CRIMINAL LAW AMENDMENT BILL 2002

EXPLANATORY NOTES

GENERAL OUTLINE

OBJECTIVES OF THE LEGISLATION

The *Criminal Law Amendment Bill 2002* amends the *Criminal Code,* the *Penalties and Sentences Act 1992,* the *Evidence Act 1977*, the *Justices Act 1886*, the *Bail Act 1980,* the *Jury Act 1995* and the *Drug Rehabilitation (Court Diversion) Act 2000* to improve the responsiveness of the criminal justice system to the needs of persons, including jurors, witnesses and victims of crime.

The Bill also increases penalties for stock theft, provides a mechanism to ensure persons detained pursuant to section 18 of the *Criminal Law Amendment Act 1945* cannot be released without supervision and includes a number of amendments to correct drafting anomalies.

REASONS FOR THE OBJECTIVES AND HOW THEY WILL BE ACHIEVED

The criminal justice system should be responsive to the needs of those persons who must engage with the criminal courts. Following consultation with stakeholders involved in the criminal justice system legislative changes have been identified that will improve the efficiency of the criminal courts.

The Bill also addresses the need to ensure any safety concerns of persons, particularly witnesses and jurors, who must participate in the criminal justice system are adequately addressed.

Increased penalties for stock stealing and related offences will ensure the seriousness of this type of offence is recognised. These offences involve not just loss of valuable property to the individual but also undermine disease prevention strategies.

Section 18 of the *Criminal Law Amendment Bill 1945* provides that, when a person is found guilty upon indictment of an offence of a sexual nature committed upon a child under the age of 16 years, the sentencing

judge may request a report on whether the offender is incapable of exercising proper control over his sexual instincts. Upon examination, the medical practitioners must report to the judge who is empowered to declare the offender so incapable and that he is to be detained at an institution during 'Her Majesty's pleasure'. Such detainees may only be released by the Governor in Council when it is considered expedient to do so. However, the Governor in Council does not have the power to attach enforceable conditions to any order for release.

The proposed amendment will address the need to ensure persons detained under section 18 can be supervised in the community if and when released.The Board may only grant detainees post-prison community based release f satisfied the detainee does not represent an unacceptable risk to others.

Modern technology also has the potential to compromise the right of an accused person to be tried upon admissible evidence heard in the courtroom. With the advent of websites on the Internet which disclose the antecedents of convicted persons, there is a concern that jurors would be able to readily access the criminal history of persons on trial. These may not be accurate. This issue has serious implications for the integrity of criminal trials. On 24 May 2000 in *R v McLachlan*, a Victorian Supreme Court Judge aborted a murder retrial because he feared it would be prejudiced by information on such a site. A new offence will be inserted into the *Jury Act 1995* to ensure that it is clear such inquiries are prohibited during the time a juror is sworn in a trial.

ADMINISTRATIVE COST TO GOVERNMENT OF IMPLEMENTATION

There will be no additional administrative costs to the Government as a result of the amendments in this Bill. Conferring a power on magistrates to make pre-trial and pre-committal directions and the proposal for the DNA evidentiary certificate have the potential to produce cost savings.

FUNDAMENTAL LEGISLATIVE PRINCIPLES

Does the legislation have sufficient regard for the rights and liberties of individuals?

The proposed amendments to the *Criminal Law Amendment Act 1945* deem individuals, detained under that Act, to be sentenced to life imprisonment for the purpose of post-prison based community release in

the *Corrective Services Act 2000*. As such this might be regarded as a significant encroachment on the rights of these individuals.

However, the deeming is to allow the detainees to be subject to the appropriate processes of release through the *Corrective Services Act 2000*. Their present situation is that the detainees have no access to conditional release. All persons currently detained under a declaration made under section 18 of the *Criminal Law Amendment Act 1945* have served over 13 years imprisonment.

Given the situation of these prisoners, the time they have spent in custody and the need to integrate the prisoners into a conditional release program it is submitted that the proposed legislation does have sufficient regard to the rights and liberties of individuals.

