or more animals and the offender is sentenced to pay a fine, the fine must be at least the following amount for each animal—

[s 68]

- (a) if the animal's value is determined under a regulation under section 450F—that value or \$1000, whichever is higher;
 - (b) otherwise—\$1000.
- ‘(2) Subclause (1) applies whether the person is sentenced to pay the fine in addition to, or instead of, imprisonment.
- ‘(3) Subclause (1) applies whether the person is liable to imprisonment for 5 years or a longer period under this section.
- ‘(4) In this clause—
animal means an animal that is stock.’.

68 Replacement of ss 399–401

Sections 399 to 401—

omit, insert—

‘399 Fraudulent concealment of particular documents

‘A person who, with intent to defraud, conceals the whole or part of—

- (a) a register or record kept by lawful authority; or
- (b) a document recording title to property; or
- (c) a testamentary instrument (whether the testator is living or dead);

commits a crime.

Maximum penalty—

- (a) if the offence is committed in relation to a document recording title to property—3 years imprisonment; or
- (b) otherwise—14 years imprisonment.’.

69 Omission of s 405 (Fraudulently dealing with minerals in mines)

Section 405—

omit.

70 Omission of ss 407 and 408

Sections 407 and 408—

omit.

71 Amendment of s 408C (Fraud)

(1) Section 408C(2), ‘10 years’—

omit, insert—

‘12 years’.

(2) Section 408C(2)(d), ‘is of a value of \$5000’—

omit, insert—

‘or the detriment caused, is of a value of \$30000’.

72 Omission of s 410 (Loaded arms)

Section 410—

omit.

73 Replacement of ss 415–417

Sections 415 to 417—

omit, insert—

‘415 Extortion

‘(1) A person (the *demandor*) who, without reasonable cause, makes a demand—

(a) with intent to—

[s 73]

- (i) gain a benefit for any person (whether or not the demander); or
 - (ii) cause a detriment to any person other than the demander; and
- (b) with a threat to cause a detriment to any person other than the demander;

commits a crime.

Maximum penalty—

- (a) if carrying out the threat causes, or would be likely to cause, serious personal injury to a person other than the offender—life imprisonment; or
- (b) if carrying out the threat causes, or would be likely to cause, substantial economic loss in an industrial or commercial activity conducted by a person or entity other than the offender (whether the activity is conducted by a public authority or as a private enterprise)—life imprisonment; or
- (c) otherwise—14 years imprisonment.

‘(2) It is immaterial that—

- (a) the demand or threat is made in a way ordinarily used to inform the public rather than a particular person; or
- (b) the threat does not specify the detriment to be caused; or
- (c) the threat does not specify the person to whom the detriment is to be caused or specifies this in a general way; or

Example—

a threat to cause a detriment to the public or any members of the public

- (d) the detriment is to be caused by someone other than the demander.

‘(3) A reference to making a demand includes causing someone to receive a demand.

-
- ‘(4) A reference to a threat to cause a detriment to any person other than the demander includes a statement that gives rise to a threat of detriment to the other person.
- ‘(5) A prosecution for an offence in which it is intended to rely on a circumstance of aggravation mentioned in paragraph (a) or (b) of the penalty can not be commenced without the consent of the Attorney-General.
- ‘(6) In this section—
threat includes a statement that may reasonably be interpreted as a threat.’.

74 Omission of s 426 (Unlawful entry of vehicle)

Section 426—

omit.

75 Omission of ss 430 and 431

Sections 430 and 431—

omit.

76 Insertion of new s 432

Chapter 41—

insert—

‘432 What is *tainted property* for ch 41

‘(1) In this chapter—

tainted property means—

- (a) a thing that has been obtained by way of an act constituting an indictable offence; or
- (b) if tainted property mentioned in paragraph (a) is converted into other property—any of the other property; or

[s 77]

(c) if tainted property mentioned in paragraph (a) is mortgaged, pledged or exchanged for other property—any of the proceeds of the mortgage, pledge, or exchange.

‘(2) However, a thing stops being *tainted property* after a person acquires a lawful title to it.’.

77 Amendment of s 433 (Receiving stolen property etc.)

(1) Section 433, heading—

omit, insert—

‘433 Receiving tainted property’.

(2) Section 433(1) to (6)—

omit, insert—

‘(1) A person who receives tainted property, and has reason to believe it is tainted property, commits a crime.

Maximum penalty—

(a) if the property was obtained by way of an act constituting a crime—14 years imprisonment; or

(b) if the property is a firearm or ammunition—14 years imprisonment; or

(c) if the offender received the property while acting as a pawnbroker or dealer in second hand goods, under a licence or otherwise—14 years imprisonment; or

(d) otherwise—7 years imprisonment.’.

(3) Section 433(7)—

renumber as section 433(2).

78 Replacement of ss 434 and 435

Sections 434 and 435—

omit, insert—

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

‘If—

- (a) a thing is obtained by way of any act constituting an indictable offence; and
- (b) a person dishonestly receives, or dishonestly agrees to receive, any benefit on an agreement or understanding that the person will help anyone to recover the thing;

then, unless the person has used all due diligence to cause the offender to be brought to trial for the offence, the person commits a crime.

Maximum penalty—7 years imprisonment.’

79 Omission of ch 42 hdg and ss 436–440

- (1) Chapter 42, heading—

omit.

- (2) Sections 436 to 440—

omit.

80 Relocation of s 441 (Fraudulent falsification of records)

Section 441—

relocate and *renumber*, in chapter 40, as section 430.

81 Relocation of s 442 (False accounting by public officer)

Section 442—

relocate and *renumber*, in chapter 40 as section 431.

[s 82]

82 Omission of ch 44B (Other offences analogous to stealing punishable on summary conviction)

Chapter 44B—

omit.

83 Omission of s 460 (Damage)

Section 460—

omit.

84 Amendment of s 461 (Arson)

(1) Section 461(a) and (b)—

omit, insert—

‘(a) a building or structure;

(b) a motor vehicle, train, aircraft or vessel;’.

(2) Section 461(e)—

omit.

(3) Section 461—

insert—

‘(2) It is immaterial whether or not a thing mentioned in subsection (1)(a) or (b) is complete.’.

85 Replacement of s 462 (Attempts to commit arson)

Section 462—

omit, insert—

‘462 Endangering particular property by fire

‘A person who wilfully and unlawfully sets fire to anything situated so that a thing mentioned in section 461(1)(a) to (d) is likely to catch fire from it commits a crime.

Maximum penalty—14 years imprisonment.’.

86 Omission of ss 464 to 466

Sections 464 to 466—

omit.

87 Replacement of ss 467 and 467A

Sections 467 and 467A—

omit, insert—

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

‘(1) A person who, with intent to prejudice the safe use of a vehicle or related transport infrastructure or to injure property in a vehicle or related transport infrastructure, does anything that endangers, or is likely to endanger, the safe use of the vehicle or related transport infrastructure commits a crime.

