

NORTHERN TERRITORY OF AUSTRALIA

YOUTH JUSTICE AND RELATED LEGISLATION AMENDMENT ACT 2019

Act No. 32 of 2019

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 32 of 2019

An Act to amend the *Bail Act 1982*, the *Bail Regulations 1983*, the *Police Administration Act 1978*, the *Youth Justice Act 2005* and the *Youth Justice Regulations 2006*

[Assented to 9 October 2019]
[Introduced 20 March 2019]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Youth Justice and Related Legislation Amendment Act 2019*.

2 Commencement

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

Part 2 Amendment of Bail Act 1982

3 Act amended

This Part amends the *Bail Act 1982*.

4 Section 3 amended (Interpretation)

- (1) Section 3(1), definitions ***bail offence*** and ***original offence***
omit

(2) Section 3(1)

insert

bail offence means an offence against section 37B(1) or (2).

original offence means the offence mentioned in section 37B(1)(a) or (2)(a).

prescribed offence, see section 3B.

(3) Section 3(4), after "24"

insert

or 24A

5 Section 3B inserted

After section 3A

insert

3B Prescribed offence

For this Act, a **prescribed offence** is:

- (a) an offence prescribed by the Regulations; or
- (b) an offence against a law, or a repealed law, of the Territory or another jurisdiction (including a jurisdiction outside Australia) that substantially corresponds to an offence prescribed under paragraph (a).

6 Section 4 amended (Application of Act)

Section 4(1)

omit

This

insert

Except if otherwise expressly provided, this

7 Section 7A amended (Presumption against bail for certain offences)

Section 7A(2A)

omit, insert

- (2A) However, subsection (2) does not apply to a person who is accused of an offence to which this section applies if:
- (a) the person is assessed to be suitable to participate in a program of rehabilitation that is prescribed by the Regulations; or
 - (b) the person is a youth.

8 Section 8 amended (Presumption in favour of bail for certain offences)

After section 8(4)

insert

- (5) This section does not apply if the person accused of the offence is a youth.

9 Section 8A inserted

After section 8, in Part 2, Division 2

insert

8A Presumption in favour of bail for youths

- (1) This section applies to an offence except a prescribed offence.
- (2) A youth accused of an offence to which this section applies is entitled to be granted bail in accordance with this Act unless:
 - (a) an authorised member or a court is satisfied refusing bail is justified having considered the matters mentioned in sections 24 and 24A; or
 - (b) the youth stands convicted of the offence; or
 - (c) the requirement for bail is dispensed with under section 9.
- (3) Subject to subsection (4), a youth is entitled under this section to be granted bail in respect of an offence to which this section applies even if the youth is in custody for some other offence or reason for which the youth is not entitled to be granted bail.

-
- (4) A youth is not entitled under this section to be granted bail in respect of an offence to which this section applies if:
- (a) the youth is in custody in connection with some other offence; and
 - (b) the authorised member or court is satisfied that the youth is likely to remain in custody in connection with that other offence for a longer period than that for which bail in connection with the first-mentioned offence would be granted.

10 Section 12 (Bail may be granted where no entitlement)

Section 12, after "section 8"

insert

or 8A

11 Section 24 amended (Criteria to be considered in bail applications)

Section 24(1)

omit

In

insert

Subject to section 24A, in

12 Section 24A inserted

After section 24, in Part 5, Division 1

insert

24A Criteria to be considered in bail applications for youths

- (1) This section applies in relation to a determination as to the grant of bail to an accused person who is a youth.
- (2) In addition to the criteria mentioned in section 24, an authorised member or a court must take into consideration, so far as they can reasonably be ascertained, the following matters:
 - (a) the need to consider all other options before remanding the youth in custody;

- (b) the need to strengthen and preserve the relationship between the youth and the youth's family, a responsible adult in relation to the youth or the youth's carers;
 - (c) the desirability of allowing the living arrangements of the child to continue without interruption or disturbance;
 - (d) the desirability of allowing the education, training or employment of the youth to continue without interruption or disturbance;
 - (e) the need to minimise the stigma to the youth resulting from being remanded in custody;
 - (f) the likely sentence should the youth be found guilty of the offence;
 - (g) the youth's prior exposure to, experience of and reaction to trauma;
 - (h) the cognitive capacity, health and developmental needs of the youth;
 - (i) if the youth is an Aboriginal person – any issues that arise due to the youth's Aboriginality, including:
 - (i) the youth's cultural background, including the youth's ties to extended family or place; and
 - (ii) any other relevant cultural issue or obligation.
- (3) The authorised member or court must take into account any recommendation or information in relation to the youth provided by a bail support service that is prescribed by the Regulations.
- (4) The authorised member or the court must not refuse to grant bail to a youth on the sole ground that the youth does not have any, or any adequate, accommodation.