The new section 95B of the *Evidence Act 1977* (DNA evidentiary certificate) might be seen as removing an existing right – the unrestricted cross-examination of relevant prosecution witnesses who participate in the testing of forensic samples. However, the use of evidentiary certificates to present complex evidence assembled by a number of persons and recorded in a methodical fashion is already permitted in the *Evidence Act 1977,* for example, section 95 (admissibility of statements produced by computers).

It is submitted that the provision, as drafted, balances the competing considerations. While production of the certificate by the prosecution obviates the need for the prosecution to call all the persons involved in the continuity and testing processes that produce a DNA profile it still requires the prosecution to call the DNA forensic analyst to give the important evidence of comparison of DNA profiles. It is this evidence that may link an offender with a crime scene.

The other safeguards of the rights of the accused are –

- A requirement that if the party is seeking to rely upon the certificate then the chief executive officer must, upon the written request from a party to a proceeding, provide a copy of the laboratory records relating to the receipt, storage and testing of the thing within two days.
- The court may give leave for any person to require the party seeking to rely on the certificate to call any person involved in the receipt, storage or testing of the thing.
- Section 98 of the *Evidence Act 1977* includes an overriding discretion for the court to reject any statement or representation notwithstanding that the requirements of Part 6 have been complied with.

CONSULTATION

A Consultation Draft of the Bill was sent to:

- The Chief Justice of the Supreme Court
- The President of the Court of Appeal
- The Chief Judge of the District Court
- The Chief Magistrate
- The Queensland Law Society
- The Bar Association of Queensland
- The Queensland Council for Civil Liberties
- The Criminal Lawyers Association
- Legal Aid Queensland
- The Director of Public Prosecutions
- The Commissioner of the Queensland Police Service
- The Departments of:
  - Corrective Services
  - Families
  - Aboriginal and Torres Strait Islander Policy
  - The Premier and Cabinet
  - Innovation and Information Economy
  - Health
- The Chairman of the Crime and Misconduct Commission
- The Women's Legal Service
- The supervising scientist of the John Tonge Centre
- The Public Defender.

A Consultation Draft containing provisions relating to amendments of the *Jury Act 1995* was sent to the Chief Justice, the Chief Judge of the District Court, the Chief Magistrate, the Queensland Law Society, the Queensland Bar Association, the Queensland Council of Civil Liberties, the Criminal Law Association, the Public Defender, the Commissioner of the Queensland Police Service, the Department of Families, the Director of

Public Prosecutions and the Sheriff and Marshal of the Supreme and District Court.

The comments of those consulted have informed the drafting of the Bill.

NOTES ON PROVISIONS

PART ONE—PRELIMINARY

Clause 1 sets out the short title of the Act.

Clause 2 provides for commencement of the Act upon proclamation. Minor amendments in the schedule commence on assent. Amendment 2 to the *Criminal Code* is taken to have commenced on 28 February 2002.

Clause 3 provides that the schedule amends the Acts it mentions

PART TWO—*BAIL ACT 1980*

Clause 4 provides that the *Bail Act 1980* is amended by this Part.

Clause 5 amends section 7 (Power of police officer to grant bail). This amendment will enable a police officer, as an alternative to the grant of bail, to serve a notice to appear upon a person or a notice of attendance upon a child. The power to serve a notice to appear is in section 214 of the *Police Powers and Responsibilities Act 2000*. An attendance notice may be served on a child under section 23 of the *Juvenile Justice Act 1992*.

Clause 6 amends section 20 (Undertaking as to bail). The effect of this amendment, in relation to indictable offences, is to enable a legally represented person to be excused from appearance in the Magistrates Court.

PART THREE—AMENDMENT OF CRIMINAL CODE

Clause 7 provides that this part amends the *Criminal Code.*

Clause 8 amends section 1 (Definitions) of the *Criminal Code*.

A new definition of 'family' has been inserted into the *Code*. The definitions found in section 119A of the *Code* and are for the purposes of the new section 119B (Retaliation against judicial officers, juror, witness or family).