Maximum penalty—life imprisonment.

‘(2) In this section—

do anything, for a person who has a duty to do the thing, includes omit to do the thing.

in includes on.

related transport infrastructure includes a road, railway, runway, station, airport, terminal, wharf, jetty or other structure used by a vehicle to travel or by persons using a vehicle to travel.’.

88 Amendment of s 469 (Wilful damage)

(1) Section 469, punishment in special cases, clauses 1 and 2—

omit, insert—

‘1 Destroying or damaging premises by explosion

‘If—

(a) the property in question is premises; and

[s 88]

- (b) the destruction or damage is caused by an explosion;
and
- (c) either—
 - (i) anyone is in or on the premises when the explosion happens; or
 - (ii) the destruction or damage actually endangers anyone's life;

the offender commits a crime.

Maximum penalty—life imprisonment.

'2 Sea walls and other property

'If—

- (a) the property in question is—
 - (i) a bank or wall of the sea or inland water; or
 - (ii) a work relating to a port or inland water; and
- (b) the destruction or damage causes an actual danger of inundation or of damage to land or a building;

the offender commits a crime.

Maximum penalty—life imprisonment.'

- (2) Section 469, punishment in special cases, clause 7—
omit, insert—

'7 Other things of special value

'If—

- (a) the property in question—
 - (i) is a vessel, whether complete or not; and
 - (ii) is destroyed or rendered useless; or
- (b) the property in question—
 - (i) is a light, beacon, buoy, mark or signal; and

- (ii) is used for navigation or for the guidance of sailors; or
- (c) the property in question is—
 - (i) a bank or wall of the sea or inland water; or
 - (ii) a work relating to a port or inland water; or
- (d) the property in question—
 - (i) is a manufacturing or agricultural machine or another thing used, or intended for use, for manufacture or for performing a process connected with the preparation of agricultural produce; and
 - (ii) is destroyed or rendered useless; or
- (e) the property in question is—
 - (i) a well or bore for water; or
 - (ii) the dam, bank, wall, or floodgate of a millpond or pool;

the offender commits a crime.

Maximum penalty—7 years imprisonment.’.

89 Amendment of s 470A (Unlawful deposition of explosives)

- (1) Section 470A, heading, ‘explosives’—
omit, insert—
‘explosive or noxious substances’.
- (2) Section 470A(1), ‘without reasonable cause or excuse’—
omit, insert—
‘unlawfully’.
- (3) Section 470A(1), after ‘explosive’—
insert—
‘or noxious’.

[s 90]

90 Replacement of s 471 (Attempts to injure mines)

Section 471—

omit, insert—

‘471 Damaging mines

‘(1) A person who unlawfully and with intent to damage a mine—

(a) damages a mine; or

Example—

obstructing the working of a mine by running water into the mine or into an underground passage leading into the mine

(b) interferes with equipment or infrastructure, whether complete or not, connected or used with a mine;

commits a crime.

Maximum penalty—7 years imprisonment.

‘(2) In this section—

damage, a mine, includes obstruct the working of the mine.

equipment includes machinery, appliance, cable and apparatus.

infrastructure means a road, building or other structure.

interfere, with equipment or infrastructure, means detrimentally interfere with its effective or efficient operation.’.

91 Omission of s 476 (Removing boundary marks)

Section 476—

omit.

92 Amendment of s 488 (Forgery and uttering)

(1) Section 488(1), penalty—

omit, insert—

‘Maximum penalty—

- (a) if the document is a valuable security, insurance policy, testamentary instrument (whether the testator is living or dead) or registration document or is evidence of an interest in land—14 years imprisonment; or
- (b) if the document is a power of attorney, contract or document kept or issued by lawful authority other than a document mentioned in paragraph (a)—7 years imprisonment; or
- (c) otherwise—3 years imprisonment.’.

(2) Section 488—

insert—

‘(3) In this section—

registration document means a document kept or issued by the registrar under the *Births, Deaths and Marriages Registration Act 2003* or an equivalent document kept or issued under a law of another jurisdiction, inside or outside Australia.’.

(3) Section 488, ‘**Punishment in special cases**’—

omit.

(4) Section 488, punishment in special cases, clauses 1 to 5—

omit.

93 Omission of ss 492–497

Sections 492 to 497—

omit.

94 Amendment of s 502 (Attempts to procure unauthorised status)

Section 502, heading—

omit, insert—

‘502 Procuring or claiming unauthorised status’.

[s 95]

95 Omission of ss 503 and 504

Sections 503 and 504—

omit.

96 Omission of ch 50 (Forgery and like offences punishable on summary conviction)

Chapter 50—

omit.

97 Omission of ss 516 and 517

Sections 516 and 517—

omit.

98 Omission of s 534 (Intimidation of workers and employers)

Section 534—

omit.

99 Replacement of ss 535–537

Sections 535 to 537—

omit, insert—

‘535 Attempts to commit indictable offences

‘(1) If a person attempts to commit a crime, the person commits a crime.

‘(2) If a person attempts to commit a misdemeanour, the person commits a misdemeanour.

‘536 Punishment of attempts to commit indictable offences

- ‘(1) A person who attempts to commit an indictable offence punishable by mandatory life imprisonment is liable, if no other punishment is provided, to life imprisonment.
- ‘(2) A person who attempts to commit an indictable offence punishable by life imprisonment but not mandatory life imprisonment is liable, if no other punishment is provided, to 14 years imprisonment.
- ‘(3) A person who attempts to commit any other indictable offence is liable, if no other punishment is provided, to a punishment equal to one-half of the greatest punishment to which an offender convicted of the offence is liable.
- ‘(4) In this section—
mandatory life imprisonment means a penalty of life imprisonment that can not be mitigated or varied under this Code or any other law.’.

100 Amendment of s 538 (Reduction of punishment)

- (1) Section 538(2), ‘that punishment’—
omit, insert—
‘the punishment to which the person would otherwise be liable for the attempt’.
- (2) Section 538(2), ‘7 years’—
omit, insert—
‘14 years’.

101 Replacement of s 540 (Preparation to commit crimes with explosives etc.)

Section 540—
omit, insert—

[s 102]

‘540 Preparation to commit crimes with dangerous things

‘A person who makes, or knowingly has possession of, an explosive substance or other dangerous or noxious thing—

- (a) with intent to commit a crime by using the thing; or
 - (b) to enable anyone to commit a crime by using the thing;
- commits a crime.

Maximum penalty—3 years imprisonment.’.

102 Amendment of s 543A (Industrial disputes)

Section 543A(1), ‘534 or’—

omit.

103 Replacement of ss 544 and 545

Sections 544 and 545—

omit, insert—

‘544 Accessories after the fact to offences

- ‘(1) If a person becomes an accessory after the fact to a crime, the person commits a crime.
- ‘(2) If a person becomes an accessory after the fact to a misdemeanour, the person commits a misdemeanour.
- ‘(3) If a person becomes an accessory after the fact to a simple offence, the person commits a simple offence.