13 Section 28 amended (Imposition of bail conditions)

After section 28(2)

insert

- (2A) Without limiting subsection (2), if the accused person is a youth, an authorised member or the court must also take into consideration the following:
- (a) the need to ensure the conditions of the grant of bail are no more onerous than are necessary and do not constitute unfair management of the youth;
 - (b) the age, health, maturity and circumstances of the youth, including the youth's home environment;
 - (c) the capacity of the youth to comply with the conditions.

14 Sections 37A and 37B replaced

Sections 37A and 37B

repeal, insert

37B Offence to breach bail

- (1) A person commits a bail offence if:
- (a) the person is granted bail for an offence; and
 - (b) the person intentionally engages in conduct; and
 - (c) the conduct results in a breach of the person's bail undertaking for the original offence and the person is reckless in relation to the result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) A person commits a bail offence if:
- (a) the person is granted bail for an offence; and
 - (b) the person intentionally engages in conduct; and

-
- (c) the conduct results in a breach of a condition of the grant of bail for the original offence and the person is reckless in relation to the result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (3) Strict liability applies to subsections (1)(a) and (2)(a).
- (4) A youth is not liable to be charged for an offence against subsection (2).
- (5) It is a defence to a prosecution for a bail offence if the defendant has a reasonable excuse.
- (6) A penalty imposed for the bail offence must not exceed the maximum penalty that may be imposed for the original offence.

15 Section 38 amended (Arrest for absconding or breach of condition)

After section 38(2A)

insert

- (2B) Despite subsection (2A)(b), the court is not required to revoke bail for a person mentioned in subsection (2A)(b) if the person is a youth.

16 Part 9, Division 5 inserted

After section 63

insert

Division 5 Youth Justice and Related Legislation Amendment Act 2019

64 Definitions

In this Division:

amending Act means the *Youth Justice and Related Legislation Amendment Act 2019*.

commencement means the commencement of Part 2 the amending Act.

65 Application of amendments to sections 7A, 8, 28 and 38

Sections 7A, 8, 28 and 38, as amended by the amending Act, apply in relation to the granting of bail to an accused person for an offence if, before the commencement, the accused person had not been sentenced by the Court in relation to the offence.

66 Application of sections 8A and 24A

Sections 8A and 24A apply in relation to the granting of bail to an accused person for an offence if, before the commencement, the accused person had not been sentenced by the Court in relation to the offence.

67 Application of amendments to section 37B

- (1) Section 37B, as inserted by the amending Act, applies in relation to a bail offence committed before the commencement of the amending Act if, before the commencement, the accused person had not been sentenced by the Court in relation to the bail offence.
- (2) For this section, if any of the conduct constituting a bail offence occurred before the commencement, the bail offence is taken to have been committed before the commencement.

Part 3 Amendment of Bail Regulations 1983**17 Regulations amended**

This Part amends the *Bail Regulations 1983*.

18 Regulations 2A and 2B inserted

After regulation 2

insert

2A Prescribed offences

For section 3B of the Act, an offence under or against each of the following is prescribed:

- (a) section 54, 55(1), 125B(1), 127, 130(3A) or (3B), 132, 134(1), (2) or (3), 156, 160, 161A, 165, 175, 176, 177, 181, 182, 190, 191, 192(3), (4), (7) or (8), 192B, 194 or 211 of the Criminal Code;
- (b) section 189A(1) of the Criminal Code in the circumstances mentioned in section 189A(2)(b) of the Code;

- (c) section 212(1) of the Criminal Code in the circumstances mentioned in section 212(2) or (3) of the Code;
- (d) section 213(1) of the Criminal Code in the circumstances mentioned in section 213(6) of the Code.

2B Bail support services

For section 24A(3) of the Act, a bail support service is a service provided to assist an accused person to comply with the accused person's bail undertaking and any conditions of bail (whether or not that type of service is also provided to other persons), including the following:

- (a) bail support programs;
- (b) medical treatment;
- (c) counselling services or treatment services for substance abuse or other behaviour which may lead to the commission of offences;
- (d) counselling, treatment, support, assessment or assistance services for one or more of the following:
 - (i) a mental disorder, disability or difficulty;
 - (ii) an intellectual disability;
 - (iii) an acquired brain injury;
 - (iv) autism spectrum disorder;
 - (v) a neurological impairment, including dementia;
- (e) services to help resolve homelessness;
- (f) case planning or case management services;
- (g) educational programs;
- (h) cultural programs.

