



NORTHERN TERRITORY OF AUSTRALIA

No. 9 of 1984

AN ACT

To amend the Criminal Code

[Assented to 29 June 1984]

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 1984*.

2. DEFINITIONS

Section 1 of the Criminal Code is amended -

(a) by inserting after the definition of "collection" the following:

"'committal for trial' includes committal for sentence;";

(b) by inserting after the definition of "person employed in the public service" the following:

"'person similarly circumstanced' does not include a person who is voluntarily intoxicated;"; and

(c) by inserting after the definition of "trade secret" the following:

"'trial' includes a proceeding upon a plea of guilty;".

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3. REPEAL AND SUBSTITUTION

Section 7 of the Criminal Code is repealed and the following substituted:

"7. INTOXICATION

"(1) In all cases where intoxication may be regarded for the purposes of determining whether a person is guilty or not guilty of an offence -

- (a) it shall be presumed that, until the contrary is proved, the intoxication was voluntary; and
- (b) unless the intoxication was involuntary, it shall be presumed evidentially that the accused person foresaw the natural and probable consequences of his conduct.

"(2) It is hereby declared that the amendment effected by sub-section (1) applies to and in relation to all proceedings before a court in respect of an offence committed on or after 1 January 1984, in which the question of guilt has not been determined before that court before the commencement of this Act, as if the amendment came into operation on 1 January 1984."

4. DEFINITIONS

Section 50 of the Criminal Code is amended by omitting the definition of "proscribed organization" and substituting the following:

"'unlawful organization' means an organization that uses, threatens to use or advocates the use of unlawful violence in the Territory to achieve its ends;"

5. REPEAL AND SUBSTITUTION

Sections 51 and 52 of the Criminal Code are repealed and the following substituted:

"51. MEMBERSHIP OF UNLAWFUL ORGANIZATION

"(1) Any person who, knowing an organization to be an unlawful organization -

- (a) belongs or professes to belong to it;
- (b) solicits or invites financial or other support for it or knowingly makes or receives a contribution of money or other property to or for its resources; or
- (c) arranges or assists in the arrangement or management of or addresses a meeting of 3 or more persons knowing that the meeting is to

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support or further the activities of that unlawful organization or is to be addressed by a person belonging or professing to belong to that unlawful organization,

is guilty of a crime and is liable to imprisonment for 2 years.

"(2) The court by or before which a person is convicted of a crime defined by this section may order the forfeiture to the Crown of any money or other property that, at the time of the offence, he had in his possession or under his control for the use or benefit of the unlawful organization.

"52. EVIDENCE OF KNOWLEDGE OF UNLAWFULNESS

"Proof of the fact that a person has belonged to an unlawful organization for 28 days or was a member of any committee of it is evidence that he knew it to be an unlawful organization."

6. DISPLAY OF SUPPORT FOR UNLAWFUL ORGANIZATION

Section 53 of the Criminal Code is amended -

- (a) by inserting after "Any person who" the words ", knowing an organization to be an unlawful organization"; and
- (b) by omitting "a proscribed organization" and substituting "an unlawful organization".

7. DANGEROUS ACTS OR OMISSIONS

Section 154 of the Criminal Code is amended -

- (a) by omitting from sub-section (1) "serious, actual or potential danger" and substituting "serious danger, actual or potential,"; and
- (b) by omitting sub-section (5) and substituting the following:

"(5) Voluntary intoxication may not be regarded for the purposes of determining whether a person is not guilty of the crime defined by this section."

8. REPEAL AND SUBSTITUTION

Sections 188 and 189 of the Criminal Code are repealed and the following substituted:

"188. COMMON ASSAULT

"(1) Any person who unlawfully assaults another is guilty of an offence and, if no greater punishment is provided, is liable to imprisonment for one year.

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- "(2) If the person assaulted -
- (a) suffers bodily harm;
 - (b) is a female and the offender is a male;
 - (c) is under the age of 16 years and the offender is an adult;
 - (d) is unable because of infirmity, age, physique, situation or other disability effectually to defend himself or to retaliate;
 - (e) is a member of the Legislative Assembly, the House of Representatives or the Senate and the assault is committed because of such membership;
 - (f) is a member of the public service or a justice of the peace and is acting in the execution of his duty or is acting in aid of such a person;
 - (g) is engaged in the lawful service of any court document or in the lawful execution of any process against any property or in making a lawful distress;
 - (h) has done an act in the execution of any duty imposed on him by law and the assault is committed because of such act;
 - (j) is assaulted in pursuance of any unlawful conspiracy;
 - (k) is indecently assaulted; or
 - (m) is threatened with a firearm or other dangerous or offensive weapon,

the offender is guilty of a crime and is liable to imprisonment for 5 years or, upon summary conviction, to imprisonment for 2 years."

9. HEADING TO DIVISION 1 OF PART IX

The heading to Division 1 of Part IX of the Criminal Code is amended by omitting "*Place of Trial*" and substituting "*Place of Trial: No True Bill*".

10. PRELIMINARY PROCEEDINGS ON CHARGES OF CRIMES

Section 296 of the Criminal Code is amended by omitting "or sentence".

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11. NEW SECTION

The Criminal Code is amended by inserting after section 297 the following:

"297A. NO TRUE BILL

"(1) When a person charged with a crime has been committed for trial and it is not intended to put him on his trial a Crown Law Officer shall -

- (a) issue a certificate to that effect; and
- (b) deliver it to the person committed -
 - (i) if the person is not in custody, by giving it to him personally or sending it by post to his last known address; or
 - (ii) if the person is in custody, by sending it by post or giving it to the person who has custody of him.

