

THE NORTHERN TERRITORY OF AUSTRALIA
CRIMINAL LAW AND PROCEDURE ORDINANCE 1978
No. 64 of 1978
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THE NORTHERN TERRITORY OF AUSTRALIA

No. 64 of 1978

AN ORDINANCE

Relating to Offences.

[Assented to 1 July 1978]

BE it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

PART I - PRELIMINARY

1. This Ordinance may be cited as the Criminal Law and Procedure Ordinance 1978.

Short
title

2. This Ordinance shall come into operation on 1 July 1978.

Commence-
ment

3. (1) Part VI, sections 232, 249, 290-295 (inclusive), 312-314 (inclusive), 334 and Part VIII of the Criminal Law Consolidation Act and Ordinance are repealed and cease to apply to the Territory as laws of the Territory.

Repeal

(2) The Criminal Procedure Ordinance 1933 and the Criminal Procedure Ordinance 1961 are repealed.

4. In this Ordinance, unless the contrary intention appears -

Defini-
tions

"holder of a judicial office" includes the holder of a judicial office under a law of the Territory and an arbitrator or umpire under a law of the Territory;

"judicial proceeding" means a proceeding in or before a court having jurisdiction in the Territory and includes a proceeding before a body or person acting under a law of the Territory in which evidence may be taken on oath;

"law of the Territory" includes the common law to the extent that it is in force in the Territory;

Criminal Law and Procedure

"public servant" means an employee within the meaning of the Public Service Ordinance.

PART II - GENERAL

Applica-
tion of
the common
law

5. The principles of the common law with respect to criminal liability shall, subject to this Ordinance, apply in relation to offences against a law of the Territory.

Attempts

6. A person who attempts to commit an offence shall be guilty of an offence and shall be punishable as if the attempted offence had been committed.

Aiders and
abettors

7. A person who aids, abets, counsels or procures, or by an act or omission is directly or indirectly knowingly concerned in, or party to, the commission of an offence shall be deemed to have committed that offence and shall be punishable as if he had committed that offence.

Inciting
the com-
mission of
offences

8. A person shall not incite to, urge, aid or encourage, nor print or publish any writing which incites to, urges, aids or encourages, the commission of an offence or the commission of offences or the carrying on of any operations for or by the commission of offences.

Penalty: 2000 dollars or imprisonment for 12 months, or both.

Accessory
after the
fact

9. A person shall not receive or assist another person who is, to his knowledge, guilty of an offence in order to enable him to escape punishment or to dispose of the proceeds of the offence.

Penalty : 4000 dollars or imprisonment for 2 years, or both.

Search
Warrants

10. If a Justice of the Peace is satisfied by evidence on oath, whether orally or by affidavit, that there are reasonable grounds for believing that there is in certain premises or a vehicle, vessel, aircraft or place -

(a) anything with respect to which an offence against a law of the Territory has been, or is believed on reasonable grounds to have been, committed;

(b) anything as to which there are reasonable grounds for believing that it will afford evidence as to the commission of such an offence; or

- (c) anything as to which there are reasonable grounds for believing that it is intended to be used for the purpose of committing such an offence,

he may grant a search warrant authorizing a member of the Police Force named in the warrant, with such assistance as that member of the Police Force thinks necessary to enter and search premises or a vehicle, vessel, aircraft or place named or described in the warrant, if necessary by force, and to seize any such thing which he may find in the premises, vehicle, vessel, aircraft or place.

11. (1) A member of the Police Force may, without warrant, seize any articles which are forfeited or which he has reasonable grounds to believe are forfeited under a law of the Territory, and take them before a court of summary jurisdiction.

Seizure
and dis-
posal of
forfeit-
able
goods

(2) Where articles are taken before a court of summary jurisdiction under sub-section (1) the court shall inquire into the matter and -

- (a) if the court is satisfied that the articles are forfeited - shall order that the articles be destroyed or otherwise disposed of as the court directs; or
- (b) if the court is not so satisfied - shall order that the articles be delivered to such person as the court is satisfied is entitled to the articles.