‘545 Punishment of accessories after the fact to offences

- ‘(1) A person who becomes an accessory after the fact to an indictable offence punishable by mandatory life imprisonment is liable, if no other punishment is provided, to life imprisonment.
- ‘(2) A person who becomes an accessory after the fact to an indictable offence punishable by life imprisonment but not

mandatory life imprisonment is liable, if no other punishment is provided, to 14 years imprisonment.

- ‘(3) A person who becomes an accessory after the fact to any other indictable offence or a simple offence is liable, if no other punishment is provided, to a punishment equal to one-half of the greatest punishment to which an offender convicted of the offence is liable.
- ‘(4) In this section—
mandatory life imprisonment means a penalty of life imprisonment that can not be mitigated or varied under this Code or any other law.’.

104 Amendment of s 552 (Duty of person arresting)

Section 552—

insert—

- ‘(2) However, it is sufficient for subsection (1) if the person immediately delivers the arrested person into the custody of a police officer.
- ‘(3) The police officer may receive the arrested person into custody.

Note—

See also section 137 for a relevant offence and the *Police Powers and Responsibilities Act 2000*, section 393 for the duties of the police officer.’.

105 Amendment of s 566 (Particular indictments)

Section 566—

insert—

- ‘(1) In an indictment for an offence relating to giving information or a document that a person knows is false or misleading, it is enough to state the information or document was ‘false or misleading’ to the person’s knowledge, without specifying whether it was false or whether it was misleading.’.

[s 106]

106 Amendment of s 568 (Cases in which several charges may be joined)

Section 568(2), ‘or for an offence under section 436’—
omit.

107 Amendment of s 578 (Charge of offence of a sexual nature)

Section 578(1), (1A) and (4), ‘209,’—
omit.

108 Amendment of s 590AD (Definitions for ch div 3)

(1) Section 590AD, definitions *disclose* a thing and *disclose* particulars—

omit.

(2) Section 590AD—

insert—

‘*Evidence Act section 93A device statement* see section 590AFA.

view includes listen to.’.

109 Insertion of new s 590AFA

After section 590AF—

insert—

‘590AFA Meaning of *Evidence Act section 93A device statement*

‘An *Evidence Act section 93A device statement* means a statement—

- (a) made to a person investigating an alleged offence; and
- (b) contained in—

- (i) any disc, tape, sound track or other device mentioned in paragraph (e) of the definition *document* in the *Evidence Act 1977*, schedule 3 capable of reproducing sounds; or
- (ii) any film, negative, tape or other device mentioned in paragraph (f) of the definition *document* in the *Evidence Act 1977*, schedule 3; and
- (c) given in, or in anticipation of, a criminal proceeding about the alleged offence; and
- (d) that is potentially admissible under the *Evidence Act 1977*, section 93A.’.

110 Amendment of s 590AI (When mandatory disclosure must be made)

Section 590AI(1)—

insert—

- ‘(c) the prosecution must give an accused person a written notice of a thing under section 590AOA(2) and, apart from section 590AOA, the prosecution would have to give the person a copy of the thing under section 590AH(2).’.

111 Amendment of s 590AK (When requested disclosure must be made)

Section 590AK(1)(b)—

insert—

- ‘(iii) the prosecution must give the accused person written notice of a thing under section 590AOA(2) and, apart from section 590AOA, the prosecution would have to give the person a copy of the thing on request under section 590AJ(2).’.

[s 112]

112 Amendment of s 590AO (Limit on disclosure of sensitive evidence)

(1) Before section 590AO(1)—

insert—

‘(1AA) This section does not apply to an Evidence Act section 93A device statement.’.

(2) Section 590AO(2)(f)(ii), before subparagraph (A)—

insert—

‘(AA)the thing will only be viewed and examined for a legitimate purpose connected with the relevant proceeding; and’.

(3) Section 590AO(2)(f)(ii), subparagraphs (AA) to (B)—

renumber as subparagraphs (A) to (C).

(4) Section 590AO(4), before paragraph (a)—

insert—

‘(aa) the thing will only be viewed and examined for a legitimate purpose connected with the relevant proceeding; and’.

(5) Section 590AO(4), paragraphs (aa) to (b)—

renumber as paragraphs (a) to (c).

113 Insertion of new s 590AOA

After section 590AO—

insert—

‘590AOA Evidence Act section 93A device statement

‘(1) The prosecution is not, for a relevant proceeding, required under this chapter division to give the accused person a copy of an Evidence Act section 93A device statement (the *statement*) other than as required under this section.

‘(2) If—

-
- (a) apart from this section, the prosecution would have to give the accused person a copy of the statement; and
 - (b) the prosecution does not give the accused person a copy of the statement;

then the prosecution must give the accused person a written notice—

- (c) describing the statement; and
- (d) stating that the prosecution—
 - (i) considers the statement to be an Evidence Act section 93A device statement; and
 - (ii) is not required to give the accused person a copy of the statement other than as required under this section; and
- (e) stating the matters mentioned in subsection (3) or (6), whichever is applicable.

‘(3) If the accused person has a lawyer acting for him or her, the notice must state that the prosecution will give a lawyer acting for the accused person a copy of the statement (the *copy*) on the following conditions—

- (a) that the lawyer must not give the copy to the accused person or anyone else other than the following—
 - (i) a lawyer acting for the accused person or to whom the copy is referred for particular advice;
 - (ii) a person, other than a lawyer, to whom the copy is referred for particular expert advice;
 - (iii) an associate of the lawyer to the extent necessary for work to be done for the lawyer in relation to the relevant proceeding or a proceeding for a relevant charge in the ordinary practice of the law;
- (b) that any lawyer acting for the accused person, other than the lawyer to whom the prosecution gives the copy, must not give the copy to the accused person or anyone else other than the persons mentioned in paragraph (a)(ii) or (a)(iii);

[s 113]

- (c) that a person who is given the copy under paragraph (a) or (b), other than a lawyer mentioned in the paragraph, must not give the copy to the accused person or anyone else who is not a lawyer acting for the accused person;
 - (d) that the copy held by the lawyer to whom it was given by the prosecution, or held by anyone else to whom the copy has been given under this section—
 - (i) must not be copied; and
 - (ii) must be returned to the prosecution within 14 days after—
 - (A) the lawyer or other person stops being someone who may be given the copy under this section; or
- Example—*
- A lawyer may stop acting for the accused person.
- (B) the end of the proceedings for the relevant charge;
- (e) that the copy may only be given to another person in accordance with the conditions mentioned in paragraphs (a) to (d) for a legitimate purpose connected with the relevant proceeding or a proceeding for a relevant charge.

‘(4) If the original statement is a visual image device and the copy to be given by the prosecution under the notice is only a sound device, the court may direct the prosecution to give a copy that is a visual image device.

