

NORTHERN TERRITORY OF AUSTRALIA
JUVENILE JUSTICE AMENDMENT ACT (No. 2) 1996

No. 61 of 1996

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NORTHERN TERRITORY OF AUSTRALIA

No. 61 of 1996

AN ACT

to amend the *Juvenile Justice Act*

[Assented to 31 December 1996]

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 (No. 2) 1996*.

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(1) of the Principal Act is amended -

- (a) by omitting the definition of "approved project" and substituting the following:

"'approved project', in relation to -

- (a) a community service order, means a rehabilitation program or work, or both, approved under subsection (3); and
-

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(b) a punitive work order, means a project approved under section 53AH(1);"; and

(b) by inserting after the definition of "probation officer" the following:

"'property offence' means an offence specified in the Schedule;

'punitive work order' means a punitive work order made under section 53AH(2);".

5. DIVISION HEADING

The Principal Act is amended by inserting in Part VI, before section 34, the following:

"Division 1 - Proceedings Generally".

6. DISPOSITION BY COURT

Section 53 of the Principal Act is amended -

(a) by omitting from subsection (1) "(1) Where" and substituting "(1) Subject to Division 3, where"; and

(b) by omitting from subsection (4E) "the Court" (first occurring) and "it" and substituting "a Justice" and "the Justice", respectively.

7. DIVISION HEADING

The Principal Act is amended by inserting before section 53AA the following:

"Division 2 - Community Service Orders".

8. BREACH OF COMMUNITY SERVICE ORDER

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

"(2) Where a Justice is satisfied that a juvenile is in breach of a community service order, the Justice may -

(a) issue a summons directing the juvenile to appear before the Court on a date and at a time specified in the summons; or

(b) where the Justice is satisfied the juvenile may not appear, issue a warrant for the arrest of the juvenile."

9. NEW DIVISION

The Principal Act is amended by inserting after section 53AD the following:

"Division 3 - Repeat Property Offenders

"Subdivision 1 - Compulsory Detention

"53AE. SENTENCING OF REPEAT PROPERTY OFFENDERS WHO HAVE ATTAINED THE AGE OF 15 YEARS

"(1) In this section, 'juvenile' means a juvenile who has attained the age of 15 years.

"(2) Where the Court finds a juvenile guilty of a property offence and the juvenile has once or more before been found guilty of a property offence, the Court shall record a conviction and order the juvenile to be detained at a detention centre for not less than 28 days.

"(3) Where a juvenile is found guilty of more than one property offence specified in the same information, complaint or indictment, the findings of guilt are, for the purposes of this section, to be taken as a single finding of guilt, whether or not all the offences are the same.

"(4) Where a juvenile is found guilty of more than one property offence as part of a single criminal enterprise, all the property offences are together a single property offence for the purposes of this section, whether or not the offences are the same.

"(5) Where a juvenile is found guilty of a property offence, the offence is to be taken into account for the purposes of subsection (2) whether it was committed before or after the property offence in respect of which the juvenile is before the Court.

"53AF. ADDITIONAL ORDERS FOR REPEAT PROPERTY OFFENDERS

"(1) In addition to the order required to be made under section 53AE, the Court may make a punitive work order or any other order it may make under this Act.

"(2) An order referred to in subsection (1) cannot be made if its effect would be to release the juvenile from the requirement to actually serve the term of detention ordered under section 53AE.

"53AG. IMPRISONMENT AND DETENTION UNDER THIS DIVISION

"(1) A period of imprisonment or detention under this Division may be served continuously or periodically at the discretion of the Court.

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"(2) Where the Court, under this Division, sentences a juvenile to a period of detention in a detention centre during which period the juvenile will attain the age of 17 years, the juvenile shall, not later than 28 days after attaining the age of 17 years, be transferred from the detention centre to a prison, within the meaning of the *Prisons (Correctional Services) Act*, to serve the remainder of the sentence.