A new definition of 'stock' has been inserted into the *Code* to replace the former lengthy recitation of '*horse, mare, gelding, ass, mule, camel, bull, cow, ox, ram, ewe, wether, boar, sow, barrow, deer, buffalo or goat or the young of any such animal'*.

A new definition of 'judicial officer' is now included. As well as judges or magistrates the definition of 'judicial officer' includes members of tribunals, persons conducting hearings of the Crime and Misconduct Commission, arbitrators and umpires.

Clause 9 amends section 119 (Definition of judicial proceeding) and inserts two new provisions, section 119A (Meaning of family) and section 119B (Retaliation against judicial officer, juror, witness or family).

A new section 119A is inserted that defines the meaning of 'family'.

The new section 119B creates a new offence, Retaliation against judicial officer, juror, witness or family.

The new offence provides that a person who, without reasonable cause, causes or threatens to cause injury or detriment to a judicial officer, juror, witness or a member of the family of a judicial officer, juror or witness in retaliation because of anything the judicial officer had lawfully done as a judicial officer or the juror or witness has lawfully done in any judicial proceeding is guilty of a crime.

The drafting of the offence has been informed by similar provisions in other jurisdictions, most particularly section 326 of the *Crimes Act 1900 (NSW)*.

The expression "without reasonable cause" is adopted from the element "without reasonable or probable cause" used in section 415 of the *Criminal Code*, the offence of extortion. This imposes an additional element on the prosecution to prove that the accused's conduct was "without reasonable cause", that is, that it was objectively reasonable. It is intended to strike a

balance between the right of a person to make a complaint about the administration of justice, and the need to prevent people from taking the law into their own hands, even if they honestly believe that another person has acted unlawfully.

A threat to inflict violence on a person would be "without reasonable cause", even if the accused believed that the person had acted unlawfully. Similarly, an act that is otherwise lawful may be a reprisal if it is done with intent to punish a person for what he or she has done in court.

Nothing in the provision is meant to stifle comment or criticism, even the most robust criticism, about the functioning of the criminal justice system and any decision a court might reach. It is a fundamental principle that justice be administered in open court. A court is open when members of the public, including the press, have a right of admission. By exposing court proceedings to public and professional scrutiny, and criticism, there exists a reassurance to the public that justice is administered fairly, impartially and in accordance with the law.

"Judicial proceeding" is defined in section 119 of the *Code* to include any proceeding had or taken in or before any court, tribunal or person, in which evidence may be taken on oath.

Clause 10 amends section 120 (Judicial corruption). The term 'the holder of judicial office' has been omitted and replaced with the term 'judicial officer'.

Section 120(3) is now omitted as the definition of judicial officer already includes arbitrator or umpire. However, a new section 120(2) continues the distinction in sentence between other judicial officers and an arbitrator or umpire.

Sub-section (4) has been renumbered sub-section (3). The language of the sub-section has been amended to clarify the meaning that a prosecution for an offence in section 120 cannot be commenced without the consent of a Crown Law officer.

Clause 11 amends section 122 (Corrupting or threatening jurors) by omitting sub-section (b). The new section 119B now covers this conduct. The penalty for this offence, renamed "Corrupting jurors" has been increased to 7 years imprisonment.

Clause 12 amends section 398(2) to replace all the animals mentioned with the phrase 'stock'. Stock is now defined in section 1 of the *Code.*

Sub-clause (2) amends section 398, punishment in special cases, to make it clear that the aggravating circumstance in clause 9 (Stealing property

valued at more that $5000) includes stock when its value is more than $5000.

Clause 13 replaces the chapter division 1 heading for Chapter 44.

Clause 14 amends section 444A (Killing animals with intent to steal) by increasing the maximum fine able to be imposed to $50,000.

Clause 15 amends section 444B (Using registered brands with criminal intention) by increasing the penalty in section 444B(1) to 5 years imprisonment and increasing the maximum fine able to be imposed to $50,000

Clause 16 replaces the chapter division heading for Chapter division 2.

Clause 17 amends the offence named in section 445 (Unlawfully using cattle) to unlawfully using stock. This offence name better reflects the actual content of the section. The language of the section has also been modernised to incorporate the new definition of stock.

