

# DIRECTORS' LIABILITY REFORM BILL 2022 (WA)

## EXPLANATORY MEMORANDUM

### Overview of Bill

The Directors' Liability Reform Bill 2022 proposes to reduce and standardise offences in the Western Australian statute book which impose personal criminal liability on officers of bodies corporate for offences committed by those bodies corporate, where those officers have failed to take reasonable steps to prevent the body corporate's offending.

### Part 1 – Preliminary

This Part deals with preliminary and commencement matters.

#### Clause 1 Short title

This clause provides that the Bill, once enacted, will be known as the *Directors' Liability Reform Act 2022*.

#### Clause 2 Commencement

This clause provides that the Act will come into operation on varying dates, as outlined in the clause.

#### Clause 3 Further provisions relating to commencement

This clause provides that, for subsections 2, 3 and 4, commencement day means the day after the day on which the Act receives Royal Assent.

Different commencement provisions have been drafted in clauses 2 and 3 for different Divisions within the Bill because some parts of Acts being amended have not yet been proclaimed. The Bill must reflect the status of legislation at the time that the Bill is prepared, which has resulted in the drafting of alternative commencement provisions in this clause.

### Part 2 – *The Criminal Code* amended

#### Clause 4 Act amended

This clause provides that the Bill amends *The Criminal Code*.

#### Clause 5 Part I Chapter 6 inserted

This clause inserts a new Chapter into Part I of *The Criminal Code*. The new Chapter 6 contains sections 37, 38, 39, 40, 41, 42 and 43.

Proposed **section 37(1)** provides that the Chapter contains a set of standard provisions (sections 39, 40 and 41) that set out certain circumstances in which directors and other officers of a body corporate can incur criminal liability as a result of an offence by the body corporate.

Proposed **section 37(2)** provides that only one of sections 39, 40 and 41 can apply to an offence.

Proposed **section 38** provides that in this Chapter, 'officer', in relation to a body corporate, has the meaning given in section 9 of the *Corporations Act 2001* (Cth).

Proposed **section 39** provides for the liability of officers for corporate offences where the onus is on the prosecution to prove reasonable steps were not taken by the officer to prevent the commission of the offence.

Proposed **section 39(1)** provides that the section applies to an offence only if a provision of *The Criminal Code*, or of another written law, expressly provides that it applies to the offence.

Proposed **section 39(2)** provides that if a body corporate is guilty of an offence to which section 39 applies, an officer of the body corporate is also guilty of the offence if the officer failed to take all reasonable steps to prevent the commission of the offence by the body corporate. It is intended that, if the prosecution does not establish that there were reasonable step(s) an officer could have taken but did not take, the officer should be acquitted.

Proposed **section 39(3)** prescribes the factors to which a court must have regard in determining whether things done or omitted to be done by the officer constitute reasonable steps. These are:

- a) what the officer knew, or ought to have known, about the commission of the offence by the body corporate; and
- b) whether the officer was in a position to influence the conduct of the body corporate in relation to the commission of the offence; and
- c) any other relevant matter.

Proposed **section 40** provides for the liability of officers for corporate offences where the onus is on the prosecution to prove that all reasonable steps were not taken, if evidence suggesting such steps were taken is adduced by or on behalf of the officer.

Proposed **section 40(1)** provides that the section applies to an offence only if a provision of *The Criminal Code*, or of another written law, expressly provides that it applies to the offence.

Proposed **section 40(2)** provides that if a body corporate is guilty of an offence to which section 40 applies, an officer of the body corporate is also guilty of the offence unless the officer took all reasonable steps to prevent the commission of the offence by the body corporate.

Proposed **section 40(3)** provides that if the officer adduces evidence that suggests a reasonable possibility that the officer took all reasonable steps to prevent the commission of the offence by the body corporate, the prosecutor bears the onus of proving the contrary. The officer therefore bears an evidential burden. It is intended that, if the officer adduces that evidence, and the prosecution does not prove that there were reasonable step(s) the officer could have taken but did not take, the officer should be acquitted.