(3) Where under sub-section (2)(b) the court is not satisfied that any person is entitled to the articles, the court shall order that the articles be delivered to the Crown Solicitor.

(4) A court of summary jurisdiction may, before inquiring into a matter under sub-section (2), require notice of the inquiry to be given to such persons as the court specifies by name or description.

(5) Where a prosecution is pending in relation to any articles seized under sub-section (1), an order for the destruction or other disposal, or for the delivery to a person of articles shall not be made until the prosecution is determined.

(6) All articles which are ordered to be destroyed or otherwise disposed of as forfeited or are delivered to the Crown Solicitor in accordance with sub-section (3) shall be dealt with in such manner as the Crown Solicitor directs, subject to a direction of a court under sub-section (2)(a).

Criminal Law and Procedure

Institu-
tion of
proceed-
ings in
respect of
offences

12. Unless the contrary intention appears in a law of the Territory creating an offence, any person may institute proceedings -

- (a) for the commitment for trial of a person in respect of an indictable offence; or
- (b) for the summary conviction of a person in respect of an offence punishable on summary conviction.

Prosecu-
tion on
indict-
ment

13. Indictable offences against the laws of the Territory shall be prosecuted by indictment in the name of the Attorney-General or a person appointed by the Attorney-General in that behalf.

Indict-
ments ex
officio

14.(1) Notwithstanding anything contained in any other law of the Territory, the Attorney-General may present an indictment for an indictable offence against a law of the Territory without examination or commitment for trial.

(2) Upon an indictment being presented in pursuance of sub-section (1), the Supreme Court or a judge of the Supreme Court may cause a summons to be issued to the accused person mentioned in the summons to answer the charge made in the indictment or may issue a warrant for his arrest.

(3) Upon the appearance of the accused person in pursuance of a summons issued under sub-section (2) or upon arrest under that sub-section, the court may fix a date for the trial of the indictment and may -

- (a) direct that the accused person be held in custody until that date or further order; or
- (b) admit the accused person to bail,

and may direct that the Attorney-General deliver to the accused person within a time specified, a list of witnesses to be called upon the trial of the indictment and a precis of the evidence that those witnesses are expected to give.

(4) Where the court has directed that a list of witnesses be delivered to the accused person, no witness whose name is not so listed may be called for the prosecution except by leave of the court.

(5) Subject to this section, the laws of the Territory relating to indictments, trial on indictment and matters subsequent to trial on indictment shall apply to an indictment presented under sub-section (1).

15. Where an act, if done without lawful authority or without lawful excuse or without permission, is an offence, the burden of proving that the act was done with lawful authority or excuse or with permission, as the case may be, shall be upon the person accused.

Burden of proof of lawful authority

PART III - PENALTIES

16. Unless the contrary intention appears, a provision of a law of the Territory relating to offences shall be read as referring to bodies corporate as well as to individuals.

Penal provisions include bodies corporate

17. Where the penalty prescribed in respect of an offence against a law of the Territory is a term of imprisonment only, the court before which the offence is tried may, if it thinks that the justice of the case will be better met by a pecuniary penalty than by imprisonment or in the case of a body corporate, impose a pecuniary penalty not exceeding -

Court may fine as alternative to imprisonment in certain cases

(a) where the maximum term of imprisonment does not exceed 3 months - 500 dollars; and

(b) where the maximum term of imprisonment exceeds 3 months - the sum of 500 dollars plus further amounts of 500 dollars in respect of each period of 3 months by which the maximum term of imprisonment exceeds 3 months.

18.(1) Where an act or omission constitutes an offence under 2 or more laws, neither of which is a law of the Commonwealth, the offender shall be liable to be prosecuted under either of those laws but shall not be liable to be punished twice for the same act or omission.

No one to be punished twice for same act or omission

(2) Where an act or omission constitutes an offence under a law of the Commonwealth and another law in force in the Territory and an offender has been punished for that offence under the law of the Commonwealth, he shall not be liable to be punished for the offence against the other law.

(3) Where an act or omission constitutes an offence against a law of the Territory the validity of that law is not affected by reason only that the act or omission also constitutes an offence against a law of the Commonwealth.

