



NORTHERN TERRITORY OF AUSTRALIA

No. 72 of 1993

AN ACT

to amend the Criminal Code

[Assented to 16 November 1993]

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 *Criminal Code Amendment Act 1993*.

2. COMMENCEMENT

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

3. NEW SECTIONS

The Criminal Code is amended by inserting after section 440 the following:

"441. ARREST WITHOUT WARRANT

"(1) A person shall not be arrested without warrant except in accordance with this Code or an Act expressly giving power to arrest without warrant.

"(2) A person, not being a member of the Police Force, may without warrant arrest a person ('the offender') where the person -

Criminal Code Amendment

- (a) finds the offender committing an offence or doing an act or behaving or conducting himself, or in such circumstances, that the person believes on reasonable grounds that the offender has committed an offence and that the arrest of the offender is necessary -
 - (i) to ensure the appearance of the offender before a court of competent jurisdiction;
 - (ii) to preserve public order;
 - (iii) to prevent the continuation or repetition of the offence or the commission of a further offence; or
 - (iv) for the safety or welfare of members of the public or of the offender;
- (b) is instructed to do so by a member of the Police Force having power under an Act to apprehend the offender; or
- (c) believes on reasonable grounds that the offender is escaping from legal custody or aiding or abetting another person to escape from legal custody or avoiding apprehension by some person having authority to apprehend the offender in the circumstances of the case.

"(3) A person who is arrested under subsection (2) and in custody shall not be questioned in relation to an offence other than by a member of the Police Force in accordance with the *Police Administration Act*.

"(4) As soon as practicable after a person is arrested under subsection (2), the person shall be delivered to a member of the Police Force, and the *Police Administration Act* shall apply to and in relation to the person and the member as if the arrest had been made under that Act.

"(5) A person who is arrested under subsection (2)(a) shall be held in custody only while the reason for the person's arrest, as referred to in that paragraph, continues.

"(6) A person who is arrested under subsection (2)(a) shall be released immediately from custody where it becomes apparent that the person did not commit the offence for which the person was arrested.

"(7) For the purposes of subsection (2)(a), 'offence' does not include a contravention of or failure to comply with an instrument of a legislative or administrative character.

"442. ARREST ON REASONABLE GROUNDS NOT TO BE TAKEN TO BE UNLAWFUL

"Where an arrest is made under section 441 under a belief that is held on reasonable grounds, the arrest shall not cease to be lawful or be taken to be unlawful where it subsequently appears or is found that the person arrested did not commit the offence alleged.

"443. ARREST ON BOARD AIRCRAFT

"(1) A person in command of an aircraft may, on board the aircraft, with such assistance as is necessary, arrest without warrant a person whom the person in command finds committing, or reasonably suspects of having committed, or of having attempted to commit, an offence on or in relation to or affecting the use of the aircraft, and the person in command or a person authorised by that person may hold the person so arrested in custody until that person can be brought before a Justice or a court or other proper authority to be dealt with in accordance with law.

"(2) A person in command of an aircraft may, where the person considers it necessary to do so in order to prevent an offence on or in relation to or affecting the use of the aircraft, or to avoid danger to the safety of the aircraft or of persons on board the aircraft, with such assistance as the person thinks necessary -

- (a) place a person who is on board the aircraft under restraint or in custody; and/or
 - (b) if the aircraft is not in the course of a flight, remove a person from the aircraft."
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