Proposed **section 40(4)** prescribes the factors to which a court must have regard in determining whether things done or omitted to be done by the officer constitute reasonable steps. These are:

- a) what the officer knew, or ought to have known, about the commission of the offence by the body corporate; and
- b) whether the officer was in a position to influence the conduct of the body corporate in relation to the commission of the offence; and
- c) any other relevant matter.

Proposed **section 41** provides for the liability of officers for corporate offences where the onus is on the officer to prove that all reasonable steps to prevent the commission of the offence were taken.

Proposed **section 41(1)** provides that the section applies to an offence only if a provision of *The Criminal Code*, or of another written law, expressly provides that it applies to the offence.

Proposed **section 41(2)** provides that if a body corporate is guilty of an offence to which section 41 applies, an officer of the body corporate is also guilty of the offence unless the officer took all reasonable steps to prevent the commission of the offence by the body corporate.

Proposed **section 41(3)** provides that the officer has the onus of proving that the officer took all reasonable steps to prevent the commission of the offence by the body corporate. It is intended that, if it is established that an officer took all reasonable steps, or there were no reasonable steps an officer could have taken, the officer should be acquitted.

Proposed **section 41(4)** prescribes the factors to which a court must have regard in determining whether things done or omitted to be done by the officer constitute reasonable steps. These are:

- a) what the officer knew, or ought to have known, about the commission of the offence by the body corporate; and
- b) whether the officer was in a position to influence the conduct of the body corporate in relation to the commission of the offence; and
- c) any other relevant matter.

Proposed **section 42(1)** provides that proposed Chapter 6 of *The Criminal Code* does not affect the liability of a body corporate for any offence. Where the Bill proposes to amend other Acts, provisions in those Acts which are in the same terms as section 42(1) are deleted on the basis that they will be redundant when the *Directors' Liability Reform Act 2022* comes into operation.

Proposed **section 42(2)** provides that Chapter 6 of *The Criminal Code* does not affect the liability of an officer, or any other person, under Chapters II, LVII, LVIII and LIX of *The Criminal Code*. These chapters contain provisions relating to what is commonly referred to as accessory liability, and section 42(2) therefore provides that the inclusion of the new Chapter 6 will not affect the liability of officers of bodies corporate

who are parties to offences committed by bodies corporate (as distinct from officers who are liable due to a failure to take all reasonable steps to prevent corporate offending).

Where the Bill deletes provisions in other Acts which impose accessorial liability, it is not intended that this deletion should affect the ability to prosecute officers of bodies corporate who have been parties to offences under those Acts. It is intended that such officers will be capable of being prosecuted under relevant provisions of Chapters II, LVII, LVIII and LIX of *The Criminal Code*.

Proposed **section 42(3)** provides that an officer of a body corporate may be charged with, and convicted of, an offence in accordance with section 39, 40 and 41 of *The Criminal Code* whether or not the body corporate is charged with or convicted of the offence. Where the Bill proposes to amend other Acts, provisions in those Acts which are in the same terms as section 42(3) are proposed to be deleted on the basis that they will be redundant when the *Directors' Liability Reform Act 2022* comes into operation.

Proposed **section 42(4)(a)** provides that if an officer of a body corporate who is charged with an offence in accordance with section 39, 40 or 41 of *The Criminal Code* claims that the body corporate would have a defence if it were charged with the offence, the officer bears the onus of proving the defence. Proposed **section 42(4)(b)** provides that the standard of proof required is the standard that would apply to the body corporate in relation to the defence.

Proposed **section 42(5)** provides that section 42(4) does not limit any other defence available to the officer.

Proposed **sections 43(1) and (2)** provide that if section 39, 40 or 41 of *The Criminal Code* applies to an offence in respect of which penalties are only specified for bodies corporate, the maximum penalty for the offence if committed by an officer of the body corporate is one-fifth of the maximum penalty that could be imposed on the body corporate.