The offence has been redefined a misdemeanour and the penalty increased to 5 years imprisonment with a maximum fine of $50,000.

Clause 18 amends section 446 (Suspicion of stealing cattle). Again, the offence name has been changed to better reflect the actual offence defined in the section. The language of the section has been modernised to incorporate the term 'stock' rather than the present a long list of animals. The offence has been redefined as a misdemeanour and the penalty increased to 5 years imprisonment with a maximum fine of $50,000.

Clause 19 amends section 447 (Illegal branding). The language of the section has been made consistent with the other provisions. The offence has been redefined as a misdemeanour and the penalty increased to 5 years imprisonment with a maximum penalty of $50,000.

Clause 20 amends section 448 (Defacing brands). The term 'stock' is now inserted in this offence. The offence has been redefined as a misdemeanour and the penalty increased to 5 years imprisonment with a maximum penalty of $50,000.

Clause 21 amends section 448A (Having in possession an animal with defaced brand). The term 'stock' is now inserted in this offence. The offence has been redefined as a misdemeanour and the penalty increased to 5 years imprisonment with a maximum penalty of $50,000.

Clause 22 omits section 450 (Committal for trial). These offences have been re-defined as misdemeanours. However, the effect of section 552B of the *Criminal Code* is that the offences may still be dealt with summarily

providing that the Magistrate is of the view that he or she can adequately punish the offender in the summary jurisdiction.

Clause 23 omits section 450C (Effect of civil proceedings) that previously provided protection from prosecution where civil proceedings were taken. Such protection is not provided for any other offence of stealing or fraud-related offences.

Clause 24 amends the heading for Chapter 44A.

Clause 25 omits the definition of animal in section 450D and includes a new definition defining the term "animal", as used in the section, as stock.

Clause 26 amends section 450H (Licence disqualification where commission of offence facilitated by licence or use of vehicle) by substituting the term 'magistrate' for 'Stipendiary Magistrate'.

Clause 27 amends section 450I (Forfeiture in cases of conviction for offences under specified sections) by again substituting the term 'magistrate' for 'Stipendiary Magistrate".

Clause 28 amends section 468 by omitting the long list of animals in section 468(2) and substituting the term 'stock'.

Clause 29 amends section 568 (Cases in which several charges may be joined) to reflect amendments made in 1997 to sections 419 (Burglary), 421 (Entering or being in premises and committing indictable offences) and 433 (Receiving).

It also addresses a difficulty identified by the Court of Appeal in *R v Williams* [2000] QCA 409, where the penalties for the alternative offences are the same and the judge is required to enter a conviction for the offence with the lesser penalty. Subsection (10) states that where the same penalty is provided, the trial judge is to decide on the offence for which the conviction is to be entered.

Clause 30 amends section 588 (Charges of stealing cattle). These amendments are consequential upon the amendments in Chapter 44 and incorporate the new term 'stock' rather than the longer list of animal names.

Clause 31 amends section 588A (Charges of stealing certain animals and of killing certain animals with intent to steal) to reflect the new definition of stock.

Clause 32 amends section 671G to clarify that a person's time in custody, pending a determination of an appeal, is part of any term of imprisonment imposed under the appellant's sentence.

Clause 33 inserts a new Chapter 75 and section 712 (Transitional provision for Criminal Code Amendment Act 2002) to provide that sections 568 (6) – (8), in force immediately before the amendments continue in force for indictments presented before the commencement of the *Criminal Law Amendment Act 2002*.

PART 4—AMENDMENT OF CRIMINAL LAW AMENDMENT ACT 1945

Clause 34 provides that this part amends the *Criminal Law Amendment Act 1945*.

Clause 35 amends section 18 (Detention of persons incapable of controlling sexual instincts). The language used in the section has been modified to accommodate the changes made to terms in the *Corrective Services Act 2000*.

Clause 36 inserts a new Part 3A that establishes a regime for the conditional release of offenders detained under part 3A. The part contains new provisions section 18A to section 18H.

Section 18A defines the terms used in the part.