‘(5) The court may make a direction under subsection (4) only if it is satisfied the terms of the direction can ensure—

- (a) the copy will only be viewed for a legitimate purpose connected with the relevant proceeding; and
- (b) there is no unauthorised copying or circulation of the copy.

‘(6) If the accused person does not have a lawyer acting for him or her, the notice must state that—

-
- (a) the prosecution will not give the statement (whether the original or copy) to the accused person; and
 - (b) the prosecution will, on request, allow an appropriate person to view the statement, either the original or a copy as stated in the notice for the purposes of the relevant proceeding at a stated place.
- ‘(7) If the prosecution refuses to accept a person, nominated by the accused person under paragraph (c) of the definition *appropriate person*, as an appropriate person for subsection (6)(b), the court may direct the prosecution to accept the person as an appropriate person for subsection (6)(b), subject to the conditions the court considers appropriate.
- ‘(8) The court may make the direction under subsection (7) only if the court is satisfied the terms of the direction can ensure—
- (a) the statement will only be viewed for a legitimate purpose connected with the relevant proceeding; and
 - (b) there is no unauthorised copying or circulation of the statement; and
 - (c) if the original statement is to be viewed—the integrity of the statement is protected.
- ‘(9) A person who does an act mentioned in the *Evidence Act 1977*, section 93AA(1)(a) to (c) in contravention of a condition imposed by a notice under subsection (3) or a direction under subsection (5) or (7)—
- (a) does the act without authority; and
 - (b) commits an offence against that section.
- ‘(10) For subsection (3)(d)(i) or (8)(b), it is declared that the making of a transcript of the contents of the statement is not the making of a copy of the statement to which the *Evidence Act 1977*, section 93AA(1)(c) applies.
- ‘(11) In this section—
- appropriate person*** means—
- (a) the accused person; or

[s 113]

- (b) a lawyer mentioned in the *Evidence Act 1977*, section 21O(4); or
- (c) another person engaged by the accused person if the prosecution or court considers it is appropriate for the other person to view the thing.

Examples of persons prosecution may consider appropriate—

- interpreter
- expert

associate of a lawyer means an associate of the law practice, of the lawyer, as defined under the *Legal Profession Act 2007*, section 7(1)(a) or (c).

copy, of the statement, in subsections (3) and (6) means a copy of the original statement in the form of—

- (a) a device of similar function to the original device containing a copy of the statement; or
- (b) if the original statement is in the form of a visual image device—any sound device capable of reproducing a soundtrack of the visual image device;

and includes any additional copy provided by the prosecution for convenience.

end of proceedings, in relation to a relevant charge, means the latest of the following—

- (a) if a trial is not conducted that disposes of the charge—the discharge, striking out, withdrawal, entry of nolle prosequi, quashing, staying or other event by which the proceedings end;
- (b) if a trial is conducted that disposes of the charge—
 - (i) if the trial ends without a finding of guilt—the end of the trial; or
 - (ii) if the trial ends with a finding of guilt—the end of any period allowed for appeal against the finding of guilt; or

- (iii) if an appeal is started against the finding of guilt—the end of the appeal and the end of any further proceedings.

Note—

This definition covers circumstances where a copy of a statement is held beyond committal to the resulting trial and beyond any mistrial or appeal to later trial.

relevant charge means the charge against the accused in the relevant proceeding, and includes any replacement or further charge arising out of the proceeding or the same, or same set of, circumstances.

sound device means a device mentioned in section 590AFA(b)(i).

visual image device means a device mentioned in section 590AFA(b)(ii).’.

114 Replacement of s 590AR (Viewing evidence that is not original evidence)

Section 590AR—

omit, insert—

‘590AR Viewing evidence that is not original evidence

‘If—

- (a) advice is given under section 590AJ(3); or
- (b) notice is given under section 590AO(2)(e) or 590AOA(6);

of a place where the accused person or appropriate person may, on request, view a thing, the prosecution must allow the accused person or appropriate person, on request, to view the thing at the place for the purposes of the relevant proceeding.’.

115 Amendment of s 590AS (Viewing original evidence that is not sensitive evidence)

- (1) Section 590AS, heading—

[s 116]

omit, insert—

‘590AS Viewing particular evidence’.

- (2) Section 590AS(1), after ‘sensitive evidence’—
insert—
‘or an Evidence Act section 93A device statement’.

116 Amendment of s 590AV (Disclosure directions)

Section 590AV(4), after ‘590AO,’—
insert—
‘590AOA,’.

117 Amendment of s 636 (Evidence of blood relationship)

Section 636(1), definition *prescribed offence*, paragraph (b),
‘209,’—
omit.

118 Amendment of s 641 (Evidence on certain charges of stealing money)

- (1) Section 641(1), ‘or with an offence under section 436’—
omit.
- (2) Section 641(2), ‘or the conversion with intent to defraud within the meaning of section 436’—
omit.
- (3) Section 641(2), ‘or converted with intent to defraud within the meaning of section 436’—
omit.

119 Amendment of s 644A (Witness giving incriminating answers)

Section 644A(1), ‘103’—

omit, insert—

‘98C, 101’.

120 Insertion of new ch 82

After chapter 81—

insert—

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

‘719 References to particular offences

- ‘(1) The following provisions apply as if a reference to section 208 included a reference to section 209 as in force at any time before its repeal by the amending Act—
- section 229B(10), definitions *offence of a sexual nature* and *prescribed age*
 - section 578(1), (1A) and (4)
 - section 636(1), definition *prescribed offence*.
- ‘(2) Section 568(2) applies as if it included a reference to an indictment against a trustee to whom the *Trust Accounts Act 1973* applies for an offence under section 436 as in force at any time before its repeal by the amending Act.
- ‘(3) Section 641(1) applies as if it included a reference to a trustee within the meaning of the *Trust Accounts Act 1973* charged with an offence under section 436 as in force at any time before its repeal by the amending Act and, for that purpose, section 642(2), as in force immediately before the commencement of this section, continues to apply.
- ‘(4) Section 644A applies as if the reference to section 101 included a reference to section 103 as in force at any time before its repeal by the amending Act.

[s 121]

‘(5) In this section—

amending Act means the *Criminal Code and Other Acts Amendment Act 2008*.’

Part 3 Amendment of Bail Act 1980

121 Act amended in pt 3

This part amends the *Bail Act 1980*.

122 Amendment of s 11A (Release of intellectually impaired person)

(1) Section 11A, heading, ‘intellectually impaired person’—

omit, insert—

‘a person with an impairment of the mind’.

(2) Section 11A(1)(a), ‘an intellectually impaired person’—

omit, insert—

‘a person with an impairment of the mind’.

(3) Section 11A(7), ‘*intellectually impaired person*’—

omit, insert—

‘person with an impairment of the mind’.

123 Amendment of s 20 (Undertaking as to bail)

Section 20(3AA)—

omit, insert—

‘(3AA) Despite subsection (3), the defendant need not surrender into custody or appear personally if the defendant is represented by the defendant’s lawyer unless—

(a) the court directs otherwise; or

- (b) a charge is being heard and determined, an examination of a witness is being conducted or a penalty is being imposed.’.