Proposed **section 43(3)** provides that section 43 does not limit the *Sentencing Act 1995*.

#### **Clause 6      Section 740D inserted**

This clause inserts a new section 740D into *The Criminal Code*.

Proposed new **section 740D(1)** provides for a statutory review of the operation and effectiveness of the amendments made to *The Criminal Code* by the *Directors' Liability Reform Act 2022*, to commence as soon as practicable after the fifth anniversary of the day on which section 5 of the Act comes into operation.

Proposed new **section 740D(2)** provides that the Minister, that is the Attorney General, must cause the report on the review to be tabled in Parliament as soon as practicable after it is prepared, but not later than 12 months after the fifth anniversary.

### **Part 3 – Amendments to other Acts**

Part 3 of the Bill contains 69 divisions. Each of these divisions amends a Western Australian Act that currently imposes personal liability for corporate fault, or a mixture of personal liability for corporate fault and accessorial liability. This is achieved by either deleting the relevant provisions to remove these forms of liability from the Act or by replacing the relevant provisions with provisions that incorporate the standard provisions in sections 39 or 41 of *The Criminal Code*.

Section 39 of *The Criminal Code* applies 'Type 1' liability according to the Guidelines for applying the Council of Australian Government Principles in respect of personal liability for corporate fault. Section 40 applies 'Type 2' liability, and section 41 is 'Type 3' liability, in which the legal onus of proof is reversed, so that the officer must prove that they took all reasonable steps to prevent the commission of the offence by the body corporate.

The Bill does not propose to impose Type 2 liability (section 40 of *The Criminal Code*) on any of the statutes amended in Part 3 but the provision is retained in the amendments to *The Criminal Code* in the event that this type of liability is needed in the future.

#### **Division 1 – Aboriginal Cultural Heritage Act 2021 amended**

This Division amends the *Aboriginal Cultural Heritage Act 2021* by deleting sections 263 to 265 and inserting a new proposed section 263 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

#### **Division 2 – Aboriginal Heritage Act 1972 amended**

This Division amends the *Aboriginal Heritage Act 1972* by deleting section 57(2) and inserting a new proposed section 58 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

#### **Division 3 – Animal Welfare Act 2002 amended**

This Division amends the *Animal Welfare Act 2002* by deleting section 80 and inserting a new proposed section 80 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

#### **Division 4 – Anzac Day Act 1960 amended**

This Division amends the *Anzac Day Act 1960* by deleting parts of sections 4(4), 5(2), 6(4) and 7(2).

#### **Division 5 – Aquatic Resources Management Act 2016 amended**

This Division amends the *Aquatic Resources Management Act 2016* by deleting sections 191 and 192 and inserting a new proposed section 191 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

#### **Division 6 – Architects Act 2004 amended**

This Division amends the *Architects Act 2004* by deleting section 76 and inserting a new proposed section 76 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

### **Division 7 – Auction Sales Act 1973 amended**

This Division amends the *Auction Sales Act 1973* by deleting section 35(4).

### **Division 8 – Betting Control Act 1954 amended**

This Division amends the *Betting Control Act 1954* by deleting section 27G and inserting a new proposed section 27G which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

New section 27G is then amended to delete an offence from the Table. Section 27H(3) is deleted and the heading to section 27H is amended to reflect the deletion made.

### **Division 9 – Biodiversity Conservation Act 2016 amended**

This Division amends the *Biodiversity Conservation Act 2016* by deleting sections 237 and 238 and inserting a new proposed section 237 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

Subsections 237(2) and (3) provide that section 39 of *The Criminal Code* applies to certain offences in the Act in particular circumstances.

### **Division 10 – Biosecurity and Agriculture Management Act 2007 amended**

This Division amends the *Biosecurity and Agriculture Management Act 2007* by deleting section 110 and inserting a new proposed section 110 which provides that section 39 of the Criminal Code applies to certain offences in the Act.

