How to use Law Part Code and Law Part Modifier Code in Indictments

The Law Part Code and Law Part Modifier Code in indictments indicate exactly what offence is being dealt with.

The Law Part Code refers to the substantive offence and the Law Part Modifier Code is required when there are derivative offences. Derivative offences include inchoate offences such as attempt, conspiracy and incitement. The offender can be liable even if the substantive offence did not occur. Similarly, a Law Part Modifier Code is required where the Crown relies upon accessorial liability such as accessory before the fact, aid and abet and accessory after the fact.

The identification of derivative offences is an important factor in determining the seriousness of the offence. While inchoate offences and accessorial liability usually (but not always) attract the same statutory maximum penalty as the substantive offence, it is relevant to take into account at sentence that the offence was not completed and/or the offender's role in the offence. In most cases, an accessory after the fact to the substantive offence will receive a lesser sentence than the principal offender.

It is important to ensure that the Law Part Code and Law Part Modifier Code in indictments are detailed and accurate as they will be entered into JusticeLink and later sent to BOCSAR for producing reports on crime statistics and to the NSW Judicial Commission for use in the Judicial Information Research System (JIRS). The sentencing information in JIRS provides an essential decision making tool for the entire NSW justice sector.

After each count in the indictment, the prosecution should specify the Law Part Code for the substantive offence which **must** be valid at the offence date. If someone is charged with a derivative offence then **two** "modifier" codes should be specified. To accurately reflect the law, the first of these modifier codes should refer to the Law Part Code that modifies the offence. For example, Law Part Code 41455 if the offence was *an attempt to commit an offence* under s 11.1(1) of the *Criminal Code Act* 1995 (Cth) or Law Part Code 1101 if the offence was *an attempt to commit an offence* under s 344A of the *Crimes Act* 1900. The second modifier code should refer to the generic Law Part Modifier Code to be used in JusticeLink. For example, 48 meaning *Attempted*.

The JusticeLink system will accept generic Law Part Modifier Codes, including the following:

- **Accessory after the fact to an offence = 15**
- **Accessory after the fact to an attempted offence = 3**
- **Accessory before the fact to an offence = 46**
- **Accessory before the fact to an attempted offence= 47**
- **Aid, abet, counsel or procure an offence = 71**
- **Aid, abet, counsel or procure an attempted offence = 72**
- **Aid and/or abet an offence = 42**
- **Aid and/or abet an attempted offence = 16**
- **Attempted = 48**
- **Be knowingly concerned in an offence = 44**
- **Be knowingly concerned in an attempted offence = 45**
- **Conspiracy to commit an offence = 51**
- **Conspiracy to commit an attempted offence = 13**
- **Counsel an offence = 54**
- **Counsel an attempted offence = 57**
- **Deemed supply prohibited drug = 69**
- **Incite to commit an offence = 50**
- **Incite to commit an attempted offence = 60**
- **Innocent agency = 73**
- **Joint commission = 76**
- **Principal in second degree to serious indictable offence = 74**
- **Principal in second degree to attempted serious offence = 75**
- **Procure an offence = 63**
- **Procure an attempted offence = 67**
- **Solicit an offence = 49**
- **Solicit an attempted offence = 68**

Some substantive Law Part Codes have a "built-in" modifier eg Law Part Code 1104 a*ccessory after the fact to murder* under s 349(1) of the *Crimes Act* 1900. You don't need to use a modifier code for these offences.

On the other hand, some Law Part Codes represent the modifier only and do not describe the substantive offence. For example Law Part Code 35349 a*ccessory after the fact to a serious indictable offence* under s 350 of the *Crimes Act* 1900. You should use the relevant Law Part Code for the substantive offence, Law Part Code 35349 should be used as the first modifier code and use the generic Law Part Modifier Code 15 as the second modifier code.

If an offence in the indictment has been amended it may be necessary to amend the Law Part Code and Law Part Modifier Code accordingly.