124 Amendment of s 30 (Apprehension on variation or revocation of bail)

- (1) Section 30(1), from ‘upon’ to ‘complainant’—

omit, insert—

‘on the application of a complainant, prosecutor or person appearing on behalf of the Crown,’.

- (2) Section 30—

insert—

- ‘(1A) Also, bail granted to a defendant on an undertaking by a police officer authorised by this Act or the *Juvenile Justice Act 1992* to grant bail may be varied or revoked, on the application of a complainant, prosecutor or person appearing on behalf of the Crown, by—

(a) if the defendant is required to appear before the Childrens Court—the Childrens Court; or

(b) a Magistrates Court;

if the court is of the opinion that it is necessary or desirable in the interests of justice to do so.’.

- (3) Section 30(2), (3) and (6), ‘subsection (1)’—

omit, insert—

‘this section’.

- (4) Section 30—

insert—

- ‘(7) This section does not limit the powers of a police officer under the *Police Powers and Responsibilities Act 2000*, section 367(3) to arrest a defendant who is a child.’.

129 Amendment of s 6 (Publication at large of complainant's identity prohibited)

(1) Section 6—

insert—

‘(3) A person must not make or publish a report that contravenes subsection (1).

Maximum penalty—

(a) for an individual—100 penalty units or 2 years imprisonment; or

(b) for a corporation—1000 penalty units.

‘(4) If the court makes an order under subsection (2) about the making or publishing of a report, a person who makes or publishes a report that contravenes the order commits an offence.

Maximum penalty—

(a) for an individual—100 penalty units or 2 years imprisonment; or

(b) for a corporation—1000 penalty units.

‘(5) The fact that a person is liable to a penalty for an offence under subsection (4) does not prevent the person being dealt with for contempt of court evidenced by the person's offence.’.

130 Amendment of s 7 (Publication prematurely of defendant's identity prohibited)

(1) Section 7—

insert—

‘(3) A person must not make or publish a report that contravenes subsection (1).

Maximum penalty—

(a) for an individual—100 penalty units or 2 years imprisonment; or

[s 131]

- (b) for a corporation—1000 penalty units.
- ‘(4) If justices makes an order under subsection (2) about the making or publishing of a report, a person who makes or publishes a report that contravenes the order commits an offence.
- Maximum penalty—
- (a) for an individual—100 penalty units or 2 years imprisonment; or
 - (b) for a corporation—1000 penalty units.
- ‘(5) The fact that a person is liable to a penalty for an offence under subsection (4) does not prevent the person being dealt with for contempt of court evidenced by the person’s offence.’.

131 Amendment of s 8 (Exempted reports)

- (1) Section 8(1)(a) to (c), at the end—
insert—
‘or’.
- (2) Section 8(1)—
insert—
 - ‘(d) a report made to or on behalf of the department for the time being administering the *Education (General Provisions) Act 2006* or the *Vocational Education, Training and Employment Act 2000* for the purposes of the department to or on behalf of which it is made, if the report relates to a defendant mentioned in column 1, item 5(1) or 7 of the table in the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 9A; or
 - (e) a report made to or on behalf of the Crime and Misconduct Commission under the *Crime and Misconduct Act 2001*.’.

132 Amendment of s 10 (Offences and penalty)

(1) Section 10, heading—

omit, insert—

‘10 When other publication of complainant’s or defendant’s identity is prohibited’.

(2) Section 10(1) and (2)—

omit.

(3) Section 10(3), after ‘employment’—

insert—

‘, or any other particular that is likely to lead to the identification,’.

(4) Section 10(3), ‘against this Act’—

omit.

(5) Section 10(3)—

insert—

‘Maximum penalty—

(a) for an individual—100 penalty units or 2 years imprisonment; or

(b) for a corporation—1000 penalty units.’.

(6) Section 10(3)—

renumber as section 10(1).

(7) Section 10(4) and (5)—

omit, insert—

‘(2) It is a defence to a proceeding for an offence against subsection (1)(a) for a person to prove that, before the relevant statement or representation was made or published—

(a) the complainant authorised in writing the making or the publishing of the statement or representation; and

[s 133]

(b) when the complainant authorised the making or the publishing of the statement or representation, the complainant—

(i) was at least 18 years; and

(ii) had capacity to give the authorisation.

‘(3) In this section—

capacity see the *Guardianship and Administration Act 2000*, schedule 4.’.

133 Insertion of new s 10A

After section 10—

insert—

‘10A Provisions do not affect other laws

‘Sections 6, 7 and 10 are not intended to prevent a person from giving information that is permitted or required to be given under another law.’.

134 Amendment of s 11 (Authorised purposes)

Section 11(3) and (4), ‘section 10(3)’—

omit, insert—

‘section 10(1)’.

Part 6 Amendment of Penalties and Sentences Act 1992

135 Act amended in pt 6

This part amends the *Penalties and Sentences Act 1992*.

136 Amendment of s 9 (Sentencing guidelines)

(1) Section 9(2)(c), from ‘any’—

omit, insert—

‘—

- (i) any physical or emotional harm done to a victim;
and
- (ii) the effect of the offence on any child under 16 years who may have been directly exposed to, or a witness to, the offence; and’.

(2) Section 9(6), ‘the following’—

omit.

(3) Section 9(6), paragraphs (a) to (i), after ‘;’—

insert—

‘and’.

(4) Section 9—

insert—

‘(6A) Also, the principles mentioned in subsection (2)(a) do not apply to the sentencing of an offender for the following offences—

- (a) an offence against the *Classification of Computer Games and Images Act 1995*, section 28 if the objectionable computer game is a child abuse computer game under the Act;
- (b) an offence against any of the following provisions of the *Classification of Films Act 1991*—
 - (i) section 41(3) or 42(3) or (4);
 - (ii) section 43, if the offence involves a child abuse film under the Act;
- (c) an offence against any of the following provisions of the *Classification of Publications Act 1991*—
 - (i) section 14;

[s 137]

- (ii) section 12, 13, 15, 16 or 17 if the offence involves a child abuse publication or child abuse photograph under the Act;
 - (d) an offence against the Criminal Code, section 228A, 228B, 228C or 228D.
- ‘(6B) In sentencing an offender to whom subsection (6A) applies, the court must have regard primarily to—
- (a) the nature of any image of a child that the offence involved, including the apparent age of the child and the activity shown; and
 - (b) the need to deter similar behaviour by other offenders to protect children; and
 - (c) the prospects of rehabilitation including the availability of any medical or psychiatric treatment to cause the offender to behave in a way acceptable to the community; and
 - (d) the offender’s antecedents, age and character; and
 - (e) any remorse or lack of remorse of the offender; and
 - (f) any medical, psychiatric, prison or other relevant report relating to the offender; and
 - (g) anything else about the safety of children under 16 the sentencing court considers relevant.’.