### **Division 11 – Building and Construction Industry (Security of Payment) Act 2021 amended**

This Division amends the *Building and Construction Industry (Security of Payment) Act 2021* by deleting section 118 and inserting a new proposed section 118 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

### **Division 12 – Building Services (Complaint Resolution and Administration) Act 2011 amended**

This Division amends the *Building Services (Complaint Resolution and Administration) Act 2011* by deleting section 105 and inserting a new proposed section 105 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

### **Division 13 – Building Services (Registration) Act 2011 amended**

This Division amends the *Building Services (Registration) Act 2011* by deleting section 97 and inserting a new proposed section 97 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

### **Division 14 – Charitable Collections Act 1946 amended**

This Division amends the *Charitable Collections Act 1946* by deleting section 15(4) and inserting a new proposed section 15A which provides that section 39 of *The Criminal Code* applies to an offence under sections 15(2) or 15(3A) of the Act.

**Division 15 – Contaminated Sites Act 2003 amended**

This Division amends the *Contaminated Sites Act 2003* by amending section 92 of the Act with the effect that section 41 of *The Criminal Code* applies to certain offences in the Act, by application of new proposed section 118A of the *Environmental Protection Act 1986*, as specified in Division 24 of the Bill.

**Division 16 – Criminal Law (Unlawful Consorting and Prohibited Insignia) Act 2021 amended**

This Division amends the *Criminal Law (Unlawful Consorting and Prohibited Insignia) Act 2021* by deleting sections 25(1), 25(4), 25(5) and 25(6) and inserting a proposed new section 25A which provides that section 41 of *The Criminal Code* applies to an offence under section 25(2) of the Act.

**Division 17 – Criminal Procedure Act 2004 amended**

This Division amends the *Criminal Procedure Act 2004* by deleting section 180 and inserting a new proposed section 180 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

**Division 18 – Dangerous Goods Safety Act 2004 amended**

This Division amends the *Dangerous Goods Safety Act 2004* by deleting section 61 and inserting a new proposed section 61 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

**Division 19 – Debt Collectors Licensing Act 1964 amended**

This Division amends the *Debt Collectors Licensing Act 1964* by deleting section 23.

**Division 20 – Emergency Management Act 2005 amended**

This Division amends the *Emergency Management Act 2005* by deleting section 98 and inserting a new proposed section 98 which provides that section 39 of *The Criminal Code* applies to the offence in section 95 of the Act, and section 41 of *The Criminal Code* applies to certain other offences in the Act.

**Division 21 – Employment Agents Act 1976 amended**

This Division amends the *Employment Agents Act 1976* by deleting section 30(3).

**Division 22 – Energy Operators (Powers) Act 1979 amended**

This Division amends the *Energy Operators (Powers) Act 1979* by deleting sections 86(1), 86(2) and 86(2a). The heading to the amended section 86 is also amended to reflect these deletions.

**Division 23 – Energy Safety Act 2006 amended**

This Division amends the *Energy Safety Act 2006* by deleting section 35.

### **Division 24 – Environmental Protection Act 1986 amended**

This Division amends the *Environmental Protection Act 1986* by deleting sections 118(1), 118(2) and 118(3) and inserting a new proposed section 118A which provides that section 41 of *The Criminal Code* applies to Tier 1 and Tier 2 offences in the Act. This Division also changes the heading of section 118 to reflect the amendments made.

### **Division 25 – Exotic Diseases of Animals Act 1993 amended**

This Division amends the *Exotic Diseases of Animals Act 1993* by deleting section 58 and inserting a new proposed section 58 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

### **Division 26 – Fair Trading Act 2010 amended**

This Division amends the *Fair Trading Act 2010* by inserting a new proposed section 94A. Sections 94A(1) and (2) provide that section 39 of *The Criminal Code* applies to certain offences in the Act and in the *Australian Consumer Law (WA)*. Section 94(3) provides that section 41 of *The Criminal Code* applies to certain offences in the *Australian Consumer Law (WA)*.