Criminal Law and Procedure**Penalties**

19.(1) Unless the contrary intention appears, the penalty, pecuniary or otherwise, set out -

- (a) at the foot of a section of a law of the Territory; or
- (b) at the foot of a sub-section of a law of the Territory,

indicates that a contravention of the section or of the sub-section, respectively, is an offence against a law of the Territory punishable on conviction by a penalty not exceeding the penalty so set out.

(2) A penalty set out as provided in sub-section (1) which is expressed to apply only to a part of the section or sub-section applies according to the tenor of the provision.

(3) In this section, unless the contrary intention appears, "section" includes a rule, regulation or by-law and "sub-section" includes a corresponding meaning.

Indictable offences

20. Subject to the provisions of a law of the Territory which provides for the hearing or determination of offences in a summary manner, offences against a law of the Territory which are punishable by imprisonment for a period exceeding 6 months shall be indictable offences.

Summary prosecution

21. Unless the contrary intention appears, offences against a law of the Territory which -

- (a) are punishable by imprisonment but for a period not exceeding 6 months;
- (b) not being punishable by imprisonment, are not declared to be indictable offences,

are punishable on summary conviction.

Recovery of pecuniary penalties

22. Unless the contrary intention appears, all pecuniary penalties for an offence against a law of the Territory may be recovered in a court of summary jurisdiction.

Cumulative punishment

23.(1) Where a person convicted of an offence is, at the time of his conviction, serving a term of imprisonment for an offence (whether against a law of the Territory or against a law of the Commonwealth) the court before which the offender is convicted may direct that a sentence of imprisonment in respect of the first-mentioned offence shall commence at the expiration of the term of imprisonment which the offender was serving at the time of his conviction.

(2) Where a person is convicted of more offences (whether indictable or otherwise) than one before the same court at the same sitting and is sentenced to more than one term of imprisonment, the court before which he is sentenced (if it is the Supreme Court or a court of summary jurisdiction constituted by a magistrate) may direct the sentences shall be concurrent or cumulative.

(3) Where a court gives no direction under sub-section (1) or (2), the 2 or more sentences shall be served concurrently.

(4) Where 2 or more sentences are directed to be cumulative, they shall take effect one after the other in accordance with the order in which the convictions are recorded or as the court directs.

24. Where a person convicted of an indictable offence has been previously convicted on at least 2 occasions of indictable offences, the court before which he is convicted may declare that he is an habitual criminal and may direct, as part of his sentence, that, on the expiration of the term of imprisonment then imposed upon him, he be detained in prison during the pleasure of the Administrator.

Habitual
criminals

25.(1) Where a person is convicted of an offence, the court may, in addition to the penalty, if any, imposed upon the person, order the offender to make reparation by way of money payment or otherwise to a person or to a statutory corporation in respect of a loss suffered by the person or the statutory corporation as a result of the offence.

Reparation
for
offences

(2) Nothing in sub-section (1) shall be construed as limiting or restricting the application of any other law of the Territory.

PART IV - OFFENCES RELATING TO THE
ADMINISTRATION OF JUSTICE

26.(1) The holder of a judicial office, shall not corruptly ask for, receive or obtain, or agree or attempt to receive or obtain any money, property or benefit of any kind for himself or another person on account of an act done or to be done or omitted or to be omitted to be done by him in his judicial capacity.

Judicial
corruption

(2) A person shall not corruptly give to, confer upon, or procure for, or promise or offer to give to, confer upon or procure for, a person holding a judicial office any money, property or benefit of any kind on account of an act done or to be done or omitted or to be omitted by that person in his judicial capacity.

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Penalty: Imprisonment for 10 years.

Official
corruption
in re-
lation to
the ad-
ministra-
tion of
justice

27.(1) A judge or magistrate not acting judicially or a public servant employed in a capacity not judicial for the prosecution, detention or punishment of offenders shall not corruptly ask for, receive or obtain any money, property or benefit of any kind for himself or another person on account of anything done or to be done, or omitted or to be omitted by him, with a view to causing corrupt or improper interference with the due administration of justice under a law of the Territory or to the protection of an offender or intending offender against a law of the Territory from detention or punishment.