137 Amendment of s 15E (Meaning of *disqualifying offence*)

Section 15E(4), definition *offence of a sexual nature*, ‘209,’—
omit.

138 Amendment of s 20 (Contravention of order)

(1) Section 20—

insert—

‘(1A) Also, without limiting subsection (1), if the offender contravenes a drug diversion condition of the offender’s

recognisance, the proper officer of the court may bring the offender back before the court by giving notice to the offender that the proceeding for the offence is to be heard by the court on a stated day.’.

- (2) Section 20(2), from ‘When’ to ‘subsection (1)(b),’—

omit, insert—

‘When the offender appears before the court, whether under the warrant issued under subsection (1)(b) or under a notice given under subsection (1A),’.

139 Amendment of s 146 (Consequences of committing offence during operational period)

- (1) Section 146(1)(a)(ii)—

omit, insert—

‘(ii) is satisfied that the offence was committed during—

- (A) the operational period of an order made under section 144; or
- (B) an extension of the operational period ordered under section 147(1)(a)(i); or
- (C) a further stated operational period ordered under section 147(1)(a)(ii)(B); or’.

- (2) Section 146(1)(b)(ii)—

omit, insert—

‘(ii) the offence was committed during—

- (A) the operational period of an order made under section 144; or
- (B) an extension of the operational period ordered under section 147(1)(a)(i); or
- (C) a further stated operational period ordered under section 147(1)(a)(ii)(B).’.

[s 140]

140 Amendment of s 146A (Summons or warrant for offender whose sentence of imprisonment has been suspended)

Section 146A(1)(a)—

omit, insert—

‘(a) an order has been made under section 144 or 147(1)(a) for an offender; and’.

141 Amendment of s 147 (Power of court mentioned in s 146)

Section 147(5), definition *subsequent offence*—

omit, insert—

‘*subsequent offence* means the offence committed during—

- (a) the operational period of an order made under section 144 for the original offence; or
- (b) an extension of the operational period ordered under section 147(1)(a)(i) for the original offence; or
- (c) a further stated operational period ordered under section 147(1)(a)(ii)(B) for the original offence.’.

142 Amendment of s 160 (Definitions for div 3)

Section 160, definition *impose*, from ‘serve’—

omit, insert—

‘serve—

- (a) the whole or part of suspended imprisonment for the offence; and
- (b) the unexpired portion of an intensive correction order for the offence.’.

143 Insertion of new s 216

After section 215—

insert—

‘216 Transitional provision for Criminal Code and Other Acts Amendment Act 2008

- ‘(1) The definition *offence of a sexual nature* in section 15E(4) applies as if the reference to the Criminal Code, section 208 included a reference to the Criminal Code, section 209 as in force at any time before its repeal by the *Criminal Code and Other Acts Amendment Act 2008*.
- ‘(2) The Criminal Code items in the schedule apply as if the reference in the item mentioned in column 1 to the provision of the Criminal Code mentioned in column 2 included a reference to the provision of the Criminal Code mentioned in column 3 as in force at any time before the commencement of this section.

Column 1	Column 2	Column 3
2	61	63
5	208	209
23	319	319A’.

144 Amendment of schedule (Serious violent offences)

- (1) Schedule, items 2, 6, 23 and 24—
omit.
- (2) Schedule—
insert—
- ‘2 section 61 (Riot)
- 23 section 319 (Endangering the safety of a person in a vehicle with intent)’.
- (3) Schedule, item 10, ‘intellectually impaired persons’—
omit, insert—
- ‘persons with an impairment of the mind’.
- (4) Schedule, item 21, ‘317A’—
omit, insert—

-
- (a) if—
- (i) the offender continues to participate in the unlawful assembly after anyone in the assembly has used unlawful violence to a person or property; and
 - (ii) the offender knows of, or ought reasonably to know of, the violence—2 years imprisonment; or
- (b) otherwise—1 year's imprisonment.
- ‘(2) The following are immaterial—
- (a) whether the original assembling was lawful or unlawful;
 - (b) what the common purpose is and whether it is lawful or unlawful;
 - (c) whether there is or is likely to be a person in the vicinity who holds the fear mentioned in subsection (1)(b).
- ‘(3) In this section—
- unlawful assembly* means an assembly of persons who commit the offence under subsection (1).’

147 Amendment of s 18 (Particular body piercing of minor prohibited)

- (1) Section 18(1), penalty, paragraph (b), ‘an intellectually impaired person’—
- omit, insert—*
- ‘a person with an impairment of the mind’.
- (2) Section 18(3), definition *intellectually impaired person*—
- omit, insert—*
- ‘*person with an impairment of the mind* see the Criminal Code, section 1.’

148 Amendment of s 25 (Use of vehicles)

Section 25(a), after ‘unlawfully’—

[s 149]

insert—
'enter or'.

149 Insertion of new s 25A

Part 2, after section 25—

insert—

'25A Advertising a reward for the return of stolen property etc.

'(1) A person must not—

- (a) unlawfully offer a reward for the return of stolen or lost property; or
- (b) unlawfully print or publish an offer of a reward for the return of stolen or lost property.

Maximum penalty—2 penalty units.

'(2) A person unlawfully offers a reward for the return of stolen or lost property if the person offering the reward makes the offer publicly and—

- (a) indicates in the offer that no questions will be asked, or that the person producing the property will not be seized or molested; or
- (b) offers to return to any person who may have bought or advanced money by way of loan on stolen or lost property the money paid or advanced, or to give to the person any other sum of money or reward, for the return of the property.

'(3) A person unlawfully prints or publishes an offer of a reward for the return of stolen or lost property if the person publicly prints or publishes an offer of a reward that—

- (a) indicates in the offer that no questions will be asked, or that the person producing the property will not be seized or molested; or
- (b) offers to return to any person who may have bought or advanced money by way of loan on stolen or lost

property the money paid or advanced, or to give to the person any other sum of money or reward, for the return of the property.’

Part 8 Other Acts amended

150 Acts amended in schedule

The schedule amends the Acts it mentions.

Schedule **Other minor and consequential amendments**

section 150

Child Protection (Offender Reporting) Act 2004

1 **After part 6—**

insert—

‘Part 7 **Transitional**

‘79 **Transitional provision for the Criminal Code and Other Acts Amendment Act 2008**

‘Schedule 1 applies as if the reference to the Criminal Code, section 208 included a reference to the Criminal Code, section 209 as in force at any time before its repeal by the *Criminal Code and Other Acts Amendment Act 2008*.’.

2 **Schedule 1, item 1(a), entry for the Criminal Code, section 209—**

omit.

Commission for Children and Young People and Child Guardian Act 2000

1 **Part 9—**

insert—

**‘Division 12 Transitional provision for Criminal
Code and Other Acts Amendment
Act 2008**

‘231 References in schs 2 and 2B to Criminal Code offence

‘Schedules 2 and 2B apply as if a reference to the Criminal Code, section 208 included a reference to the Criminal Code, section 209 as in force at any time before its repeal by the *Criminal Code and Other Acts Amendment Act 2008*.’

