



NORTHERN TERRITORY OF AUSTRALIA

No. 76 of 1981

AN ACT

To amend the Criminal Law and Procedure Act

[Assented to 21 September 1981]

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 Law and Procedure Amendment Act 1981.

2. PRINCIPAL ACT

The Criminal Law and Procedure Act is in this Act referred to as the Principal Act.

3. REPEAL AND SUBSTITUTION

Section 56 of the Principal Act is repealed and the following sections substituted:

"56. REMISSION OF SENTENCES

"(1) In this section, 'remission order' means an order made under sub-section (2).

"(2) The Administrator may, by writing under his hand, order the remission, with or without conditions, of any sentence of imprisonment under, or in respect of an offence against, any law in force in the Territory, other than a law of the Commonwealth.

"(3) The Administrator may, by writing under his hand -

- (a) vary or revoke any or all of the conditions to which a remission order is subject;
- (b) impose additional conditions on a remission order; or

Criminal Law and Procedure Amendment

(c) revoke a remission order.

"(4) Where a remission order has -

(a) been revoked; or

(b) been contravened or a condition to which the remission order is subject has not been complied with,

a member of the Police Force may, without warrant, arrest the person released under the remission order.

"(5) Where information is laid before a Justice of the Peace alleging that a remission order has -

(a) been revoked; or

(b) been contravened or a condition to which the remission order is subject has not been complied with,

the Justice of the Peace may issue a warrant for the arrest of the person released under the remission order.

"(6) A Justice of the Peace shall not issue a warrant under sub-section (5) unless -

(a) the informant and any other person furnishing information required by the Justice of the Peace concerning the issue of the warrant furnishes the information on oath; and

(b) the Justice of the Peace is satisfied that there are reasonable grounds for issuing the warrant.

"(7) Where a person has been arrested pursuant to sub-section (4)(a) or (5)(a), he shall, as soon as practicable, be brought before a magistrate and the magistrate shall, if satisfied that the remission order has been revoked, issue a warrant for the commitment of the person to prison to serve the part of the term of imprisonment that the person had not served at the time the remission order was made.

"(8) Where a person has been arrested pursuant to sub-section (4)(b) or (5)(b), he shall, as soon as practicable, be brought before a magistrate and, if the magistrate is satisfied that the person brought before him has, without lawful excuse, contravened, or failed to comply with a condition of, the remission order, the magistrate may revoke the remission order.

"(9) A person brought before a magistrate in accordance with sub-section (7) or (8) shall, unless the magistrate determines otherwise, be kept in custody until the magistrate has determined the matter.

Criminal Law and Procedure Amendment

"(10) Where a remission order in respect of a person who was serving a term of imprisonment at the time that the remission order was made, is revoked under sub-section (8), the magistrate may, subject to sub-section (12), issue a warrant for the commitment of the person to prison to serve the part of the term of imprisonment that he had not served at the time that the remission order was made.

"(11) Where a remission order in respect of a person, who was detained in prison pursuant to a direction under section 24 at the time the remission order was made, is revoked under sub-section (3) or (8), the person may, subject to sub-section (12), be detained in prison during the pleasure of the Administrator as if the remission order had not been made.

"(12) Where a magistrate acting in accordance with sub-section (8) revokes a remission order, the person in respect of whom the remission order was made may appeal to the Supreme Court against the revocation, and the Supreme Court shall -

- (a) if it is satisfied that the ground under which the remission order was revoked has been established - confirm the revocation; or
- (b) if it is not so satisfied - order that the revocation cease to have effect.

"(13) The provisions of Part 2 of Division VI of the Justices Act shall apply to an appeal made under sub-section (12).

"57. REMISSION OF FINES

"The Administrator may remit any fine, penalty or forfeiture due or accrued to the Crown under, or in respect of an offence against, any law in force in the Territory, other than a law of the Commonwealth.

"58. ROYAL PREROGATIVE OF MERCY

"Nothing contained in section 56 or 57 shall be construed as affecting the powers vested in the Governor-General in the exercise of the Royal prerogative of mercy."