(2) A person shall not corruptly give to, confer upon, or procure for such a judge, magistrate, or public servant, any money, property or benefit of any kind, on account of such an act or omission on the part of the judge, magistrate, or public servant.

Penalty: Imprisonment for 10 years.

Judicial
officer
acting
when
interested

28. The holder of a judicial office shall not wilfully exercise jurisdiction in a matter in which he has a personal interest.

Penalty: 4000 dollars or imprisonment for 2 years, or both.

False
testimony

29.(1) A person shall not in a judicial proceeding or for the purpose of instituting a judicial proceeding, knowingly give false testimony touching a matter material in that proceeding.

Penalty: Imprisonment for 5 years.

(2) For the purpose of this section it is immaterial whether the testimony was given on oath or not on oath, orally or in writing, or whether the court or tribunal to which it was given was properly constituted or held in the proper place, or whether the person who gave the testimony was a competent witness or not, or whether the evidence was admissible or not.

Fabrica-
ting
evidence

30. A person shall not, with intent to mislead a tribunal in a judicial proceeding, fabricate evidence or make use of evidence knowing it to be fabricated evidence.

Penalty: 4000 dollars or imprisonment for 2 years, or both.

Intimida-
tion of
witnesses

31. A person shall not -

(a) threaten, intimidate or restrain;

- (b) use violence to or inflict an injury on;
- (c) cause or procure violence, damage, loss or disadvantage to; or
- (d) cause or procure the punishment of,

a person for or on account of his having appeared, or being about to appear, as a witness in a judicial proceeding.

Penalty: Imprisonment for 5 years.

32. A person shall not -

- (a) give to, confer upon or procure for, or offer or promise to give to, confer upon or procure for, a person, any money, property or benefit of any kind, on account of an agreement or understanding that a person called or to be called as a witness in a judicial proceeding shall give false testimony or withhold true testimony;
- (b) attempt by any means to induce a person called or to be called as a witness in a judicial proceeding to give false testimony or to withhold true testimony; or
- (c) ask for, receive, obtain or agree to receive or obtain any money, property or benefit of any kind for himself or another person upon an agreement or understanding that a person shall, as a witness in a judicial proceeding, give false testimony or withhold true testimony.

Corruption
of
witnesses

Penalty: Imprisonment for 5 years.

33. A person shall not practise fraud or deceit, or knowingly make or exhibit a false statement, representation, token or writing to a person called or to be called as a witness in a judicial proceeding with intent to affect the testimony of that person.

Deceiving
witnesses

Penalty: 4000 dollars or imprisonment for 2 years, or both.

34. A person, knowing that a book, document or other thing of any kind is or may be required as evidence in a judicial proceeding shall not wilfully destroy it or render it illegible or indecipherable or incapable of identification, with intent to prevent it from being used in evidence.

Destroying
evidence

Criminal Law and Procedure

Penalty: 4000 dollars or imprisonment for 2 years, or both.

Preventing witnesses from attending in court

35. A person shall not wilfully prevent another person who has been summoned to attend as a witness in a judicial proceeding from attending as a witness or from producing anything in evidence.

Penalty: 2000 dollars or imprisonment for 12 months, or both.

Conspiracy to bring false accusation or defeat justice

36.(1) A person shall not conspire with another person to charge a person falsely or cause a person to be falsely charged with an offence.

Penalty: Imprisonment for 10 years.

(2) A person shall not conspire with another person to obstruct, prevent, pervert or defeat the administration of justice in the Territory.

Penalty: Imprisonment for 5 years.

Compounding offences

37. A person shall not ask for, receive or obtain or agree to receive or obtain any money, property or benefit of any kind for himself or another person upon an agreement or understanding that he will compound or conceal an indictable offence or will abstain from, discontinue or delay a prosecution for such an offence or will withhold any evidence relating to such an offence.

Penalty: Imprisonment for 3 years.