The Division also deletes sections 95(1) to (3) and updates the heading of section 95 to reflect the changes made.

### **Division 27 – Firearms Act 1973 amended**

This Division amends the *Firearms Act 1973* by deleting section 21B(1)(a); deleting the word 'each' in section 21B(1)(b) and replacing it with 'the person'; and deleting sections 21B(2), (3) and (4). The heading to amended section 21B is also amended to reflect the changes made.

Division 27 also inserts a new proposed section 21C which provides that section 39 of *The Criminal Code* applies to offences under certain provisions of the *Firearms Act 1973*, when the offences are committed in the course of the business carried on under a Dealer's Licence, a Repairer's Licence or a Manufacturer's Licence.

Section 21C is also amended to remove a reference to section 19(4) and include new references to sections 23AC and 23AD, and will be amended when sections 29 and 43 of the *Firearms Amendment Act 2022* commences.

### **Division 28 – Fish Resources Management Act 1994 amended**

This Division amends the *Fish Resources Management Act 1994* by deleting section 204 and inserting a new proposed section 204 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

### **Division 29 – Food Act 2008 amended**

This Division amends the *Food Act 2008* by deleting section 128 and inserting a new proposed section 128 which provides that section 39 of *The Criminal Code* applies to an offence under section 22(1) of the Act and that section 41 of *The Criminal Code* applies to certain other offences in the Act.

### **Division 30 – *Gaming and Wagering Commission Act 1987* amended**

This Division amends the *Gaming and Wagering Commission Act 1987* by deleting section 37 and inserting a new proposed section 37 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act. Proposed new section 37 is then amended to delete an offence from the Table.

This Division also amends section 99(d) by replacing the words ‘who pursuant to section 37 would be liable in relation to a conviction of that body for an offence of failing to pay those moneys on demand’ with ‘who, if that body committed an offence of failing to pay those moneys on demand, would be criminally liable in accordance with section 37 of this Act.’

### **Division 31 – *Gas Corporation (Business Disposal) Act 1999* amended**

This Division amends the *Gas Corporation (Business Disposal) Act 1999* by deleting section 13.

### **Division 32 – *Gold Corporation Act 1987* amended**

This Division amends the *Gold Corporation Act 1987* by deleting section 76.

### **Division 33 – *Heritage Act 2018* amended**

This Division amends the *Heritage Act 2018* by deleting sections 143 and 144 and inserting a new proposed section 143 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

### **Division 34 – *Home Building Contracts Act 1991* amended**

This Division amends the *Home Building Contracts Act 1991* by deleting section 30 and inserting a new proposed section 30 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

### **Division 35 – *Hope Valley-Wattleup Redevelopment Act 2000* amended**

This Division amends the *Hope Valley-Wattleup Redevelopment Act 2000* by deleting section 30.

### **Division 36 – *Liquor Control Act 1988* amended**

This Division amends the *Liquor Control Act 1988* by deleting section 164(1)(a); amending section 164(1)(b) by deleting the word ‘each’ and replacing it with ‘the manager’; and inserting a new proposed section 164A which provides that section 39 of *The Criminal Code* applies to certain offences in the Act. The heading of section 164 is amended to reflect the changes made.

Division 36 also amends 167(2)(b) to insert references to the new proposed section 164A.

### **Division 37 – *Litter Act 1979* amended**

This Division amends the *Litter Act 1979* by deleting section 24C.

### **Division 38 – Major Events (Aerial Advertising) Act 2009 amended**

This Division amends the *Major Events (Aerial Advertising) Act 2009* by deleting section 16 and inserting a new proposed section 16 which provides that section 39 of *The Criminal Code* applies to an offence under section 11(1) of the Act.

This Division also deletes the definition of ‘officer’ in section 3.