Section 18B (Post-prison community based release orders under *Corrective Services Act 2000*)provides that chapter 5 of the *Corrective Services Act 2000* (Post-prison community based release) applies to a person detained in accordance with a declaration made under section 18 as if the detainee were a person serving a life term of imprisonment.

The effect of the section is to allow a detainee, who has served a term of imprisonment equivalent to that nominated in section 135(2)(b) (the term required to be served by prisoners sentenced to life imprisonment before eligibility to apply for post-prison community based release) to also be eligible to apply for post-prison community based release.

The term of imprisonment required to be served for the purposes of section 135(2)(b) before eligibility to apply is 13 years when the declaration was made before 1 July 1997. This is the same as the period for prisoners serving life terms imposed before 1 July 1997.

Section 18C provides that the board cannot grant exceptional circumstances parole to these detainees.

Section 18D provides that the Queensland Board must notify the Attorney-General when a detainee makes application for post-prison community based release. The Attorney-General is given a specific power to make submissions to the Board about the release of a detainee. The Board must consider these submissions.

Section 18E provides an additional test for release for these prisoners. The Queensland board must not grant a detainee a post-prison community based release order unless, in addition to any other matter of which the Queensland board must be satisfied under the *Corrective Services Act 2000*, the board is satisfied the detainee does not represent an unacceptable risk to the safety of others.

Section 18F also provides a power for the Queensland Board to attach conditions to a post-prison community based order that require a detainee to submit to medical, psychiatric or psychological treatment or report for drug testing to a corrective services officer. This power supplements the power of the Board contained in section 144 of the *Corrective Services Act 2000*.

Section 18G deems a detainee a prisoner for the purposes of the *Corrective Services Act 2000*, section 94(j). This is the offence of being unlawfully at large.

Section 18H makes it clear that nothing in this section removes the power of the Governor in council to unconditionally release an offender under section 18(5)(b) or (6A)(b).

PART 5—AMENDMENT OF DRUG REHABILITATION (COURT DIVERSION) ACT 2000

Clause 37 provides that this part amends the *Drug Rehabilitation (Court Diversion) Act 2000.*

Clause 38 amends section 15 (Deciding whether to refer for assessment) by inserting a further requirement that before the pilot program magistrate refers an eligible person for assessment he or she must be satisfied that the maximum number of active intensive drug rehabilitation orders prescribed under regulation has not been exceeded.

The regulation-making powers (in section 43) will be amended by this Act to permit the making of a regulation to prescribe the maximum number of intensive drug rehabilitation orders that can be made for offenders residing in a particular locality.

Clause 39 amends section 19 (Making of order) to provide that before a pilot program magistrate makes an intensive drug rehabilitation order he or she must be satisfied that the maximum number of active intensive drug rehabilitation orders prescribed under a regulation has not been exceeded.

Clause 40 amends section 34 (Termination of rehabilitation programs) to clarify that termination of a rehabilitation program is a prerequisite to the procedure in section 34(3) of termination of an intensive drug rehabilitation order.

Clause 41 inserts a new provision, section 35A (Inclusion of a new rehabilitation program) that provides that where a pilot program magistrate has terminated a rehabilitation program in the absence of an offender the pilot program magistrate may, when the offender is apprehended, reinstate a rehabilitation program.

To reinstate the rehabilitation program the pilot program magistrate must be satisfied that the criteria in section 19 are met and the offender has reasonable prospects of completing a rehabilitation program.

Clause 42 amends section 36 (Final sentence to be decided on completion or termination of a rehabilitation program) to take into account circumstances where termination does not take place because of the new procedure set out in section 35A.

Clause 43 amends section 39 (Disclosing compliance or failure to comply with rehabilitation program) by inserting a new sub-section (1)(b) that allows a prescribed person to enter compliance or related information into a pilot program database.

A new definition of "compliance information" and "related information" is included in the amendment.

Clause 44 amends section 43 (Regulation-making power) by inserting specific heads of power to allow the making of regulations prescribing guidelines for particular pilot program courts.