Inserting unauthorized or false advertisements

38. A person shall not, without lawful authority, or knowing the advertisement to be false in a material particular, insert in the Gazette or in a newspaper an advertisement purporting to be published under the authority of a court.

Penalty: 4000 dollars or imprisonment for 2 years, or both.

Escape from custody

39.(1) A person shall not -

(a) aid a person to escape or to attempt to escape from custody where that person is held in lawful custody under a law of the Territory; or

(b) convey anything into a prison or other place of confinement with intent to facilitate the escape from custody of a person who is in lawful custody under a law of the Territory.

(2) A person, being in lawful custody under a law of the Territory, shall not escape from that custody.

Penalty: 4000 dollars or imprisonment for 2 years, or both.

40. When property has been attached or taken under the authority of a court, a person shall not, with intent to hinder or defeat the attachment or process, receive, remove, retain, conceal or dispose of the property.

Removing
property
under
seizure

Penalty: 4000 dollars or imprisonment for 2 years, or both.

41. A person shall not wilfully obstruct or resist a person lawfully charged with the execution of an order or warrant of a court.

Obstruct-
ing court
officers

Penalty: 2000 dollars or imprisonment for 12 months, or both.

PART V - FORGERY

42.(1) A person shall be deemed to forge a seal, signature, document, register or record -

What
amounts
to
forgery
and
uttering

- (a) if he makes a counterfeit of the seal, or of the impression of the seal;
- (b) if he makes a counterfeit of the signature;
- (c) if he, without lawful authority, alters a genuine document, register or record in a material particular; or
- (d) if he makes a document, register or record, which is false, knowing it to be false,

with intent that the counterfeit seal, impression of the seal or the signature or the false or altered document, register or record may be used, acted on or accepted as genuine to the prejudice of the Territory or a person, or with intent that the Territory or a person may, in the belief that it is genuine, be induced to do or refrain from doing an act whether in the Territory or elsewhere.

(2) A person shall be deemed to make a counterfeit of a seal, or of an impression of a seal, or of a signature if he, without lawful authority -

- (a) in the case of a seal, makes a seal in the form of the genuine seal, or in a form resembling or apparently intended to resemble or pass for the genuine seal;

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- (b) in the case of an impression of a seal, makes an impression of the genuine seal, or an impression resembling or apparently intended to resemble or pass for the impression of the genuine seal; or
- (c) in the case of a signature, makes a signature in the form of the genuine signature, or in a form resembling or apparently intended to resemble or pass for the genuine signature.

(3) A person is deemed to utter a forged seal, signature, document, register or record, if he tenders or passes it off, or attempts to tender or pass it off, or uses or deals with it, or attempts to use or deal with it, or attempts to induce a person to use, deal with, act upon, or accept it.

Forgery
of seals

43. A person shall not forge or utter, knowing it to be forged -

- (a) the Public Seal of the Territory;
- (b) the seal of a court established by or under a law of the Territory; or
- (c) a seal of which under a law of the Territory judicial notice is to be taken.

Penalty: Imprisonment for 10 years.

Making or
having
stamps or
dies of
official
seals

44. A person shall not, without lawful authority, make or have in his possession a die or stamp capable of making an impression in the form of any of the seals referred to in section 43 or resembling or intended to resemble or pass for any of those seals.

Penalty: 4000 dollars or imprisonment for 2 years, or both.

Forgery
of sig-
natures

45. A person shall not forge or utter knowing it to be forged the signature of -

- (a) a minister;
- (b) the holder of a judicial office;
- (c) the Speaker of the Legislative Assembly or the Chairman of a Committee of the Legislative Assembly; or
- (d) a person of whose signature judicial notice is to be taken under a law of the Territory.

Penalty: Imprisonment for 10 years.

PART VI - OFFENCES BY AND AGAINST
PUBLIC SERVANTS

46.(1) A person shall not bribe a public servant.

Bribery

(2) A public servant shall not solicit, obtain or receive a bribe.

Penalty: 4000 dollars or imprisonment for 2 years, or both.

