

NORTHERN TERRITORY OF AUSTRALIA  
CRIMINAL CODE AMENDMENT ACT (No. 2) 1996

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No. 11 of 1996

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## AN ACT

to amend the Criminal Code

[Assented to 10 April 1996]

**B**E 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 *Criminal Code Amendment Act (No. 2) 1996*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. REPEAL AND SUBSTITUTION

Section 130 of the Criminal Code is repealed and the following substituted:

"130. SEXUAL INTERCOURSE OR GROSS INDECENCY BY PROVIDER OF SERVICES TO MENTALLY ILL OR HANDICAPPED PERSON

"(1) In this section -

'de facto spouse' means -

- (a) in relation to a man, a woman living with the man as his wife on a bona fide domestic basis although not married to him; and

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- (b) in relation to a woman, a man living with the woman as her husband on a bona fide domestic basis although not married to her;

'disability support service' means a medical or therapeutic service provided to a mentally ill or handicapped person and related to the mental illness or handicap;

'provider of disability support services' means a person who provides a disability support service, whether or not he or she does so for remuneration or on a voluntary basis, but does not include such a person who himself or herself at the time of providing a disability support service is a mentally ill or handicapped person.

"(2) Any person who, being a provider of disability support services to a mentally ill or handicapped person -

- (a) has sexual intercourse with; or
- (b) commits any act of gross indecency upon,

that person is guilty of a crime and is liable to imprisonment for 7 years.

"(3) It is a defence to a charge of a crime defined by this section to prove that the accused person -

- (a) was, at the time of the alleged crime, the husband or wife of, or a de facto spouse of, the mentally ill or handicapped person; or
- (b) did not know that the person was a mentally ill or handicapped person.

"(4) Section 12 does not apply to the person with whom an act herein proscribed is done."

4. ATTEMPTS AT PROCURATION OF YOUNG PERSONS OR MENTALLY ILL OR HANDICAPPED PERSONS

Section 131 of the Criminal Code is amended -

- (a) by omitting from subsection (1) "or a mentally ill or handicapped person"; and
  - (b) by omitting from subsection (3) all words after "16 years".
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