### **Division 39 – Medicines and Poisons Act 2014 amended**

This Division amends the *Medicines and Poisons Act 2014* by deleting section 118 and inserting a new proposed section 118 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act, and that section 41 of *The Criminal Code* applies to certain other offences in the Act.

### **Division 40 – Metropolitan Redevelopment Authority Act 2011 amended**

This Division amends the *Metropolitan Redevelopment Authority Act 2011* by deleting section 129.

### **Division 41 – Mining Act 1978 amended**

This Division amends the *Mining Act 1978* by inserting a proposed new section 154A which provides that section 39 of *The Criminal Code* applies to an offence under section 155(1) of the Act.

### **Division 42 – Misuse of Drugs Act 1981 amended**

This Division amends the *Misuse of Drugs Act 1981* by deleting section 35 and inserting a new proposed section 35 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

### **Division 43 – Nuclear Waste Storage and Transportation (Prohibition) Act 1999 amended**

This Division amends the *Nuclear Waste Storage and Transportation (Prohibition) Act 1999* by deleting section 8 and inserting a proposed new section 8 which provides that section 39 of *The Criminal Code* applies to an offence under section 7(2) or section 7A(2) of the Act.

### **Division 44 – Pawnbrokers and Second-hand Dealers Act 1994 amended**

This Division amends the *Pawnbrokers and Second-hand Dealers Act 1994* by deleting section 89(3) and amending section 89(4) by deleting the words ‘the licensee and the defence available to an officer under subsection (3) is not available to an officer who is also’. This Division also amends the heading to section 89 to reflect these amendments.

### **Division 45 – Pearling Act 1990 amended**

This Division amends the *Pearling Act 1990* by deleting section 56 and inserting a proposed new section 56 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

#### **Division 46 – Perry Lakes Redevelopment Act amended**

This Division amends the *Perry Lakes Redevelopment Act 2005* by deleting section 50.

#### **Division 47 – Pharmacy Act 2010 amended**

This Division amends the *Pharmacy Act 2010* by deleting section 71 and inserting a proposed new section 71 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

#### **Division 48 – Private Hospitals and Health Services Act 1927 amended**

This Division amends the *Private Hospitals and Health Services Act 1927* by deleting section 26M and inserting a proposed new section 26M which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

#### **Division 49 – Prostitution Act 2000 amended**

This Division amends the *Prostitution Act 2000* by deleting section 59 and inserting a proposed new section 59 which provides that section 41 of *The Criminal Code* applies to certain offences in the Act.

#### **Division 50 – Protection of Information (Entry Registration Information Relating to COVID-19 and Other Infectious Diseases) Act 2021 amended**

This Division amends the *Protection of Information (Entry Registration Information Relating to COVID-19 and Other Infectious Diseases) Act 2021* by deleting section 9 and inserting a proposed new section 9 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

#### **Division 51 – Public Health Act 2016 amended**

This Division amends the *Public Health Act 2016* by deleting sections 282 and 283 and inserting a new proposed section 282 which provides that section 41 of *The Criminal Code* applies to certain offences in the Act.

This Division also deletes the definition of ‘officer’ in section 4.

#### **Division 52 – Radiation Safety Act 1975 amended**

This Division amends the *Radiation Safety Act 1975* by deleting section 56(4) and inserting a proposed new section 56A which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

#### **Division 53 – Retail Trading Hours Act 1987 amended**

This Division amends the *Retail Trading Hours Act 1987* by deleting section 34.

#### **Division 54 – Retirement Villages Act 1992 amended**

This Division amends the *Retirement Villages Act 1992* by deleting section 79 and inserting a proposed new section 79 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

#### **Division 55 – Road Traffic (Vehicles) Act 2012 amended**

This Division amends the *Road Traffic (Vehicles) Act 2012* by deleting section 108 and inserting a proposed new section 108 which provides that section 41 of *The Criminal Code* applies to certain offences in the *Road Traffic (Administration) Act 2008* and the *Road Traffic (Vehicles) Act 2012*.

