

Serial 327
Criminal Code Amendment Bill 2001
Mr Burke

**A BILL
for
AN ACT**

to amend the Criminal Code

C.C.O.

C.C.O.

NORTHERN TERRITORY OF AUSTRALIA
CRIMINAL CODE AMENDMENT ACT 2001

No. of 2001

TABLE OF PROVISIONS

Section

1. Short title
2. Commencement
3. New section
 29. Defensive conduct justified
4. New Division
 - Division 1A – Right of occupants etc. to safety from attack by intruders*
 - 149A. Right to safety from attack by intruders
5. Further amendment

SCHEDULE

C
C
C

C
C



NORTHERN TERRITORY OF AUSTRALIA

No. of 2001

AN ACT

to amend the Criminal Code

[Assented to 2001]
[Second reading 2001]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Criminal Code Amendment Act 2001*.

2. Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. New section

The Criminal Code is amended by inserting after section 28 in Division 3 of Part II the following:

"29. Defensive conduct justified

"(1) Defensive conduct is justified and a person who does, makes or causes an act, omission or event by engaging in defensive conduct is not criminally responsible for the act, omission or event.

"(2) A person engages in defensive conduct only if—

(a) the person believes that the conduct is necessary —

- (i) to defend himself or herself or another person;
- (ii) to prevent or terminate the unlawful deprivation of his or her or another person's personal liberty;
- (iii) to protect property in the person's possession or control from unlawful appropriation, destruction, damage or interference;
- (iv) to prevent trespass to land or premises occupied by or in the control of the person;
- (v) to remove a trespasser from land or premises occupied by or in the control of the person; or
- (vi) to assist a person in possession or control of property to protect that property or to assist a person occupying or in control of land or premises to prevent trespass to or remove a trespasser from that land or premises; and

- (b) the conduct is a reasonable response in the circumstances as the person reasonably perceives them.

"(3) A person does not engage in defensive conduct if the conduct involves the use of force intended to cause death or grievous harm –

- (a) to protect property; or
- (b) to prevent trespass or remove a trespasser.

"(4) For the purposes of subsections (2) and (3), a person trespasses if he or she enters or remains on land or premises –

- (a) with intent to commit an offence; or
- (b) in circumstances where the entry on to or remaining on the land or premises constitutes an offence.

"(5) A person does not engage in defensive conduct if –

- (a) he or she is responding to the lawful conduct of another person; and
- (b) he or she knows that the other person's conduct is lawful.

"(6) Nothing in subsection (5) is to be taken to prevent a person from engaging in defensive conduct in circumstances where the other person's conduct is lawful merely because he or she would be excused from criminal responsibility for that conduct.

"(7) Sections 31 and 32 do not apply in relation to defensive conduct."

4. New Division

Part VI of the Criminal Code is amended by inserting before Division 1 the following:

"Division 1A – Right of occupants etc. to safety from attack by intruders

"149A. Right to safety from attack by intruders

"It is expressly declared that it is the public policy of the Territory that occupants of dwelling-houses and commercial premises, and persons invited into those premises, have the right to enjoy absolute safety in the premises from attack by intruders."

5. Further amendments

The Principal Act is amended as set out in the Schedule.

SCHEDULE

Section 5

Provision	Amendment	
	omit	substitute
Section 27(f), (g), (h), (j), (m) and (n)	the whole paragraph	
Section 28(a)(ii)	"arrest;"	"arrest; and"
Section 28(a)(iii)	the whole subparagraph	
Section 28(a)(iv)	"in any case,"	
Section 28(b)	"such police officer, if intending to use a firearm, if practicable, first fires a warning shot and, in any case,"	"the police officer first"
Section 28(c)	"such prison officer, if intending to use a firearm, if practicable, first fires a warning shot and, in any case,"	"the prison officer first"

Criminal Code Amendment Act 2001

Section 28(d)

"and, in any case, if
intending to use a
firearm, first causes, or
has reasonable grounds
for believing that another
police officer has
caused, a warning shot
to be fired"

Section 28(f)

the whole paragraph