"(2) If the committed person has been released on bail, upon the issue of the certificate, the bail undertaking and any conditions of bail shall cease to have effect and any security or money deposited thereunder shall be returned to the person who deposited it.

"(3) If the committed person has not been released on bail, upon the delivery of the certificate, the warrant of committment shall cease to have effect."

12. ALTERING CHARGES AFTER COMMITTAL

Section 299 of the Criminal Code is amended -

- (a) by omitting "or sentence"; and
- (b) by inserting before "other offence" (twice occurring) the words "further or".

13. OFFENCES INVOLVING CIRCUMSTANCES OF AGGRAVATION

Section 315 of the Criminal Code is amended by adding at the end the following:

"(2) Upon an indictment charging a person with an offence of such a nature that he may be convicted alternatively of some other offence, he may be convicted of that other offence with or without any circumstance of aggravation prescribed for that offence."

14. CHARGE OF OFFENCE AGAINST MORALITY OR SEXUAL ASSAULT

Section 319(2) of the Criminal Code is amended by omitting "crime defined by section 189" and substituting "offence defined by section 188".

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15. RIGHT TO BE TRIED

Section 332 of the Criminal Code is amended -

- (a) by omitting sub-section (1) and substituting the following:

"(1) A person committed for trial may, orally or in writing, at any time during the sittings of the court to which he has been committed or any subsequent sittings, make application to the court for an indictment to be presented against him in order that he may be brought to his trial."; and

- (b) by omitting sub-sections (3) and (4) and substituting the following:

"(3) The court may, upon an application pursuant to this section, order that -

- (a) the application be adjourned for such period as it thinks fit;
- (b) an indictment be presented within such period as it thinks fit; or
- (c) the applicant be discharged."

16. REPEAL AND SUBSTITUTION

Section 333 of the Criminal Code is repealed and the following substituted:

"333. ACCELERATING TRIAL OF PERSONS NOT UNDER COMMITTAL

"(1) A person who has not been committed for trial and who is not in custody or admitted to bail, but against whom an indictment has been presented, may apply at any time to the court in which the indictment was presented to be brought to his trial.

"(2) Upon such an application the court may order that -

- (a) the application be adjourned for such period as it thinks fit;
- (b) the trial be held during such sittings of the court as it thinks fit; or
- (c) the applicant be discharged."

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17. ACCUSED PERSON TO BE CALLED UPON TO PLEAD TO INDICTMENT

Section 336 of the Criminal Code is amended -

(a) by omitting from sub-section (1) "At the time appointed for the trial of an accused person he" and "is to" (second occurring) and substituting "An accused person" and "may" respectively; and

(b) by adding at the end the following:

"(3) Nothing in this section prevents different judges taking the plea of an accused person and presiding at the trial of the issues by the jury."

18. STANDING MUTE

Section 345 of the Criminal Code is amended by omitting "section 306" and substituting "section 300".

19. WANT OF UNDERSTANDING OF ACCUSED PERSON

Section 357(1) of the Criminal Code is amended by omitting "defence" and substituting "response".

20. DISCHARGE OF JURY

Section 371(2) of the Criminal Code is amended by omitting "section 375" and substituting "section 368".

21. ACQUITTAL ON GROUNDS OF INTOXICATION

Section 383 of the Criminal Code is amended -

(a) by omitting from sub-section (1) "charged on indictment" and substituting "charged on indictment with a property offence";

(b) by omitting from sub-section (2) "by way of fine" and substituting "by way of reparation";

(c) by omitting sub-section (3);

(d) by omitting from sub-section (4) "(4) The court" and substituting "(3) The court"; and

(e) by adding at the end the following:

"(4) A person liable to make reparation may be ordered to make it in instalments or at some future time specified by the court.

"(5) An amount ordered to be paid for reparation shall be deemed to be a debt owed to the Attorney-General as agent of the Crown and, upon default being made in its payment, the Attorney-General may bring and maintain civil proceedings for its recovery."

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22. REPEAL

Section 386 of the Criminal Code is repealed.

23. SENTENCE

Section 388 of the Criminal Code is amended by omitting sub-section (2) and substituting the following:

"(2) If the presiding judge becomes incapable of so proceeding or it is impracticable for him to do so, any other judge may pass sentence upon the offender or otherwise deal with him as hereinafter provided."

24. ORDERS FOR RESTITUTION AND COMPENSATION

Section 393(11) of the Criminal Code is amended by omitting "section 390" and substituting "section 383".

25. TAKING OTHER OFFENCES INTO ACCOUNT

Section 396 of the Criminal Code is amended -

(a) by omitting from sub-section (1)(a) "punishable, otherwise than with imprisonment for life" and substituting ", other than the crime of murder"; and

(b) by omitting sub-section (3) and substituting the following:

"(3) A court of summary jurisdiction shall not take a crime into account unless it would have had jurisdiction to pass sentence on that person with respect to that crime whether with or without the consent of any person or some other qualification."

26. INTERPRETATION

Section 406 of the Criminal Code is amended -

(a) by omitting from sub-section (3) "defence" and substituting "response"; and

(b) by omitting sub-section (5) and substituting the following:

"(5) For the purposes of this Division a person against whom an order has been made pursuant to section 383 shall be deemed to be a person convicted on indictment, the special verdict shall be deemed to be the conviction and the order shall be deemed to be the sentence."

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27. COPIES OF DEPOSITIONS TO BE ALLOWED TO PERSONS
COMMITTED FOR TRIAL

Section 438 of the Criminal Code is amended by omit-
ting "or sentence" (wherever occurring).
