

NORTHERN TERRITORY OF AUSTRALIA

CRIMINAL CODE AMENDMENT (IDENTITY CRIME) ACT 2014

Act No. 9 of 2014

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 9 of 2014

An Act to amend the Criminal Code and to make related amendments to other legislation

[Assented to 16 April 2014]
[Second reading 19 February 2014]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Criminal Code Amendment (Identity Crime) Act 2014*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

Part 2 Amendment of Criminal Code

3 Criminal Code amended

This Part amends the Criminal Code.

4 Section 1 amended

Section 1

insert (in alphabetical order)

deal in, for Part VII, Division 2A, see section 228A.

identification documentation, for Part VII, Division 2A, see section 228A.

identification information, for Part VII, Division 2A, see section 228A.

victim, for Part VII, Division 2A, see section 228A.

5 Part VII, Division 2A inserted

After section 228

insert

Division 2A Identity crime

Note for Division 2A

Under section 28C of the Local Court Act and Part 5, Division 1AA of the Sentencing Act a certificate may be issued to a victim of an offence against section 228C, 228D or 228E. The certificate may assist the victim to deal with any problems caused by the commission of the offence in relation to the victim's personal or business affairs. Under the Local Court Act, the certificate may be issued whether or not any criminal proceedings have been or can be taken against a person in relation to the offence or are pending.

228A Definitions

In this Division:

deal in includes make, copy, store, supply, transmit or use.

identification documentation means a document or other thing that:

- (a) contains identification information; and
- (b) can be used by a person to pretend to be, or to pass the person off as, another person (whether living, dead, real or fictitious).

identification information means information that can be used (whether alone or in conjunction with other information) to identify, or purportedly identify, a person (whether living, dead, real or fictitious), including the following:

- (a) a name, address, date of birth or place of birth;
- (b) information as to a person's marital status;
- (c) information about the relatives of a person;
- (d) a driver's licence or driver's licence number;
- (e) a passport or passport number;
- (f) biometric data;
- (g) a voice print;
- (h) a credit or debit card, its number, or data stored or encrypted on it;
- (i) a financial account number, user name or password;
- (j) a digital signature;
- (k) a series of numbers, letters, symbols (or a combination of these) intended for use as a means of personal identification;
- (l) an ABN, as defined in the *A New Tax System (Australian Business Number) Act 1999* (Cth).

victim means a person whose identification information is the subject of an offence against section 228C, 228D or 228E.

228B Attempt offences in section 43BF do not apply

Section 43BF does not apply to an offence against section 228C, 228D or 228E.

228C Dealing in identification information

- (1) A person commits an offence if:
 - (a) the person deals in information; and
 - (b) the information is identification information; and

- (c) the person does so with intent to commit a crime or facilitate the commission of a crime.

Maximum penalty: Imprisonment for 7 years.

- (2) This section applies:
 - (a) even if the crime mentioned in subsection (1)(c) is impossible to commit; and
 - (b) whether or not the victim consented to the dealing in the identification information.
- (3) This section does not apply to dealing in a person's own identification information.

228D Possessing identification information

- (1) A person commits an offence if:
 - (a) the person possesses information; and
 - (b) the information is identification information; and
 - (c) the person does so with intent to commit a crime or facilitate the commission of a crime.

Maximum penalty: Imprisonment for 3 years.

- (2) This section applies:
 - (a) even if the crime mentioned in subsection (1)(c) is impossible to commit; and
 - (b) whether or not the victim consented to the possession of the identification information.
- (3) This section does not apply to the possession of a person's own identification information.

228E Possessing equipment used to deal in identification information or identification documentation

- (1) A person commits an offence if:
 - (a) the person possesses equipment; and
 - (b) the equipment can be used to deal in identification information or identification documentation; and

(c) the person does so with intent to commit a crime or facilitate the commission of a crime.

(2) This section applies even if the crime mentioned in subsection (1)(c) is impossible to commit.

Maximum penalty: Imprisonment for 3 years.

228F Alternative verdicts

(1) This section applies if, in a proceeding against a person charged with an offence against section 228C (the *prosecuted offence*), the trier of fact:

(a) is not satisfied beyond reasonable doubt that the person committed the prosecuted offence; but

(b) is satisfied beyond reasonable doubt that the person committed an offence against section 228D (the *alternative offence*).

(2) The trier of fact may find the person not guilty of the prosecuted offence but guilty of the alternative offence.

6 Schedule 1 amended

Schedule 1

insert (in numerical order)

Part VII (Property offences and related matters), Division 2A (Identity crime)

Part 3 Amendment of Local Court Act

7 Act amended

This Part amends the *Local Court Act*.

8 Section 28C inserted

After section 28B

insert

28C Court may issue certificate to victim of identity crime

- (1) The Court may, on application by a person (the *victim*), issue a certificate if satisfied on the balance of probabilities that:
 - (a) an offence against section 228C, 228D or 228E of the Criminal Code has been committed; and
 - (b) the victim's identification information was the subject of the offence; and
 - (c) the certificate may assist the victim to deal with any problems the commission of the offence has caused in relation to the victim's personal or business affairs.
- (2) The Court may issue a certificate whether or not:
 - (a) the person who committed the offence is identifiable; and
 - (b) any criminal proceedings have been or can be taken against a person in relation to the offence or are pending.
- (3) A certificate must:
 - (a) identify the victim of the offence; and
 - (b) explain how identification information relating to the victim was used to commit the offence; and
 - (c) contain any other information the Court considers appropriate in order to assist the victim to deal with any problems the commission of the offence has caused in relation to the victim's personal or business affairs.
- (4) Despite subsection (3), a certificate must not identify the person who committed, or allegedly committed, the offence to which it relates.
- (5) A certificate is not admissible as evidence in any criminal proceedings in relation to the offence to which it relates.
- (6) In this section:

identification information, see section 228A of the Criminal Code.

