



# NORTHERN TERRITORY OF AUSTRALIA

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No. 42 of 1987

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## AN ACT

to amend the Criminal Code

[Assented to 15 October, 1987]

**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 1987*.

### 2. NEW SECTION

The Criminal Code is amended by inserting after section 433 the following:

"433A. REFERENCE BY ATTORNEY-GENERAL OF CERTAIN  
CONVICTIONS

"(1) Where before or after the commencement of this section a person has been convicted of a crime or an indictable offence and the prerogative of mercy has been extended to the person in respect of that conviction, the Attorney-General may, at the request of the convicted person, if the Attorney-General is satisfied that it is expedient in the interests of justice so to do, refer the case to the Court to enable the Court to consider or again consider whether the conviction should be quashed and a judgment and verdict of acquittal entered.

"(2) Notice of a reference under subsection (1) shall be given to the convicted person.

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"(3) In considering a case referred to it under subsection (1) the Court shall hear argument by the Attorney-General or by counsel on the Attorney-General's behalf and, if the Court considers it necessary to enable it to reach a conclusion on the question before it, may hear argument -

- (a) by the convicted person or by counsel on the convicted person's behalf; or
- (b) by any counsel appointed by the Attorney-General to present such argument as might have been presented by the convicted person if the convicted person had appeared.

"(4) In considering a case referred to it under subsection (1), but subject to subsection (5), the Court has such of the powers it has in relation to a matter brought before it on an appeal under section 410 as are necessary to enable it to determine the question referred to it.

"(5) In considering a case referred to it under subsection (1) the Court is not bound by the rules of evidence but may inform itself in such manner as it thinks fit.

"(6) Without limiting the generality of subsection (5), the Court may -

- (a) receive in evidence -

- (i) a transcript of evidence taken, and the exhibits produced, in a proceeding before a court of, or in an inquiry by a commission of inquiry (by whatever name called) established by or appointed under a law of, the Commonwealth or a State or Territory of the Commonwealth; or
  - (ii) a report of a commission of inquiry referred to in subparagraph (i),

and draw such conclusions of fact from the evidence and exhibits or report as it thinks fit; or

- (b) adopt, as it thinks fit, the finding, decision, judgment, or reasons for the finding, decision or judgment, of a court or commission of inquiry referred to in paragraph (a) that are relevant to the Court's consideration.

"(7) The decision of the Court on a case referred to it under subsection (1) has the same force and effect as its decision on an appeal under section 410."