"(3) Where a detainee is transferred to a prison under subsection (2), the order of the Court sentencing the juvenile to a period of detention in a detention centre shall, notwithstanding anything to the contrary in this Act, be deemed to be an order of the Court sentencing the juvenile to a term of imprisonment for the period remaining to be served under the order.

"(4) Nothing in this section shall be construed as limiting the power of the Supreme Court to impose on a juvenile a sentence it could otherwise than under this section impose on the juvenile.

"(5) Subject to subsection (2), where the Court makes an order under this Division in respect of a juvenile that order shall remain in force, provided that the juvenile complies with the Act and the order, notwithstanding that the juvenile has attained the age of 17 years.

"Subdivision 2 - Punitive Work Orders

"53AH. PUNITIVE WORK ORDER

"(1) The Minister may approve work as a project to be participated in under a punitive work order.

"(2) The Court that found a juvenile guilty of a property offence may order the juvenile to participate, within such time as the Court may order, in an approved project for 224 hours.

"(3) A punitive work order may require the juvenile to present himself -

- (a) at a place and to a person and within a time, specified in the order; or
- (b) at a place and to a person and within the time and by the means as directed by the Director in writing.

"(4) Where the Court makes a punitive work order, the juvenile shall not leave the precincts of the Court until the juvenile signs the order.

"(5) Where the Court makes a punitive work order, it shall ensure that a copy of the order is -

- (a) given to the juvenile; and

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(b) sent to the Director.

"(6) Where a punitive work order contains a requirement in accordance with subsection (3)(b), the Director shall cause written notice of the direction to be given to the juvenile as soon as practicable after the order is made.

"53AJ. CIRCUMSTANCES IN WHICH PUNITIVE WORK ORDER MAY BE MADE

"The Court shall not make a punitive work order unless it -

- (a) has been notified by a probation officer that arrangements have been or will be made for the juvenile to participate in an approved project under the order; and
- (b) is satisfied, after considering a report from a probation officer about the juvenile and the juvenile's circumstances, and, if the Court thinks necessary, hearing a probation officer, that -
 - (i) the juvenile is a suitable person to participate in the approved project; and
 - (ii) the project is approved and can be provided under the arrangements referred to in paragraph (a) for the juvenile to carry out.

"53AK. DUTIES OF JUVENILE IN CARRYING OUT PUNITIVE WORK ORDER

"(1) A juvenile in respect of whom a punitive work order is in force shall -

- (a) participate, for the number of hours specified in the order, in such approved project as a probation officer directs;
- (b) participate in the project in a satisfactory manner;
- (c) while participating in the project, comply with any reasonable direction of a probation officer or supervising officer; and
- (d) inform a probation officer of a change in the juvenile's residential address not later than 48 hours after the change.

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"(2) Except where the juvenile consents, a juvenile shall not be required to participate in an approved project under a punitive work order for more than 8 hours (exclusive of time allowed for meals) in any one day.

"53AL. REVIEW OF PUNITIVE WORK ORDER

"(1) The Court, on the application of the Director, may -

- (a) revoke a punitive work order and order the juvenile to be detained at a detention centre for not less than 28 days;
- (b) revoke a punitive work order and sentence the juvenile to serve a term of imprisonment of 28 days; or
- (c) vary the time within which the juvenile is to complete the juvenile's participation in the approved project or otherwise vary the terms of the order, but shall not reduce the number of hours the juvenile is required to participate in an approved project under the order.

"(2) Where the Director makes an application under subsection (1), the Court shall summons the juvenile to appear before it on the hearing of the application and, if the juvenile does not appear in answer to the summons, may order that a warrant to arrest the juvenile be issued.

"(3) Without limiting the matters that the Court may take into consideration in reviewing a punitive work order, the grounds for reviewing such an order include the fact -

- (a) that the juvenile is in custody on a charge for another offence;
- (b) that the juvenile's behaviour is such that the carrying out of the terms of the order is impracticable; or
- (c) that the operation of the order offends other persons.