Part 4 Amendment of Sentencing Act

9 Act amended

This Part amends the *Sentencing Act*.

10 Section 3 amended

Section 3(1)

insert (in alphabetical order)

identification information, for Part 5, Division 1AA, see section 228A of the Criminal Code.

victim, for Part 5, Division 1AA, see section 228A of the Criminal Code.

11 Part 5, Division 1AA inserted

After section 97

insert

Division 1AA Certificates for victims of identity crime

97AA Definitions

In this Division:

identification information, see section 228A of the Criminal Code.

victim, see section 228A of the Criminal Code.

97AB Court may issue certificate to victim

- (1) The court may issue a certificate to the victim if:
 - (a) the court is sentencing a person for an offence against section 228C, 228D or 228E of the Criminal Code; and
 - (b) the victim of the offence has not already obtained a certificate under section 28C of the *Local Court Act*; and
 - (c) the court is satisfied on the balance of probabilities that a certificate under this Division may assist a victim to deal with any problems the commission of the offence has caused in relation to the victim's personal or business affairs.
- (2) The court may issue a certificate on its own initiative or on application by the prosecution.

97AC Content of certificate

- (1) The certificate must:
 - (a) identify the victim of the offence; and
 - (b) explain how identification information relating to the victim was used to commit the offence; and
 - (c) contain any other information the court considers appropriate in order to assist the victim to deal with any problems the commission of the offence has caused in relation to the victim's personal or business affairs.
- (2) Despite subsection (1), a certificate must not identify the person who committed the offence to which it relates.

Part 5 Amendment of Private Security (Crowd Controllers) Regulations**12 Regulations amended**

This Part amends the *Private Security (Crowd Controllers) Regulations*.

13 Regulation 3 amended

Regulation 3(a), after "228,"

insert

228C, 228D, 228E,

Part 6 Amendment of Private Security (Miscellaneous Matters) Regulations**14 Regulations amended**

This Part amends the *Private Security (Miscellaneous Matters) Regulations*.

15 Schedule 1 amended

Schedule 1, Note (b), table of disqualifying offences against the Criminal Code

omit, insert

Section 69 – going armed in public	Section 132 – indecent dealing with child
Section 156 – murder	Section 160 – manslaughter
Section 165 – attempt to murder	Section 166 – threats to kill
Section 177 – acts intending to cause serious harm or prevent apprehension	Section 181 – serious harm
Section 182 – attempting to injure by explosive substances	Section 186 – bodily harm
Section 188(2) – common assault with specified circumstances of aggravation	Section 189A – assaults on police
Section 189 – unlawful stalking	Section 192 – sexual intercourse and gross indecency without consent
Section 192B – coerced sexual self-manipulation	Section 193 – assaults with intent to commit an offence
Section 194 – kidnapping for ransom	Section 195 – kidnapping
Section 196 – deprivation of liberty	Section 210 – stealing (where a custodial sentence is imposed that is wholly or partially served)
Section 211 – robbery	Section 212 – assault with intent to steal
Section 227 – criminal deception	Section 228 – blackmail and extortion
Section 228C – dealing in identification information	Section 228D – possessing identification information
Section 228E – possessing equipment used to deal in identification information or identification documentation	Section 229 – receiving stolen property
Section 231 – taking reward for recovery of property obtained by means of a crime	Section 233 – false accounting
Section 239 – arson	

Part 7 Amendment of Private Security (Security Firms) Regulations

16 Regulations amended

This Part amends the *Private Security (Security Firms) Regulations*.

17 Regulation 2 amended

Regulation 2(a), after "228,"

insert

228C, 228D, 228E,

18 Schedule amended

Schedule, Part B, item 8, Note (c), table of disqualifying offences against the Criminal Code

omit, insert

Section 69 – going armed in public	Section 132 – indecent dealing with child
Section 156 – murder	Section 160 – manslaughter
Section 165 – attempt to murder	Section 166 – threats to kill
Section 177 – acts intending to cause serious harm or prevent apprehension	Section 181 – serious harm
Section 182 – attempting to injure by explosive substances	Section 186 – bodily harm
Section 188(2) – common assault with specified circumstances of aggravation	Section 189A – assaults on police
Section 189 – unlawful stalking	Section 192 – sexual intercourse and gross indecency without consent
Section 192B – coerced sexual self-manipulation	Section 193 – assaults with intent to commit an offence
Section 194 – kidnapping for ransom	Section 195 – kidnapping
Section 196 – deprivation of liberty	Section 210 – stealing (where a custodial sentence is imposed that is wholly or partially served)
Section 211 – robbery	Section 212 – assault with intent to steal
Section 227 – criminal deception	Section 228 – blackmail and extortion
Section 228C – dealing in identification information	Section 228D – possessing identification information
Section 228E – possessing equipment used to deal in identification information or identification documentation	Section 229 – receiving stolen property
Section 231 – taking reward for recovery of property obtained by means of a crime	Section 233 – false accounting
Section 239 – arson	

Part 8 Amendment of Private Security (Security Officers) Regulations**19 Regulations amended**

This Part amends the *Private Security (Security Officers) Regulations*.

20 Regulation 2 amended

Regulation 2(a), after "228,"

insert

228C, 228D, 228E,

Part 9 Expiry of Act**21 Expiry of Act**

This Act expires on the day after it commences.