Clause 45 amends section 47 (Expiry of Act) to provide that the Act now expires 42 months after its commencement. The expiry date may be deferred for 12 months by regulation

Clause 46 amends the Dictionary by inserting a definition for an "active intensive drug rehabilitation order".

PART 6—AMENDMENT OF EVIDENCE ACT 1977

Clause 47 provides that this part amends the *Evidence Act 1977*

Clause 48 inserts a new provision, section 95A (DNA evidentiary certificate)

Section 95A provides for the making of a DNA evidentiary certificate.

A DNA evidentiary certificate must be made by a DNA Analyst (appointed in section 133A of the *Evidence Act 1977*) in an approved form. It may include information that a stated thing was received at a stated laboratory on a stated day, that the thing was tested at a stated laboratory on a stated day or between stated days and that a stated DNA profile was obtained from the thing. The certificate can also state that the DNA analyst examined all the relevant records of the storage and testing of the thing and confirms that the records indicate quality assurance procedures were complied with.

A DNA evidentiary certificate in the prescribed form and signed is evidence of a matter.

A party seeking to rely upon a DNA certificate must give a copy to another party at least 10 business days before a hearing and also call the DNA analyst. Any party to the proceeding may request, in writing, a copy of the laboratory records relating to the receipt, storage and testing of the thing. The chief executive must provide this copy to the requesting party within 7 business days.

A party challenging a certificate is also required to give notice if challenging a certificate. The court must give leave before a witness can be called in relation to the storage, receipt or testing of a thing. The criteria for granting leave is if the court is satisfied that an irregularity may exist in relation to the receipt, storage or testing of a thing or it is in the interests of justice that a person be called.

The provision also includes a presumption of accuracy of equipment used in testing and a definition section.

Clause 49 inserts a new section 133A (DNA analysts) and permits the chief executive officer for Health to appoint a person a DNA analyst if satisfied that the officer has the necessary qualifications and experience to be a DNA analyst.

PART 7—AMENDMENT OF JURY ACT 1995

Clause 50 provides that this part amends the *Jury Act 1995*.

Clause 51 amends section 12 (Arrangements with commissioner of the police service) by correcting the reference to the wrong paragraph in sub-section (3).

Clause 52 amends section 20 by omitting the term 'in court or chambers'. Section 128 of the Supreme Court Act 1991 (inserted by the Civil Justice Reform Act 1998) abolished the distinction between court and chambers.

Clause 53 amends section 37 (Materials to be given by sheriff) to require the list of jurors given to the judge's associate to include the "locality address" of the member of the panel rather than the address (interpreted as street address).

Locality address is defined in the new section 37(3) to mean the city, town, suburb or other locality that a person resides.

Clause 54 inserts a new offence, section 69A (Inquiries by juror about accused prohibited) that will prevent a person sworn as a juror in a criminal trial inquiring about a defendant in the trial until the juror is discharged.

Inquire is defined to include searching an electronic database for information (by using the Internet) or causing someone else to inquire.

Clause 55 amends section 70 (Confidentiality of jury deliberations) by omitting the term 'in court or chambers'. Section 128 of the Supreme Court Act 1991 (inserted by the Civil Justice Reform Act 1998) abolished the distinction between court and chambers.

PART 8—AMENDMENT OF JUSTICES ACT 1886

Clause 56 provides that this part amends the *Justices Act 1886*

Clause 57 inserts a new provision, section 83A (Direction hearing) to provide a magistrate with a similar power to that given to the District and Supreme Courts in section 592A (Pre-trial directions and rulings) of the *Criminal Code*. Under this new provision the magistrate may give binding directions to a party to the proceedings about any aspect of the conduct of the proceeding. For example, directions can settle at a very early stage in the matter how an alleged victim of an offence may give their evidence.

Where the proceeding relates to an indictable offence no costs in relation to a directions hearing are available.

Clause 58 amends section 84 that excuses a defendant represented by counsel or solicitor from having to appear on every mention of a matter in the Magistrates Court unless the matter is one where a charge is being determined, an examination of witnesses is being held or a penalty is imposed.