"53AM. BREACH OF PUNITIVE WORK ORDER

"(1) A juvenile is in breach of a punitive work order if the juvenile -

- (a) fails to comply with a term or condition of the order;
- (b) fails to carry out the juvenile's obligations under section 53AK(1);

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- (c) disturbs or interferes with any other person participating in or doing anything under a punitive work order or a community service order;
- (d) assaults, threatens, insults or uses abusive language to a probation officer or supervising officer;
- (e) changes the juvenile's address for the purposes of evading the execution of this Act; or
- (f) commits an offence against a law in force in the Territory during a time when the juvenile is participating in an approved project under the order.

"(2) Where a Justice is satisfied that a juvenile is in breach of a punitive work order, the Justice may -

- (a) issue a summons directing the juvenile to appear before the Court on a date and at a time specified in the summons; or
- (b) where the Justice is satisfied the juvenile may not appear, issue a warrant for the arrest of the juvenile.

"(3) Where a juvenile served with a summons issued under subsection (2)(a) fails to attend before the Court, the Court may issue a warrant for the arrest of the juvenile.

"(4) Where the Court is satisfied, by evidence on oath or by affidavit, or by the admission of the juvenile, that a juvenile is in breach of a punitive work order, the Court shall, whether or not the order is in force at the time the juvenile appears before the Court, and whether or not the juvenile has participated in a project under the order for some of the time the juvenile was required to participate in the project -

- (a) order that the juvenile be detained at a detention centre for not less than 28 days; or
- (b) order that the juvenile serve a term of imprisonment for 28 days.

"(5) Where the Court imposes a term of detention or imprisonment under subsection (4), the punitive work order shall be deemed to be revoked and the Court -

- (a) shall then deal with the juvenile for the offence in respect of which the punitive work order was made by -

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- (i) varying the order made under section 53AE in respect of the offence by extending the period of detention the juvenile is required to serve; and/or
 - (ii) making any other order it may make under this Act, other than an order the effect of which would be to release the juvenile from the requirement to actually serve the term of detention ordered under section 53AG or extended in accordance with subparagraph (i); and
- (b) may, in dealing with the juvenile in accordance with paragraph (a), take into account the extent to which the juvenile had complied with the order or any other order made in respect of the offence.

"(6) Where a punitive work order is made in respect of more than one offence and the Court is satisfied that the juvenile is in breach of the order, the Court shall deal with the juvenile under this section for all the offences in respect of which the order was made.

Division 4 - Miscellaneous".

10. PARENTS LIABLE FOR COSTS OF DETENTION

Section 55A(1) of the Principal Act is amended by inserting after "53(1)(g)" the words "or Division 3".

11. PROBATION

Section 87 of the Principal Act is amended by inserting in subsections (1) and (3), after "section 53", the words "or Division 3 of Part VI".

12. ARREST WITHOUT WARRANT WHERE CONDITION BREACHED

Section 89 of the Principal Act is amended by inserting after "or (3)" the words "or by a punitive work order".

13. TAKING OTHER OFFENCES INTO ACCOUNT

Section 90A of the Principal Act is amended by omitting "Section 396 of the *Criminal Code*" and substituting "Section 107 of the *Sentencing Act*".

14. NEW SCHEDULE

The Principal Act is amended by inserting at the end the following:

"SCHEDULE

Section 3(1)

COMPULSORY IMPRISONMENT OFFENCES
UNDER CRIMINAL CODE

1. An offence against section 210 of the Criminal Code, except where -
 - (a) the offence occurred at premises, or a place, where goods are sold;
 - (b) the offence was not part of a single criminal enterprise during which the juvenile committed an offence against Part VI of the Criminal Code; and
 - (c) the juvenile was lawfully in the premises or at the place at the time of the offence.
2. An offence against section 211, 212, 213, 214, 215, 218, 229, 230, 231 or 251 of the Criminal Code.

_____".