(3) In this section, "bribe" includes the giving, conferring or procuring of money, property or benefit of any kind in respect of an act done or to be done, omitted or to be omitted, or any forbearance observed or to be observed, or any favour or disfavour shown or to be shown, in relation to a matter arising under a law of the Territory or otherwise arising in relation to the affairs or business of the Territory.

47.(1) A public servant shall not publish or communicate, except to some person to whom he is authorized to publish or communicate it, information or a document which comes to his knowledge, or into his possession by virtue of his office or employment and which it is his duty not to disclose.

Disclosure
of in-
formation
by public
servants

(2) A person who has been a public servant shall not publish or communicate, without lawful authority or excuse, information or a document which came to his knowledge or into his possession by virtue of his office or employment and which, at the time when he ceased to be such a public servant, it was his duty not to disclose.

Penalty: 4000 dollars or imprisonment for 2 years, or both.

48. A person shall not -

(a) wilfully obstruct or resist a public servant while that public servant is engaged in the discharge or attempted discharge of a duty imposed on him by law; or

(b) by violence or threats or intimidation of any kind interfere with or obstruct a person performing a service or function for or on behalf of the Territory in the performance of that service or function.

Resisting
or ob-
structing
public
servants

Penalty: 4000 dollars or imprisonment for 2 years, or both.

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Imperso-
nating
public
servants

49. A person shall not -

- (a) impersonate a public servant on an occasion when that public servant is required to do an act or attend in a place by virtue of his office or employment; or
- (b) falsely represent himself to be a public servant and assume to do an act or attend in a place for the purpose of doing an act by virtue of his pretended office or employment.

Penalty: 4000 dollars or imprisonment for 2 years, or both.

PART VII - MISCELLANEOUS

False
certifi-
cates

50. A person, being authorized or required by a law of the Territory to give a certificate touching a matter by virtue of which the rights of a person may be affected, shall not give a certificate which is, to his knowledge, false in a material particular.

Penalty: 4000 dollars or imprisonment for 2 years, or both.

Buying
and
selling
offices

51. A person shall not -

- (a) corruptly ask for, receive or obtain, or agree to receive or obtain, any money, property or benefit of any kind for himself or another person on account of anything done or omitted to be done by him or another person with regard to the appointment or contemplated appointment of a person as a public servant; or
- (b) corruptly give to, confer upon or procure for, or promise or offer to give to, confer upon or procure for, a person, any money, property or benefit of any kind on account of such an act or omission.

Penalty: 4000 dollars or imprisonment for 2 years, or both.

False
statements
in regis-
trable
documents

52. A person shall not, in a document that is required to be registered under, or to be prepared for the purposes of, a law of the Territory, knowingly make a statement that is false in a material particular.

Penalty: 4000 dollars or imprisonment for 2 years, or both.

53.(1) A person shall not conspire with another person -

Conspiracy

- (a) to commit an offence against a law of the Territory;
- (b) to prevent or defeat the execution or enforcement of a law of the Territory;
- (c) to effect a purpose that is unlawful under a law of the Territory.
- (d) to effect a lawful purpose by means that are unlawful under a law of the Territory; or
- (e) to defraud the Territory or a statutory corporation.

Penalty: Imprisonment for 3 years or, where the offender conspired to commit an offence punishable by imprisonment for a period longer than 3 years - imprisonment for that longer period.

54.(1) A person shall not, without lawful excuse -

Trespassing
on
prohibited
land

- (a) trespass or go upon any prohibited land of the Territory; or
- (b) trespass or enter upon any premises of the Territory.

Penalty: 200 dollars.

(2) In this section -

"premises of the Territory" means a building, part of a building or other permanent structure of any kind occupied by the Territory or by a statutory corporation;

"prohibited land of the Territory" means -

- (a) unalienated Crown land;
- (b) land occupied by the Territory; or
- (c) land occupied by a statutory corporation,

upon which is posted a notice in the English language to the effect that trespassing upon the land is prohibited, but does not include premises of the Territory.

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(3) It is a defence to a charge under sub-section (1)(a) if the person charged proves that he did not see and could not reasonably be assumed to have been able to see a notice described in sub-section (2).