2 Schedule 2, entry for the Criminal Code, section 209—

omit.

**3 Schedule 2, entry for the Criminal Code, section 216,
‘intellectually impaired persons’—**

omit, insert—

‘persons with an impairment of the mind’.

4 Schedule 2, entry for the Criminal Code, section 322—

omit, insert—

‘322	Administering poison with intent to harm	Only if an offender was or could have been liable for a penalty as mentioned in section 322, penalty, paragraph (a)’.
------	--	---

5 Schedule 2B, entry for the Criminal Code, section 209—

omit.

**6 Schedule 2B, entry for the Criminal Code, section 216,
‘intellectually impaired persons’—**

omit, insert—

‘persons with an impairment of the mind’.

Community Services Act 2007

1 Part 13, before section 136—

insert—

‘Division 1 Provisions for Act No. 38 of 2007’.

2 Section 136, heading, ‘pt 13’—

omit, insert—

‘div 1’.

3 Section 136, ‘part’—

omit, insert—

‘division’.

4 Part 13—

insert—

**‘Division 2 Provision for Criminal Code and
Other Acts Amendment Act 2008**

‘140 Reference in sch 2 to Criminal Code offence

‘Schedule 2 applies as if the reference to the Criminal Code, section 208 included a reference to the Criminal Code, section 209 as in force at any time before its repeal by the *Criminal Code and Other Acts Amendment Act 2008*.’.

5 Schedule 2, entry for the Criminal Code, section 209—

omit.

6 Schedule 2, entry for the Criminal Code, section 216, ‘intellectually impaired persons’—

omit, insert—

‘persons with an impairment of the mind’.

7 Schedule 2, entry for the Criminal Code, section 322—

omit, insert—

‘322	Administering poison with intent to harm	Only if an offender was or could have been liable for a penalty as mentioned in section 322, penalty, paragraph (a)’.
------	--	---

Corrective Services Act 2006

1 After chapter 7A—

insert—

‘Chapter 7B Transitional provision for Criminal Code and Other Acts Amendment Act 2008

‘478C Reference in sch 1 to Criminal Code provision

‘Schedule 1 applies as if the reference to the Criminal Code, section 208 included a reference to the Criminal Code, section 209 as in force at any time before its repeal by the *Criminal Code and Other Acts Amendment Act 2008*.’

2 Schedule 1, entry for the Criminal Code, section 209—

omit.

**3 Schedule 1, entry for the Criminal Code, section 216,
'intellectually impaired persons'—**

omit, insert—

'persons with an impairment of the mind'.

Criminal Law Amendment Act 1892

**1 Section 4(1), ', or any of the crimes defined in the
Criminal Code, sections 81(2) and 82'—**

omit.

Disability Services Act 2006

1 Part 16, division 2, heading—

omit, insert—

**'Division 2 Transitional provisions for Act No.
12 of 2006'.**

2 Part 16—

insert—

**'Division 3 Transitional provision for Criminal
Code and Other Acts Amendment
Act 2008**

'241 References in schs 3 and 5 to Criminal Code offence

'Schedules 3 and 5 apply as if a reference to the Criminal Code, section 208 included a reference to the Criminal Code,

section 209 as in force at any time before its repeal by the *Criminal Code and Other Acts Amendment Act 2008*.’

3 Schedule 3, entry for the Criminal Code, section 209—

omit.

4 Schedule 3, entry for the Criminal Code, section 216, ‘intellectually impaired persons’—

omit, insert—

‘persons with an impairment of the mind’.

5 Schedule 3, entry for the Criminal Code, section 322—

omit, insert—

‘322	Administering poison with intent to harm	Only if an offender was or could have been liable for a penalty as mentioned in section 322, penalty, paragraph (a)’.
------	--	---

6 Schedule 5, entry for the Criminal Code, section 209—

omit.

7 Schedule 5, entry for the Criminal Code, section 216, ‘intellectually impaired persons’—

omit, insert—

‘persons with an impairment of the mind’.

District Court of Queensland Act 1967

1 Section 61(2)(b), ‘64, 65’—

omit, insert—

‘61’.

2 Section 61(2)(b), ‘319A,’—

omit.

3 Part 12—

insert—

‘142 Transitional provision for Criminal Code and Other Acts Amendment Act 2008

‘(1) Section 61 applies as if the reference in section 61(2)(b) to the Criminal Code, section 61 included a reference to the Criminal Code, sections 64 and 65 as in force at any time before their repeal by the *Criminal Code and Other Acts Amendment Act 2008*.

‘(2) Section 61 applies as if the reference in section 61(2)(b) to the Criminal Code, section 319 included a reference to the Criminal Code, section 319A as in force at any time before its repeal by the *Criminal Code and Other Acts Amendment Act 2008*.’.

Drugs Misuse Act 1986

1 Section 117(1), ‘section 536’—

omit, insert—

‘sections 535 and 536’.

2 Part 7—*insert—***‘Division 6 Provision for Criminal Code and
Other Acts Amendment Act 2008****‘141 Reference in schedule to Criminal Code offence**

‘The schedule applies as if the reference to the Criminal Code, section 415 included a reference to the Criminal Code, section 415 as in force at any time before its repeal by the *Criminal Code and Other Acts Amendment Act 2008*.’.

3 Schedule, item 9—*omit, insert—*

‘9 section 415 (Extortion)’.

Evidence Act 1977**1 Section 21AC, definition *offence involving violence*,
‘319A,’—***omit.***2 Section 21AC, definition *offence involving violence*, ‘331,
332,’—***omit.***3 Section 21M(1)(b), ‘an intellectually impaired person’—***omit, insert—*

‘a person with an impairment of the mind’.

- 4** **Section 21M(3), definition *prescribed offence*, ‘338,’—**
 omit.
- 5** **Section 21M(3), definition *prescribed offence*, ‘416,
417,’—**
 omit.
- 6** **Section 21M(3), definition *prescribed special offence*,
‘209,’—**
 omit.
- 7** **Section 93A, heading, ‘intellectually impaired person’—**
 omit, insert—
 ‘person with an impairment of the mind’.
- 8** **Section 93A(1)(a), ‘an intellectually impaired person’—**
 omit, insert—
 ‘a person with an impairment of the mind’.
- 9** **Section 144, heading, ‘intellectually impaired person’—**
 omit, insert—
 ‘person with an impairment of the mind’.
- 10** **Part 9—**
 insert—

**‘Division 5 Criminal Code and Other Acts
Amendment Act 2008****‘146 References to particular Criminal Code offences**

- ‘(1) The definition *offence involving violence* in section 21AC applies as if it included a reference to the Criminal Code, sections 319A, 331 and 332 as in force at any time before their repeal by the amending Act.
- ‘(2) The definition *prescribed offence* in section 21M(3) applies as if it included a reference to the Criminal Code, section 338 as in force at any time before its repeal by the amending Act.
- ‘(3) The definition *prescribed offence* in section 21M(3) applies as if the reference to the Criminal Code, section 415 included a reference to the Criminal Code, sections 415, 416 and 417 as in force at any time before their repeal by the amending Act.
- ‘(4) The definition *prescribed special offence* in section 21M(3) applies as if the reference to the Criminal Code, section 208 included a reference to the Criminal Code, section 209 as in force at any time before its repeal by the amending Act.
- ‘(5) In this section—
amending Act means the *Criminal Code and Other Acts Amendment Act 2008*.’.

