

NORTHERN TERRITORY OF AUSTRALIA

JUVENILE JUSTICE AMENDMENT ACT 1998

No. 12 of 1998

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NORTHERN TERRITORY OF AUSTRALIA

No. 12 of 1998

AN ACT

to amend the *Juvenile Justice Act*

[Assented to 30 March 1998]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Juvenile Justice Amendment Act 1998*.

2. COMMENCEMENT

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

The *Juvenile Justice Act* is in this Act referred to as the Principal Act.

4. INTERPRETATION

Section 3 of the Principal Act is amended —

(a) by inserting after the definition of "juvenile" in subsection (1) the following:

"'mandatory period', in relation to a juvenile found guilty of a property offence, means the first 28 days of the period of detention imposed on

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the juvenile in pursuance of section 53AE(2);";
and

- (b) by inserting after the definition of "official visitor" in subsection (1) the following:

"'prison' has the same meaning as in the *Prisons (Correctional Services) Act*";".

5. DISPOSITION BY COURT

Section 53 of the Principal Act is amended --

- (a) by inserting in subsection (1) "and Division 3A (in relation to a property offence)" after "Division 3"; and

- (b) by inserting after subsection (1)(e) the following:

"(ea) order in accordance with section 53AH(2) that the juvenile participate, within such time as the Court orders, in an approved project for 224 hours;".

6. REPEAL

The heading to Subdivision 1 of Division 3 of Part VI of the Principal Act is repealed.

7. HEADING TO SUBDIVISION 2 OF DIVISION 3 OF PART VI

The heading to Subdivision 2 of Division 3 of Part VI of the Principal Act is amended by omitting "*Subdivision 2*" and substituting "*Division 3A*".

8. SENTENCING OF REPEAT PROPERTY OFFENDERS WHO HAVE ATTAINED AGE OF 15 YEARS

Section 53AE of the Principal Act is amended --

- (a) by inserting after subsection (2) the following:

"(2A) The mandatory period of a period of detention imposed in pursuance of subsection (2) is not to be served concurrently with the period of detention or term of imprisonment for another offence (whether that other offence is a property offence or not)."; and

- (b) by omitting from subsection (4) "property offences are together a single property offence" and substituting "findings of guilt are together a single finding of guilt".

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9. ADDITIONAL ORDERS FOR REPEAT PROPERTY OFFENDERS

Section 53AF of the Principal Act is amended by omitting subsection (2) and substituting the following:

"(2) An order referred to in subsection (1) cannot be made if its effect could be to release (whether conditionally or unconditionally) the juvenile from the requirement to serve the mandatory period at a detention centre or in a prison."

10. IMPRISONMENT AND DETENTION UNDER THIS DIVISION

Section 53AG of the Principal Act is amended —

- (a) by omitting from subsection (3) all the words after "sentencing" (last occurring) and substituting the following:

"the juvenile to —

- (a) a term of imprisonment for the period remaining to be served under the order; and
- (b) in respect of the remainder (if any) of the mandatory period — a term of actual imprisonment for that remainder."; and
- (b) by omitting from subsection (4) "Nothing" and substituting "Subject to subsection (3), nothing".

11. PUNITIVE WORK ORDER

Section 53AH of the Principal Act is amended —

- (a) by omitting from subsection (2) "a property offence" and substituting "an offence"; and
- (b) by adding at the end the following:

"(7) Despite section 69 of the *Prisons (Correctional Services) Act*, a juvenile is not entitled to be paid for any work performed in compliance with a punitive work order while the juvenile is in a prison.

"(8) In this section, 'juvenile' means —

- (a) a child who has attained the age of 15 years; or
- (b) in the absence of proof as to age, a child who apparently has attained the age of 15 years."

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12. CIRCUMSTANCES IN WHICH PUNITIVE WORK ORDER MAY BE MADE

Section 53AJ of the Principal Act is amended by omitting paragraph (b) and substituting the following:

"(b) is satisfied, after —

- (i) considering a report from a probation officer about the juvenile and his or her circumstances;
- (ii) taking into account the juvenile's physical and mental capacity; and
- (iii) if the Court thinks necessary — hearing a probation officer,

that —

- (iv) the juvenile is a suitable person to participate in the approved project; and
- (v) the project is approved and can be provided under the arrangements referred to in paragraph (a)."

13. DUTIES OF JUVENILE IN CARRYING OUT PUNITIVE WORK ORDER

Section 53AK of the Principal Act is amended by omitting from subsection (1)(d) "inform" and substituting "in the case of a juvenile who is not at a detention centre or in a prison — inform".

14. REVIEW OF PUNITIVE WORK ORDER

Section 53AL of the Principal Act is amended —

- (a) by omitting from subsection (1) "The Court" and substituting "The Court that made a punitive work order"; and
- (b) by omitting from subsection (1)(a) and (b) "a punitive work order" and substituting "the punitive work order".

15. BREACH OF PUNITIVE WORK ORDER

Section 53AM of the Principal Act is amended —

- (a) by omitting subsection (1)(d), (e) and (f) and substituting the following:

"(d) assaults, threatens, insults or uses abusive language to —

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- (i) a probation officer;
- (ii) a supervising officer; or
- (iii) a member of the staff of a detention centre or prison officer responsible for supervising the order,

at any time during the period that the order is in force;

- (e) in the case of a juvenile who is not at a detention centre or in a prison — changes his or her address for the purposes of evading execution of this Act;
- (f) commits an offence against a law in force in the Territory, the Commonwealth or a State or another Territory of the Commonwealth at any time during the period that the order is in force; or
- (g) commits a breach of the Regulations.";
- (b) by omitting from subsection (4) "the Court" (first occurring) and "a punitive work order" and substituting "the Court that made a punitive work order" and "the punitive work order", respectively;
- (c) by omitting subsection (5)(a)(i) and (ii) and substituting the following:
 - "(i) if that offence is a property offence —
 - (A) varying the order made in pursuance of section 53AE in respect of the offence by extending the mandatory period; or
 - (B) making any other order it may make under this Act, other than an order the effect of which would be that the offender would not serve the whole of the mandatory period or any extension of that period under sub-subparagraph (A) as a term of actual imprisonment; or
 - (ii) if that offence is not a property offence — making any other order it may make under this Act; and"; and
- (d) by omitting from subsection (6) "the Court" (first occurring) and substituting "the Court that made the order".

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16. SCHEDULE

The Schedule to the Principal Act is amended —

- (a) by omitting from clause 1(b) "and";
- (b) by omitting from clause 1(c) "offence." and substituting "offence; and";
- (c) by adding at the end of clause 1 the following:
"(d) the offender was not employed at the premises or place at the time of the offence.";
- (d) by omitting from clause 2 "230,"; and
- (e) by adding at the end the following:
"3. An offence against section 61 of the *Summary Offences Act*."