

**NORTHERN TERRITORY OF AUSTRALIA**

**YOUTH JUSTICE AMENDMENT ACT 2010**

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**Act No. 26 of 2010**

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**Table of provisions**

1	Short title .....	1
2	Act amended .....	1
3	Section 5 amended.....	1
4	Section 52 amended.....	2
5	Section 53 amended.....	2
6	Sections 54 to 56 replaced .....	2
	54 Court to deal with matters summarily except in certain cases	
	54A Exception if adult offender would be liable to life imprisonment	
	55 Indictable offence tried summarily if youth consents	
	56 Court may decline to hear and determine charge summarily	
	56A Youth may elect to be tried summarily	
7	Section 57 amended.....	4
8	Section 58 amended.....	4
9	Part 16 inserted .....	5
	Part 16 Provisions for Youth Justice Amendment Act 2010	
	224 Exercise of jurisdiction under pre-commencement Act	
	225 Matter before Supreme Court at commencement	



# NORTHERN TERRITORY OF AUSTRALIA

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Act No. 26 of 2010

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An Act to amend the *Youth Justice Act*

[Assented to 24 August 2010]  
[Second reading 10 August 2010]

The Legislative Assembly of the Northern Territory enacts as follows:

**1 Short title**

This Act may be cited as the *Youth Justice Amendment Act 2010*.

**2 Act amended**

This Act amends the *Youth Justice Act*.

**3 Section 5 amended**

(1) Section 5(1), definition **Court**

*omit*

(2) Section 5(1)

*insert (in alphabetical order)*

**Court** means the Youth Justice Court as mentioned in section 45 and, if the context requires, includes:

- (a) the Supreme Court exercising its jurisdiction under this Act;  
and
- (b) a magistrate conducting a preliminary examination under this Act in accordance with Part V of the *Justices Act*.

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(3) After section 5(2)

*insert*

(2A) In this Act, a reference to the Youth Justice Court conducting a preliminary examination is taken to be a reference to a magistrate dealing with a charge by way of preliminary examination.

#### **4 Section 52 amended**

(1) Section 52(1)(a)

*omit, insert*

(a) all charges in respect of summary offences or indictable offences allegedly committed by a youth;

(2) After section 52(2)

*insert*

(3) Subsection (1) does not limit the jurisdiction of the Supreme Court to deal with a matter involving a youth where an ex officio indictment has been presented to that Court.

#### **5 Section 53 amended**

Section 53(2)(a)

*omit*

#### **6 Sections 54 to 56 replaced**

Sections 54 to 56

*repeal, insert*

#### **54 Court to deal with matters summarily except in certain cases**

Subject to sections 54A, 55(4) and 56, all charges before the Youth Justice Court are to be heard and determined summarily.

#### **54A Exception if adult offender would be liable to life imprisonment**

(1) Subsection (2) applies to a charge in respect of an offence allegedly committed by a youth that would be punishable by imprisonment for life if the offence had been committed by an adult.

(2) The Youth Justice Court must deal with the charge by way of preliminary examination.

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**55 Indictable offence tried summarily if youth consents**

- (1) This section applies if a youth is charged in respect of an indictable offence that is neither of the following:
  - (a) an offence mentioned in section 120 of the *Justices Act*,
  - (b) an offence mentioned in section 54A(1).
- (2) The Youth Justice Court must inform the youth and a responsible adult in relation to the youth (if present in court) of the youth's right to consent or not to the charge being heard and determined summarily.
- (3) If the youth consents, the Court must hear and determine the charge summarily.
- (4) If the youth does not consent, the Court must deal with the charge by way of preliminary examination.
- (5) For subsection (2), if no responsible adult in relation to the youth is present in court, the Court:
  - (a) may adjourn the proceeding to enable a responsible adult to be present; and
  - (b) may continue the proceeding after the adjournment even if no responsible adult is present.

**56 Court may decline to hear and determine charge summarily**

- (1) If, at any stage of the proceedings (prior to a finding of guilt), the Youth Justice Court considers it is not appropriate to hear and determine summarily a charge in respect of an indictable offence for which the Court has jurisdiction, the Court:
  - (a) may decline to hear and determine the charge summarily; and
  - (b) if it declines – must give its reasons for declining; and
    - (i) if dealing with the charge by way of preliminary examination – must continue by way of preliminary examination; and
    - (ii) otherwise – must continue the proceedings as if the Court had been dealing with the charge by way of preliminary examination.