Part 4 Amendment of Police Administration Act 1978

19 Act amended

This Part amends the *Police Administration Act 1978*.

20 Section 123 amended (Arrest without warrant by members of Police Force)

Section 123, at the end

insert

Note for section 123

If the person arrested is a youth within the meaning of the Youth Justice Act 2005, sections 16 and 22 of that Act apply.

21 Section 135 amended (Disclosure of names)

Section 135(2)

omit

under subsection (1)

insert

requested by a person mentioned in subsection (1)(b)

22 Section 137 amended (Time for bringing person before court generally)

(1) Section 137(2)

omit

subsection (3)

insert

subsections (3) and (4),

(2) After section 137(3)

insert

(4) If the person taken into custody is a youth within the meaning of the *Youth Justice Act 2005*:

- (a) every 4 hours for a period of up to 24 hours a member of the Police Force holding the rank of Senior Sergeant or a higher rank must review and record the necessity of holding the youth for the purposes of enabling the youth to be questioned or investigations to be carried out; and

-
- (b) before the expiry of the 24 hour period, the member may:
- (i) apply to a Local Court Judge to hold the youth for an additional period of up to 4 hours; and
 - (ii) make subsequent applications to a Local Court Judge for the holding of the youth for each 4 hour period.
- (5) Any action taken under this section is not unlawful only because of a failure to comply with subsection (4).

Part 5 Amendment of Youth Justice Act 2005

23 Act amended

This Part amends the *Youth Justice Act 2005*.

24 Section 5 amended (Interpretation)

Section 5(1)

insert

prescribed offence, for Part 3, see section 38A.

25 Section 15 amended (Explanations by police officers)

- (1) Section 15(1), after "age,"

insert

health,

- (2) After section 15(1)

insert

- (1A) If the youth appears to have insufficient English language skills to understand the explanation, the police officer must take reasonable efforts to obtain a qualified interpreter for the explanation.

- (3) Section 15(2)

omit

interviewed or

26 Section 18 amended (Interview of youth)

(1) After section 18(1)

insert

(1A) The officer must do the following before interviewing the youth in respect of the offence, or causing the youth to do anything in connection with the investigation of the offence:

- (a) inform the youth of the youth's ability to access legal advice and representation;
- (b) provide the youth with access to legal advice and representation in a place and a manner that allows the youth privacy;
- (c) inform the youth of the youth's ability to contact a friend, relative, a responsible adult in respect of the youth or other support person who must be present while the officer interviews the youth or the youth does the act.

Note for subsection (1A)

Section 15 applies to explanations by police officers in relation to an investigation of an offence.

(1B) If a youth exercises the youth's right to silence, including exercising the right through legal representation, the officer must not interview the youth in respect of the offence.

(2) Section 18(2)

omit

support person

insert

person mentioned in subsection (1A)(c)

(3) Section 18(4)

omit, insert

(4) The police officer must keep a record of the particulars prescribed by the Regulations in exercising a power under this section.

27 Section 27 replaced

Section 27

repeal, insert

27 Youth to be brought before Court promptly

- (1) If a youth is charged with an offence and is not released from custody, the youth must be brought before the Court:
 - (a) as soon as practicable and within 24 hours after the charge; or
 - (b) on the next business day after the charge.
- (2) The youth may be brought before the Court by audiovisual link or by telephone.
- (3) Subject to subsection (6), if the youth is not brought before the Court in accordance with subsection (1), the person in whose custody the youth is being held must immediately release the youth.
- (4) The person in whose custody the youth is being held may apply to a Local Court Judge to extend the time mentioned in subsection (1).
- (5) The application to the Judge may be made by audiovisual link or by telephone.
- (6) The Judge may grant the extension of time if the Judge is satisfied that circumstances beyond the control of the person in whose custody the youth is being held prevent the person from bringing the youth before the Court in accordance with subsection (1).

