

Serial 234

Sentencing of Juveniles (Miscellaneous Provisions) Bill 2000

Mr Burke

**A BILL
for
AN ACT**

to ensure that persons who are 17 years of age or over but under 18 years of age
are treated as juveniles under the criminal law of the Territory and for related
purposes

NORTHERN TERRITORY OF AUSTRALIA
SENTENCING OF JUVENILES (MISCELLANEOUS PROVISIONS)
ACT 2000

No. of 2000

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NORTHERN TERRITORY OF AUSTRALIA

No. of 2000

AN ACT

to ensure that persons who are 17 years of age or over but under 18 years of age are treated as juveniles under the criminal law of the Territory and for related purposes

[Assented to 2000]
[Second reading 2000]

The Legislative Assembly of the Northern Territory enacts as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Sentencing of Juveniles (Miscellaneous Provisions) Act 2000*.

2. Commencement

This Act comes into operation on 1 June 2000.

3. Interpretation

(1) In this Act, unless the contrary intention appears, "Juvenile Court" has the same meaning as "Court" has in the *Juvenile Justice Act*.

(2) Unless the contrary intention appears, if a word or expression that is used in this Act is defined for the purposes of the *Juvenile Justice Act* or *Sentencing Act*, the word or expression has the same meaning in this Act as it has in the *Juvenile Justice Act* or *Sentencing Act*.

**PART 2 – AMENDMENTS OF JUVENILE JUSTICE ACT,
SENTENCING ACT AND OTHER ACTS TO RAISE UPPER AGE OF
JUVENILES FROM 17 TO 18 YEARS OF AGE**

4. Amendments of *Juvenile Justice Act*

The *Juvenile Justice Act* is amended –

- (a) by omitting from the definition of "juvenile" in section 3(1) "17 years" (twice occurring) and substituting "18 years";
- (b) by omitting from section 53(6) "17 years" (twice occurring) and substituting "18 years";
- (c) by omitting from section 53(8) "17 years" and substituting "18 years";
- (d) by omitting from section 53AG(2) "17 years" (twice occurring) and substituting "18 years";
- (e) by omitting from section 53AG(5) "17 years" and substituting "18 years";
- (f) by omitting from section 58B(3) "17 years" (twice occurring) and substituting "18 years";
- (g) by omitting from section 58ZI(4) "17 years" (twice occurring) and substituting "18 years"; and
- (h) by omitting from section 58ZI(6) "17 years" and substituting "18 years".

5. Amendment of *Sentencing Act*

Section 78A of the *Sentencing Act* is amended by omitting from subsection (9) "17 years" (twice occurring) and substituting "18 years".

6. Amendments of other Acts

(1) Section 4 of the *Bail Act* is amended by omitting "17 years" and substituting "18 years".

(2) Section 29A of the *Law Reform (Miscellaneous Provisions) Act* is amended by omitting from subsection (1) "17 years" and substituting "18 years".

(3) The *Misuse of Drugs Act* is amended –

- (a) by omitting from the definitions of "adult" and "child" in section 3(1) "17 years" and substituting "18 years"; and

(b) by omitting from section 21 "17 years" and substituting "18 years".

(4) Section 21 of the *Prisons (Correctional Services) Act* is amended by omitting from subsections (1) and (3) "17 years" and substituting "18 years".

PART 3 – PROVISIONS THAT APPLY GENERALLY TO PERSONS WHO HAVE COMMITTED OFFENCES WHEN 17 YEARS OF AGE

7. Offence committed when 17 years of age – offender awaiting sentence

(1) On the commencement of this Act, if—

(a) a court (other than the Juvenile Court) has found an offender guilty of an offence committed when the offender was 17 years of age; and

(b) the court has not sentenced the offender in respect of the offence,

the offender must be sentenced by the Juvenile Court.

(2) On the commencement of this Act, if a person has been charged with an offence committed when the person was 17 years of age and the offence is to be dealt with by a court (other than the Juvenile Court) the court must refer the matter to Juvenile Court to be dealt with by the Juvenile Court.

(3) The Juvenile Court has jurisdiction in respect of a matter that is required to be dealt with by it in accordance with subsection (1) or (2) and the *Juvenile Justice Act* applies in relation to the matter as if the proceedings in respect of the matter had been brought under that Act.

8. Offence committed when 17 years of age – offender already sentenced

If, before the commencement of this Act, a court (other than the Juvenile Court) had sentenced an offender in respect of an offence committed when the offender was 17 years of age, the offender is to be treated as if he or she is an adult in respect of any proceedings relating to the offence despite that the offender may not be 18 years of age.

9. Proceedings not to be rendered invalid

(1) If proceedings are to be dealt with by the Juvenile Court as required by this Act, the proceedings are to be dealt with as proceedings before the Juvenile Court despite that before the commencement of this Act the proceedings or any part of those proceedings did not comply with the *Juvenile Justice Act* or that a requirement of that Act had not been complied with.

(2) For the purposes of this Act, it is expressly declared that no proceedings to be dealt with by the Juvenile Court as required by this Act can be declared invalid by reason that before the commencement of this Act those

proceedings did not comply with the *Juvenile Justice Act* or that a requirement of that Act had not been complied with.

PART 4 – PROVISIONS THAT APPLY TO PERSONS FOUND GUILTY OF PROPERTY OFFENCES COMMITTED WHEN 17 YEARS OF AGE

10. Offence committed when 17 years of age – offender re-offends when still 17 years of age

If–

- (a) a court has ordered an offender to serve a term of imprisonment under section 78A of the *Sentencing Act* in respect of one or more property offences committed when the offender was 17 years of age; and
- (b) after the commencement of this Act, the offender is subsequently found guilty of one or more property offences and is before the Juvenile Court to be sentenced in respect of those offences under section 53AE of the *Juvenile Justice Act*,

the order made under section 78A of the *Sentencing Act* is to be taken to be an order made by the Juvenile Court on a previous day –

- (c) under section 53(1) of the *Juvenile Justice Act* – if the offender had not previously been found guilty of one or more property offences; or
- (d) under section 53AE of the *Juvenile Justice Act* – if the offender had previously been found guilty of one or more property offences.

11. Offence committed when 17 years of age – offender re-offends when 18 years of age or older

If–

- (a) a court has ordered an offender to serve a term of imprisonment under section 78A(1) of the *Sentencing Act*, or has imposed a sentence or made an order in accordance with section 78A(6B) of the *Sentencing Act*, in respect of one or more property offences committed when the offender was 17 years of age; and
- (b) after the commencement of this Act, the offender is found guilty of one or more property offences and is before a court to be dealt with in respect of those offences under section 78A of the *Sentencing Act*,

the offences referred to in paragraph (a), and any sentences imposed in respect of those offences, are not to be taken into account in determining the order that the

court must make under section 78A of the *Sentencing Act* in respect of the offences referred to in paragraph (b).

12. Offence committed when 17 years of age – offender may elect to be dealt with under *Sentencing Act*

(1) Despite section 10 or 11, if a person is charged with one or more property offences committed when the person was 17 years of age, the person may elect to be dealt with under the *Sentencing Act* in respect of those offences.

(2) If an election is made under subsection (1)–

(a) the *Juvenile Justice Act* ceases to apply in relation to the person and those offences; and

(b) the person is to be dealt with under the *Sentencing Act* in respect of those offences as if the person was 18 years of age at the date those offences were committed.

(3) This section applies only to property offences committed before the commencement of this Act.