



# NORTHERN TERRITORY OF AUSTRALIA

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No. 83 of 1992

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## AN ACT

to amend the Criminal Code

[Assented to 22 December 1992]

**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. 3) 1992*.

2. REPEAL AND SUBSTITUTION

Section 137 of the Criminal Code is repealed and the following substituted:

"137. PRODUCING OR COPYING, &c., CHILD PORNOGRAPHY

"(1) A person who -

- (a) produces or copies;
- (b) causes to be produced or copied;
- (c) participates in the production or copying of; or
- (d) offers or advertises for sale or distribution,

a film or photograph or other publication of a child who is, or apparently is, under the age of 16 years and who is engaged in sexual activity or is depicted in an indecent sexual manner, is guilty of a crime and is liable to imprisonment for 10 years.

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*Criminal Code Amendment (No. 3)*

"(2) In subsection (1), 'produce' means to provide creative, technical or theatrical services (including scripting, directing, filming and performing), published, print or manufacture, whether or not for a fee, reward or other consideration.

"137A. POSSESSION OF CHILD PORNOGRAPHY

"(1) A person who possesses film or a photograph of a child who is, or apparently is, under the age of 16 years and who is engaged in sexual activity or is depicted in an indecent sexual manner, is guilty of a crime and is liable to imprisonment for 2 years.

"(2) It is a defence to a charge of a crime defined by this section to prove that -

- (a) in the case of a film or of a photograph contained in a publication, at the time of the alleged offence the film or publication was classified under the *Classification of Publications and Films Act*;
- (b) the film or photograph possesses artistic merit or is for a genuine medical, legal, scientific or educational purpose;
- (c) the possession was for the exercise of a power under the *Classification of Publications and Films Act*;
- (d) the accused person believed on reasonable grounds that the child had attained the age of 16 years or that he or she was married to the child; or
- (e) at the time of the alleged offence the accused person was not more than 2 years older than the child was or appeared to be.

"(3) Notwithstanding subsection (2)(b), the defence of artistic merit cannot be relied on in a case where the prosecution proves that the child was actually under the age of 16 years.

"(4) In this section -

'film' has the same meaning as it has in the *Classification of Publications and Films Act*;

'photograph' includes a photocopy or a reproduction of a photograph."

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