#### **Division 56 – Security and Related Activities (Control) Act 1996 amended**

This Division amends the *Security and Related Activities (Control) Act 1996* by deleting section 90, and also by deleting references to section 90 in section 88A(1)(b) and section 89(3).

#### **Division 57 – Surveillance Devices Act 1998 amended**

This Division amends the *Surveillance Devices Act 1998* by deleting section 39.

#### **Division 58 – Swan and Canning Rivers Management Act 2006 amended**

This Division amends the *Swan and Canning Rivers Management Act 2006* by deleting sections 121(1), 121(2) and 121(3) and inserting a proposed new section 121A which provides that section 39 of *The Criminal Code* applies to certain offences in the Act. This Division also amends the heading to section 121 to reflect the amendments.

#### **Division 59 – Tobacco Products Control Act 2006 amended**

This Division amends the *Tobacco Products Control Act 2006* by deleting section 109 and inserting a proposed new section 109 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act and that section 41 of *The Criminal Code* applies to certain other offences in the Act.

#### **Division 60 – Transport Co-ordination Act 1966 amended**

This Division amends the *Transport Co-ordination Act 1966* by deleting section 55A.

#### **Division 61 – Transport (Road Passenger Services) Act 2018 amended**

This Division amends the *Transport (Road Passenger Services) Act 2018* by deleting sections 218 and 219 and inserting a new proposed section 218 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

#### **Division 62 – Unauthorised Documents Act 1961 amended**

This Division amends the *Unauthorised Documents Act 1961* by deleting section 6.

#### **Division 63 – Veterinary Chemical Control and Animal Feeding Stuffs Act 1976 amended**

This Division amends the *Veterinary Chemical Control and Animal Feeding Stuffs Act 1976* by deleting section 61(1) and amending the heading to section 61 to reflect the amendment.

#### **Division 64 – Veterinary Practice Act 2021 amended**

This Division amends the *Veterinary Practice Act 2021* by deleting sections 142 and 143 and inserting a proposed new section 142 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

#### **Division 65 – Waste Avoidance and Resource Recovery Act 2007 amended**

This Division amends the *Waste Avoidance and Resource Recovery Act 2007* by deleting references to section 118 of the *Environmental Protection Act 1986* in section 47ZY(2) and section 93 and replacing them with references to the new proposed section 118A of the *Environmental Protection Act 1986*.

This Division also inserts a new proposed section 93(d) which has the effect that the new proposed section 118A *Environmental Protection Act 1986* applies section 41 of *The Criminal Code* to certain offences in the *Waste Avoidance and Resource Recovery Act 2007*.

#### **Division 66 – Water Services Act 2012 amended**

This Division amends the *Water Services Act 2012* by deleting section 196 and inserting a proposed new section 196 which provides that section 39 of *The Criminal Code* applies to certain offences in the Act.

#### **Division 67 – Waterways Conservation Act 1976 amended**

This Division amends the *Waterways Conservation Act 1976* by deleting section 73(1).

#### **Division 68 – Western Australian Products Symbol Act 1972 amended**

This Division amends the *Western Australian Products Symbol Act 1972* by deleting section 13.

#### **Division 69 – Workers' Compensation and Injury Management Act 1981 amended**

This Division amends the *Workers' Compensation and Injury Management Act 1981* by deleting the words 'amount, whether or not the responsible officer has been convicted under subsection (5)' and replacing them with 'amount' in section 170(2b), deleting sections 170(5) and (6), and inserting a new section 170(6) which provides that, in sections 170(2b) and 170(2c), a 'responsible officer' in relation to the commission of an offence by a body corporate means a person who is convicted of that offence in accordance with section 170A of the Act.

This Division also inserts a new section 170A which provides that section 39 of *The Criminal Code* applies to an offence under section 170(1).