Clause 59 amends section 158A (Exercise of discretion in relation to an award of costs) and provides that an unreasonable failure to comply with a direction under section 83A may be taken into account when exercising a discretion whether or not to make an award for costs under section 158.

PART 9—AMENDMENT OF PENALTIES AND SENTENCES ACT 1992

Clause 60 provides that this part amends the *Penalties and Sentences Act 1992*.

Clause 61 amends section 92 (Effect of order) and allows an order of probation to be combined with up to 12 months imprisonment.

Clause 62 amends section 146(2) in response to some judicial criticism [*R v Holcroft* [1997] 2 Qld R 392] because of the confusing use of "may" and "must". The use of the word "must" will now make it mandatory for a court of like on higher jurisdiction to deal with an offender for the suspended imprisonment when the matter is before a court of like or higher

jurisdiction unless a court or higher jurisdiction considers that it would be in the interests of justice for the offender to be dealt with under section 147 by the court that made the order.

Clause 63 amends section 147 (Power of court mentioned in section 146) and allows the extension of an operational period for one year at any time in the term of a suspended sentence. The amendment also clarifies that an operational period can be re-instated when an offender is being dealt with a suspended sentence after the operational period has ended and extended for a further year.

Clause 64 amends section 171 (Review – periodic) to provide that the first review for an indefinite sentence, when the nominal sentence is life imprisonment, is 15 years. The first review period for offenders where the nominal sentence is life imprisonment and section 305(2) of the *Criminal Code* applies will be 20 years.

Section 305(2) of the *Criminal Code* applies when a person is convicted of more than one murder.

These periods equivalent to the period of time that must be served before a prisoner sentenced to serve life imprisonment is eligible for parole (see section 135(2)(b) and (c) of the *Corrective Services Act 2000*).

A transitional provision in section 171 (3) provides that the previous provision continues to apply for those indefinite sentences imposed in relation to an offence committed before the commencement of the *Criminal Law Amendment Act 2002*.

Clause 65 inserts a new transitional provision providing for the application of the changes to section 92(1)(b)(i), section 147(1)(a).

PART 10—AMENDMENT OF POLICE POWERS AND RESPONSIBILITIES ACT 2000

Clause 66 provides that this part amends the *Police Powers and Responsibilities Act 2000*.

Clause 67 amends section 219 (Notice to appear equivalent to a complaint and summons) by providing that, when a notice to appear or an attendance notice is issued under section 225(2)(b) , the police officer that arrested the person remains the person who initiated proceedings.

This provision ensures that the amendments to section 7 of the *Bail Act 1980* are acknowledged in the *Police Powers and Responsibilities Act 2000*.

Clause 68 amends section 225 (Duty of police officer receiving custody of person arrested for offence) to include the new power to give a notice to appear or an attendance notice in accordance with section 7 of the *Bail Act 1980*. The provision has been renumbered.

SCHEDULE

MINOR AMENDMENTS

This schedule makes discrete technical amendments to a number of Acts.

The amendment to the *Bail Act 1980* corrects a grammatical error.

The amendment to the *Crimes (Confiscation) Act 1989* corrects typographical errors.

The amendment to the *Criminal Code* corrects the heading in Part 5 because of the relocation of the defamation defences and corrects a reference to section 540 in the *Mental Health Act 2000*.

The amendment to the *Criminal Law Amendment Act 1945* corrects the heading to reflect the words of the section.

The amendment to the *Criminal Offence Victims Act 1995* updates the reference to the relevant rule in the *Criminal Practice Rules 1999.*

The amendment to the *District Court Act 1967* amends section 61(2)(b) to remove an unnecessary reference to section 317A and update the reference to the relevant offences following the passage of the *Criminal Law Amendment Act 2000.*

The amendment to the *Evidence Act 1977* updates the reference to the relevant offences in Schedule 2 to accord with the changes made in the *Criminal Law Amendment Act 2000*. Schedule 2 lists those offences where the spouse of an accused person is compellable to give evidence for the prosecution.

The amendments to the *Mental Health Act 2000* correct a reference to the wrong sub-section in a number of different provisions.