Examples of circumstances for subsection (6) include the following:

- (a) *an emergency situation or natural disaster that causes delays in transportation arrangements for the youth;*
 - (b) *a weather event that causes delays in transportation arrangements for the youth;*
 - (c) *riotous conduct in a remote community where the youth is located which prevents the youth from being transported to the Court;*
 - (d) *the youth requires medical attention;*
 - (e) *the equipment required to bring the youth before the Court has failed;*
 - (f) *there is a safety or security concern in transporting the youth to the Court.*
- (7) If the Judge grants the extension of time under subsection (6), the Judge must make orders in relation to when and how the youth must be brought before the Court.

28 Section 38 amended (Definitions)

- (1) Section 38, definition ***offence***
omit
- (2) Section 38
insert
prescribed offence, see section 38A.

29 Section 38A inserted

After section 38

insert

38A Meaning of *prescribed offence*

For this Act, a prescribed offence is:

- (a) an offence prescribed by regulation; or
- (b) an offence against a law, or a repealed law, of the Territory or another jurisdiction (including a jurisdiction outside Australia) that substantially corresponds to an offence prescribed under paragraph (a).

30 Section 39 amended (Diversion of youth)

- (1) Section 39(3)(a)
omit
the youth has left the Territory or
- (2) Section 39(3)(b)
omit
serious
insert
prescribed
- (3) Section 39(3)(c) and (7), definition ***serious offence***
omit

31 Section 42A inserted

After section 42

insert

42A Reporting on diversion of youth

- (1) A police officer must prepare or obtain a report containing the following:
 - (a) if the officer refers the youth to a diversion program under section 39(2)(d) or (4) and the youth declines to participate in the program or does not complete the program – a statement of that fact and any reasons offered by the youth for declining or not completing the program;
 - (b) if the officer declines to refer the youth to a diversion program under section 39(2)(d) – a statement of that fact and the reasons of the officer for declining;
 - (c) if the officer is authorised by the Commissioner of Police (or the Commissioner's delegate) under section 39(4) to refer the youth to a diversion program and the officer declines to refer the youth to the program – a statement of that fact and the reasons of the officer for declining;
 - (d) if the officer is authorised by the Commissioner of Police (or the Commissioner's delegate) under section 39(4) to refer the youth to a diversion program and the youth declines to participate in the program or does not complete the program – a statement of that fact and any reasons offered by the youth for declining or not completing the program;
 - (e) if the youth is not referred to a diversion program because section 39(3) applies – a statement of that fact.
- (2) If the youth is charged with the offence, the prosecution must, as soon as practicable, provide the report mentioned in subsection (1) to the youth's legal representative and to the Youth Justice Court.

32 Section 43 amended (Reporting on diversion of youth)

- (1) Section 43, heading

omit, insert

43 Publication of information of diversion

(2) Section 43(2)

omit

However, information

insert

Information

33 Sections 49 and 50 replaced

Sections 49 and 50

repeal, insert

49 Proceedings to be in closed court

- (1) The Court must be closed to the public for proceedings under this Act against a youth.
- (2) However, in addition to the parties to the proceedings and Court staff, the following persons may attend the proceedings:
 - (a) a legal practitioner, whether or not the legal practitioner is the legal representative of the youth who is the subject of the proceedings;
 - (b) a responsible adult in relation to the youth;
 - (c) a person nominated by the youth for support;
 - (d) an employee or representative of the Agency or another Agency;
 - (e) a witness called to give evidence in the proceedings;
 - (f) a victim of the alleged offence committed by the youth;
 - (g) a person nominated by a victim for support;
 - (h) a genuine representative of the news media;
 - (i) an interpreter for a person attending the proceedings.
- (3) Any other person may seek the leave of the Court to attend the proceedings.

- (4) The Court may order that a person not remain in or enter a room or place in which the Court is being held, or remain within the hearing of the Court.
- (5) In making an order under subsection (4), the Court must have regard to any prejudicial impact on the interests of the youth of the person's presence in the room or place in which the Court is being held, or within the hearing of the Court.
- (6) However, subsection (4) does not authorise the Court to exclude the following from the proceedings:
 - (a) the youth;
 - (b) a legal practitioner representing the youth;
 - (c) the prosecutor.
- (7) A person commits an offence if:
 - (a) the person is subject to an order under subsection (4); and
 - (b) the person remains in or enters a room or place in which the Court is being held, or remains within the hearing of the Court.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

- (8) A person other than a person mentioned in subsection (2) commits an offence if:
 - (a) the person has not been granted leave of the Court to attend proceedings under subsection (3); and
 - (b) the person remains in or enters a room or place in which the Court is being held, or remains within the hearing of the Court.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

50 Restriction of publication

- (1) Subject to this section, a person who publishes a report of, or information relating to, proceedings in the Court or proceedings in any other court arising out of proceedings in the Court that contains any particulars likely to lead to the identification of the following is guilty of an offence:
 - (a) the particular venue of the Court in which the proceeding was heard;

(b) the youth or other party to the proceeding;

(c) a witness in the proceeding.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

(2) Subsection (1) does not apply if:

(a) a police officer, under an arrangement for the exchange of such information, sends to the Police Force of a State or another Territory information relating to the conviction of a youth for an offence; or

(b) a person publishes a report or information containing particulars of the youth who is the subject of the proceedings with the consent of the youth.