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- (2) For subsection (1), it is immaterial whether or not the youth:
- (a) has consented under section 55(3) to the charge being heard and determined summarily; or
  - (b) has elected under section 56A(2) to have the charge heard and determined summarily.

**56A Youth may elect to be tried summarily**

- (1) Subsection (2) applies if the Youth Justice Court is dealing by way of preliminary examination with a charge in respect of an indictable offence that is not an offence of the type mentioned in section 54A(1).
- (2) The youth may, at any time before or during the preliminary examination, elect to have the charge heard and determined summarily.

**7 Section 57 amended**

- (1) Section 57(1)(a)

*omit*

section 54(2) or 55(6)

*insert*

section 55(4) or 56

- (2) Section 57(2)

*omit, insert*

- (2) If the Youth Justice Court considers it appropriate, the Court may accept the guilty plea and do either of the following:
  - (a) sentence the youth;
  - (b) refer the youth to the Supreme Court for sentencing.

**8 Section 58 amended**

- (1) Section 58(1)

*omit*

matter is to be heard

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*insert*

charge in respect of an offence is to be heard and determined

- (2) Section 58(1)(b)

*omit, insert*

(b) if the proceeding began as a preliminary examination but the youth elects under section 56A to have the charge heard and determined summarily – on the continuation of the proceeding as a summary trial.

- (3) Section 58(2)

*omit*

charge,

*insert*

charge in respect of an offence,

## **9 Part 16 inserted**

After section 223

*insert*

## **Part 16 Provisions for Youth Justice Amendment Act 2010**

### **224 Exercise of jurisdiction under pre-commencement Act**

- (1) The purpose of this section is to validate the exercise of jurisdiction by the Youth Justice Court under the pre-commencement Act in relation to declared charges, or the purported exercise of such jurisdiction.
- (2) The Youth Justice Court is taken to have, and always to have had, jurisdiction under the pre-commencement Act to hear and determine, or decide not to hear, summarily all declared charges.
- (3) In addition to subsection (2), an exercise of jurisdiction in relation to a declared charge by the Youth Justice Court under the pre-commencement Act, or the purported exercise of such jurisdiction, is taken to be, and always to have been, valid and effective for all purposes as if exercised after the commencement of this section.

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- (4) Subsections (2) and (3) do not apply to proceedings in relation to a declared charge allegedly committed by a particular youth if:
- (a) before the commencement, the Supreme Court made a decision about the jurisdiction, or want of jurisdiction, of the Youth Justice Court in relation to the declared charge; and
  - (b) the application of the subsections in relation to the declared charge would be inconsistent with the decision of the Supreme Court.

- (5) In this section:

**declared charge** means a charge in respect of an indictable offence that, if the offence had been committed by an adult:

- (a) the offence would not be punishable by imprisonment for life; and
- (b) the adult could not consent to the charge being heard and determined summarily.

**exercise of jurisdiction**, in relation to a declared charge, includes any of the following relating to the declared charge:

- (a) instituting, adjourning and continuing a proceeding;
- (b) issuing a warrant, summons or other process;
- (c) making or giving an order, direction, notice, whether by instrument or otherwise;
- (d) making a finding of guilt;
- (e) imposing a sentence;
- (f) doing any other act or thing under an Act.

**pre-commencement Act** means this Act as in force at any time before the commencement of this section.

## **225 Matter before Supreme Court at commencement**

- (1) This section applies in relation to a matter:
- (a) that, on the commencement of this section, is before the Supreme Court; and
  - (b) that, after the commencement, the Youth Justice Court has jurisdiction to hear and determine summarily.

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- (2) The Supreme Court must consider whether:
    - (a) the Supreme Court should continue to deal with the matter; or
    - (b) the Youth Justice Court should hear and determine the matter summarily.
  - (3) If the Supreme Court considers the matter should be heard and determined summarily by the Youth Justice Court, and the youth consents, the Supreme Court:
    - (a) may remit the matter to the Youth Justice Court; and
    - (b) may give any directions about the matter that the Supreme Court considers appropriate for the remission.