11 Schedule 2—

omit.

12 Schedule 3, definition *intellectually impaired person*—

omit.

13 Schedule 3—

insert—

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

- (a) is attributable to an intellectual, psychiatric, cognitive or neurological impairment or a combination of these; and
- (b) results in—
 - (i) a substantial reduction of the person’s capacity for communication, social interaction or learning; and
 - (ii) the person needing support.’.

Family Services Act 1987

1 Part 6, heading, ‘provision’—

omit, insert—

‘provisions’.

2 Part 6—

insert—

‘34 Reference in schedule to Criminal Code offences

‘The schedule applies as if the reference to the Criminal Code, section 415 included a reference to the Criminal Code, sections 415, 416 and 417 as in force at any time before their repeal by the *Criminal Code and Other Acts Amendment Act 2008*.’.

3 Schedule, items 22 to 24—

omit, insert—

‘22 Section 415 (Extortion)’.

Juvenile Justice Act 1992**1 Section 170(1)(c), ‘340(a)’—**

omit, insert—

‘340(1)(a)’.

2 Section 170(1)(c), ‘340(b)’—

omit, insert—

‘340(1)(b)’.

3 Section 170(4), definition *offence of a sexual nature*, ‘209,’—

omit.

4 Part 11—

insert—

‘Division 5 Transitional provision for Criminal Code and Other Acts Amendment Act 2008**‘342 Reference to particular offence**

‘The definition *offence of a sexual nature* in section 170(4) applies as if the reference to the Criminal Code, section 208 included a reference to the Criminal Code, section 209 as in force at any time before its repeal by the *Criminal Code and Other Acts Amendment Act 2008*.’.

Police Powers and Responsibilities Act 2000

1 Section 351, definition *relevant proceeding*, paragraph (g), ‘intellectually impaired person’—

omit, insert—

‘a person with an impairment of the mind’.

2 Section 538(1)(f), ‘an intellectually impaired person’—

omit, insert—

‘a person with an impairment of the mind’.

3 Chapter 24—

insert—

‘Part 10 Transitional provision for Criminal Code and Other Acts Amendment Act 2008

‘865 Reference to particular offences

‘Schedules 3 and 5 apply as if a reference to the *Summary Offences Act 2005*, section 25 included a reference to the Criminal Code, section 426 as in force at any time before its repeal by the *Criminal Code and Other Acts Amendment Act 2008*.’.

4 Schedule 3, entry for the Criminal Code, section 426—

omit.

5 Schedule 3, entry for the Criminal Code, section 470A(1), ‘explosives’—

omit, insert—

‘explosive or noxious substances’.

6 Schedule 3, entries for the Criminal Code, sections 544 and 545(1)—

omit, insert—

- section 544(1) (Accessories after the fact to offences)
- section 544(2) or (3) (Accessories after the fact to offences) if the maximum penalty for the offence is less than 3 years imprisonment’.

7 Schedule 3—

insert—

‘9A Summary Offences Act 2005

‘An offence against the *Summary Offences Act 2005*, section 25 (Use of vehicles).’.

8 Schedule 5, part 1, entries for the Criminal Code, sections 544 and 545—

omit, insert—

- section 544(1) (Accessories after the fact to offences)
- section 544(2) or (3) (Accessories after the fact to offences) if, in the circumstances of the offence, the offence is not a seven year imprisonment offence.’.

9 Schedule 5, part 2, entry for the Criminal Code, section 426—

omit.

10 Schedule 5, part 2—

insert—

‘9A Summary Offences Act 2005

‘An offence against the *Summary Offences Act 2005*, section 25 (Use of vehicles).’.

-
- 2 Section 134A(6), definition *person with an intellectual impairment*—**
omit, insert—
‘person with an impairment of the mind see the Criminal Code, section 1.’.
- 3 Part 9—**
insert—
- ‘Division 4 Transitional provision for Criminal Code and Other Acts Amendment Act 2008**
- ‘151 References in sch 1 to Criminal Code offences**
*‘Schedule 1 applies as if the reference to the Criminal Code, section 415 included a reference to the Criminal Code, section 415 as in force at any time before its repeal by the *Criminal Code and Other Acts Amendment Act 2008*.’.*
- 4 Schedule 1, item 6, ‘359’—**
omit, insert—
‘350’.
- 5 Schedule 1, item 9—**
omit, insert—
‘9 section 415 (Extortion)’.
- 6 Schedule 1, items 10 and 11, ‘intellectually impaired person’—**
omit, insert—
‘a person with an impairment of the mind’.

Transport Operations (Passenger Transport) Act 1994

- 1** **Schedule 1, part 1, item 1, ‘Unlawful assemblies—breaches’—**
omit, insert—
‘Breaches’.

- 2** **Schedule 1A, part 1, division 1, item 1, ‘an intellectually impaired person’—**
omit, insert—
‘a person with an impairment of the mind’.

- 3** **Schedule 1A, part 1, division 1, item 5, ‘intellectually impaired persons’—**
omit, insert—
‘persons with an impairment of the mind’.

- 4** **Schedule 1A, part 3, division 1, item 1, ‘Unlawful assemblies—breaches’—**
omit, insert—
‘Breaches’.

Transport Operations (Road Use Management) Act 1995

- 1** **Chapter 7—**
insert—

‘Part 12 **Transitional provision for
Criminal Code and Other Acts
Amendment Act 2008**

‘217 **References to particular Criminal Code offence**

‘Schedule 2 applies as if the reference to the Criminal Code, section 323 included a reference to the Criminal Code, section 323 as in force at any time before its repeal by the *Criminal Code and Other Acts Amendment Act 2008*.’.

2 **Schedule 2, ‘section 323 (Wounding and similar acts)’—**

omit, insert—

‘section 322 (Administering poison with intent to harm)

section 323 (Wounding)’.

Workers’ Compensation and Rehabilitation Act 2003

1 **Section 537(1)(b), ‘, 430, 488 or 494’—**

omit, insert—

‘or 488’.

2 **After chapter 21—**

insert—

‘Chapter 22 Transitional provision for Criminal Code and Other Acts Amendment Act 2008

‘655 References in s 537 to Criminal Code offences

‘Section 537(1)(b) applies as if it included a reference to the Criminal Code, sections 430 and 494 as in force at any time before their repeal by the *Criminal Code and Other Acts Amendment Act 2008*.’.

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