

THE NORTHERN TERRITORY OF AUSTRALIA

No. 121 of 1978

AN ACT

To amend the Criminal Law Consolidation Act

[Assented to 18 December 1978]

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. This Act may be cited as the Criminal Law Consolidation Act (No.2) 1978.

Short title

2. This Act shall come into operation on a date to be fixed by the Administrator by notice published in the Gazette.

Commencement

3. The Criminal Law Consolidation Act is in this Act referred to as the Principal Act.

Principal Act

4. Section 381 of the Principal Act is amended -

(a) by omitting "the Governor's pleasure" and substituting "the Administrator's pleasure"; and

Where person charged with treason, &c., is acquitted on the ground of insanity

(b) by omitting "Governor" and substituting "Administrator".

5. After section 381 of the Principal Act the following section is inserted:

"381A.(1) The Administrator may, from time to time, by writing under his hand, vary an order under section 381 for the safe custody of a person made in relation to -

Variation of order made under section 381

(a) the place at which the person is to be so held; or

(b) the manner of his being so held.

"(2) The Administrator may, after considering a report from the Parole Board constituted under the Parole of Prisoners Act in relation to a person held in safe custody in pursuance of an order given by the

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Administrator under section 381, by writing under his hand, order that the person be released from custody -

- (a) unconditionally; or
- (b) subject to such conditions as he thinks fit,

and the operation of the order made by the Administrator under section 381 in relation to that person is thereupon suspended to the extent of its inconsistency with the order made under this sub-section.

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

- (a) vary or revoke any or all of the conditions to which an order made under sub-section (2) is subject;
- (b) impose additional conditions on an order made under sub-section (2); or
- (c) revoke an order under sub-section (2).".

6. Section 382 of the Principal Act is repealed and the following section, heading and section substituted:

Arrest of
released
offenders

"382.(1) Where -

- (a) an order made in respect of a person under section 381A(2)(b) has been revoked; or
- (b) a person in respect of whom an order has been made under either of those sections has contravened or failed to comply with a condition to which the order is subject,

a member of the Police Force may without warrant arrest the person so released.

"(2) Where information is laid before a Justice alleging that -

- (a) an order made in respect of a person under section 381A(2)(b) has been revoked; or
- (b) a person so released has contravened or failed to comply with a condition of the order under that section in pursuance of which he was released,

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the Justice may issue a warrant for the arrest of that person.

"(3) A Justice shall not issue a warrant under sub-section (2) unless -

- (a) the informant and any other person furnishing information required by the Justice concerning the issue of a warrant on oath furnishes the information; and
- (b) the Justice is satisfied that there are reasonable grounds for issuing a warrant.

"(4) The arrest of a person by a member of the Police Force under sub-section (1) or the issue of a warrant for the arrest of a person under sub-section (2) revokes the order made under section 381A(2)(b) in respect of the person.

"As to Persons Unfit to Plead:

"382A.(1) Where a person charged with an offence is, from want of comprehension of the nature of the circumstances alleged or of the proceedings, found by the court before whom he is charged to be unfit to plead that court may order that the person be -

Persons unfit
to plead

- (a) discharged;
- (b) remanded on bail; or
- (c) remanded in custody.

"(2) Where a Magistrate makes an order under sub-section (1)(b) or (1)(c) the person in respect of whom the order is made shall be remanded to appear before the Supreme Court.

"(3) The Supreme Court may order that a person remanded under sub-section (2) to appear be -

- (a) absolutely discharged;
- (b) conditionally released; or
- (c) detained in safe custody -
 - (i) at such place;
 - (ii) for such periods; and
 - (iii) subject to such conditions,

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as the Supreme Court thinks fit.

"(4) A person who has been remanded in custody under sub-section (1)(c) may, at any time, apply to the Supreme Court to be released on bail.

"(5) A person who has been conditionally released from custody under sub-section (3)(b) may, at any time, apply to the Supreme Court -

(a) for a variation of the conditions under which he was so released; or

(b) to be absolutely discharged from custody.

"(6) A person who has been detained in custody under sub-section (3)(c) may, at any time, apply to the Supreme Court -

(a) for a variation of the order under that paragraph in pursuance of which he is so detained;

(b) to be conditionally released from custody; or

(c) to be absolutely discharged.

"(7) Where a person makes an application under sub-section (4), (5) or (6) the Supreme Court may make such order in relation to the person as it thinks fit.

"(8) The Supreme Court may, at any time, order that a person in respect of whom an order has been made under sub-section (3)(b) or (c) be tried for the offence for which he was found to be unfit to plead under sub-section (1)."

Transitional

7.(1) A person held in custody pursuant to section 381 of the Principal Act in respect of whom the Governor-General's pleasure had not been made known before the commencement of this Act shall continue to be held in custody until the Administrator's pleasure is known in accordance with section 381 of the Principal Act.

(2) A person held in custody pursuant to an order made by the Governor-General under section 381 of the Principal Act as in force immediately before the commencement of this Act shall continue to be held in accordance with the terms of that order, but may be released in accordance with the Principal Act as amended by this Act.

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(3) An order under section 381 of the Principal Act given by the Governor-General before the commencement of this Act may be varied or suspended by an order made under the Principal Act as amended by this Act.