(3) A person may apply to the Court for permission to publish the report or information.

(4) The Court may grant permission for the publication if the Court is satisfied that:

(a) the circumstances giving rise to the application are an emergency; and

(b) publication is reasonably necessary for the safety of:

(i) the youth or a witness in the proceedings; or

(ii) any other person in the community.

(5) Subject to subsection (6), the CEO may grant permission for the publication of any particular of a detainee who has escaped from a detention centre if the CEO is satisfied that publication:

(a) is reasonably necessary for the safety of the detainee or for any other person; or

(b) will assist in apprehending the detainee or protecting the community.

(6) In making a determination under subsection (5), the CEO must:

(a) have regard to the desirability of minimising the stigma to the detainee and the detainee's family; and

(b) grant permission for publication only to the extent necessary to apprehend the detainee.

(7) In this section:

particulars likely to lead to the identification, in relation to a person, include the following particulars:

- (a) the name of the person;
- (b) the names of:
 - (i) any relative of the person; or
 - (ii) any other person having the care of the person; or
 - (iii) in addition to subparagraphs (i) and (ii), in the case of an Aboriginal person – a member of the person's community;
- (c) the name or address of any place of residence of the person, or the locality in which the residence is situated;
- (d) the name or address of any place of education, training or employment attended by the person, or the locality in which the place is situated.

34 Section 53 amended (Application of other Acts)

(1) Section 53(1)(b)

omit

Divisions 2,

insert

Division 2, section 42 and Part 4, Divisions

(2) Section 53(1A)(a)

omit

Youth Justice Act 2005

insert

Youth Justice Court

35 Section 61 amended (Court must explain proceedings to youth)

Section 61(2), after "age,"

insert

health,

36 Section 64 replaced

Section 64

repeal, insert

64 Court may refer youth to diversion

(1) The Youth Justice Court may, at any stage of the proceedings against a youth in respect of an offence, with the consent of the youth:

- (a) adjourn the proceedings; and
- (b) refer the youth to be assessed for inclusion in a diversion program or a Youth Justice Conference conducted for the purposes of Part 3.

(2) This section applies whether or not:

- (a) the youth has entered a plea to a charge in respect of the offence; or
- (b) there has been a finding of guilt in relation to a charge in respect of the offence; or
- (c) the youth has previously been assessed for inclusion in a diversion program or a Youth Justice Conference.

64A Youth Justice Court may dismiss charges

The Youth Justice Court may, at any stage of the proceedings against a youth in respect of an offence, dismiss the charge in respect of the offence, whether or not the Court finds the charge proven against the youth.

37 Section 123 amended (Explanation of orders)

Section 123(1), after "age,"

insert

health,

38 Section 140L amended (Explanation of orders)

Section 140L(1), after "ages,"

insert

health,

39 Section 150 amended (Explanation of rights and responsibilities)

(1) Section 150(2), after "age,"

insert

health,

(2) After section 150(4)

insert

(5) The superintendent of the detention centre must take all reasonable steps to ensure this section is complied with.

40 Section 161 amended (Search of detainees)

(1) Section 161(1) all words from "direct" to "search:"

omit, insert

only direct a detainee to submit to a screening search or a pat down search in the following circumstances:

(2) Section 161(1)(a)

omit

and

-
- (3) Section 161(1)(b)

omit

centre; and

insert

centre;

- (4) Section 161(2), after "centre may"

insert

only

41 Section 215B amended (Civil proceedings)

- (1) Section 215B(1)

omit

6 months

insert

3 years

- (2) Section 215B(1)

omit

done.

insert

done (the ***limitation period***).

- (3) After section 215B(1)

insert

- (1A) However, if a person with a cause of action under subsection (1) is subject to a disability during any part of the limitation period:

- (a) the running of the limitation period is suspended for the duration of the disability; and

- (b) the limitation period expires 3 years after the earlier of:
 - (i) the date on which the person ceased to be under a disability; or
 - (ii) the death of the person.
- (1B) For subsection (1A), a person is subject to a disability if:
 - (a) the person is under the age of 18 years; or
 - (b) the person is serving a term of detention or imprisonment after being convicted of an offence.
- (1C) Subsection (1A) applies to person who is subject to a disability, whether or not the person is subject to the same or another disability at any time during the limitation period.
- (1D) Subsection (1A) does not operate to extend a limitation period to more than 30 years from the date when the cause of action arose.

42 Part 17, Division 6 inserted

After section 235

insert

Division 6 Transitional matters for Youth Justice and Related Legislation Amendment Act 2019

236 Definitions

In this Division:

amending Act means the *Youth Justice and Related Legislation Amendment Act 2019*.

commencement means the commencement of section 41 of the amending Act.

237 Application of section 215B after commencement

- (1) Section 215B, as amended by the amending Act, applies in relation to any act done or omitted to be done after the commencement.

-
- (2) For subsection (1), the act done or omitted to be done is taken to have been done or omitted to have been done after the commencement if:
- (a) for an act – all of the conduct constituting the act occurred after the commencement; or
 - (b) for an act that has omitted to be done – the act has omitted to be done after the commencement, irrespective of whether the omission began before or after the commencement.

238 Application of section 215B before commencement

- (1) Section 215B, as in force immediately before the commencement, applies in relation to acts done or omitted to be done before the commencement.
- (2) For subsection (1), the act done or omitted to be done is taken to have been done or omitted to have been done before the commencement if:
- (a) for an act – any of the conduct constituting the act occurred before the commencement; or
 - (b) for an act that has omitted to be done – the act has omitted to be done before the commencement.

Part 6 Amendment of Youth Justice Regulations 2006

43 Regulations amended

This Part amends the *Youth Justice Regulations 2006*.

44 Regulation 3 replaced

Regulation 3

repeal, insert

3 Particulars required to be recorded in interview

For section 18(4) of the Act, a police officer must record the following particulars:

- (a) that the officer has informed the youth of the youth's right to silence;
- (b) whether the youth elected to exercise the youth's right to silence or answer the officer's questions (including answering questions through legal representation);

- (c) if the youth elected to access legal advice and representation – details of the efforts the officer made to contact the youth's legal practitioner;
- (d) that the officer has informed the youth that the youth may contact a friend, relative, responsible adult in respect of the youth or support person;
- (e) if the youth elected to contact a person mentioned in paragraph (d):
 - (i) details of the efforts the officer made to contact the person; and
 - (ii) the name and contact details of the person.

3A Prescribed offences

For section 38A(a) of the Act, an offence under or against each of the following is prescribed:

- (a) section 54, 55(1), 110, 111, 125B(1), 127(1), (2) or (3), 134(1), (2) or (3), 156, 160, 165, 170, 174C, 174F, 175, 176, 177, 179, 180, 181, 192, 192B, 194, 195, 196(1), 201, 228(1), 243 or 246 of the Criminal Code;
- (b) section 189A(1) of the Criminal Code in the circumstances mentioned in section 189A(2)(b) of the Code;
- (c) section 211(1) of the Criminal Code in the circumstances mentioned in section 211(2) of the Code;
- (d) section 212(1) of the Criminal Code in the circumstances mentioned in section 212(2) or (3) of the Code;
- (e) section 213(1) of the Criminal Code in the circumstances mentioned in section 213(6) of the Code;
- (f) section 5(1), 6(1), 6E(1) or 6F(1) of the *Misuse of Drugs Act 1990*;
- (g) section 21, 22, 23, 24, 25, 28, 29AAA, 29AAB, 29AAE, 29AAFA, 29AAH, 29AAP, 29AAYD, 30, 30A or 31 of the *Traffic Act 1987*.

45 Regulation 31 amended (Certain determinations become rules of detention centre)

Regulation 31(3), after "age,"

insert

health,

46 Regulation 73 (Searches)

(1) Regulation 73(2)

omit, insert

(2) A search of a detainee must, as practicable:

(a) be conducted by a member of staff of the same gender as the detainee; and

(b) be in the presence of another member of staff of the same gender as the detainee.

(2) Regulation 73(3)(a)

omit

at least

insert

no more than

Part 7 Repeal of Act**47 Repeal of Act**

This Act is repealed on the day after it commences.