

Serial 32
Criminal Code Amendment (Expert Evidence) Bill 2009
Ms Lawrie

A Bill for an Act to amend the Criminal Code



NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2009

An Act to amend the Criminal Code

[Assented to [] 2009]
[Second reading [] 2009]

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *Criminal Code Amendment (Expert Evidence) Act 2009*.

2 Act amended

This Act amends the Criminal Code.

3 Repeal and substitution of Part IX, Division 4 heading

Part IX, Division 4 heading

omit, substitute

Division 4 Alibi, expert evidence, trial adjournment, pleas and practice

4 New section 331A

After section 331

insert

331A Notice of expert evidence

- (1) This section applies if a person (the **accused**) is to be tried in a court on indictment.
- (2) If the accused intends to adduce any expert evidence during the trial, the accused must give written notice in accordance with this section to the court and prosecution:
 - (a) at least 14 days before the start of the trial; or
 - (b) within another time allowed by the court.
- (3) The notice:
 - (a) must specify:
 - (i) the name, address and qualifications of the witness who is to give the expert evidence; and
 - (ii) the substance of the expert evidence; and
 - (b) must be accompanied by a copy of any existing document containing opinions or findings (or both) made by the witness that the accused intends to rely on as all or part of the expert evidence.
- (4) If a document mentioned in subsection (3)(b) comes into existence after the notice was given but before the start of the trial, the accused must give a copy of it to the court and prosecution before the start of the trial.
- (5) For subsections (2) and (4), the notice to the prosecution must be served on the Director of Public Prosecutions (the **Director**) by:
 - (a) giving it to the Director or someone authorised by the Director to receive the notice; or
 - (b) sending it by certified mail addressed to the Director at the address of the office of the Director.
- (6) Subsections (2) to (5) have effect except as allowed by the court.

-
- (7) If the accused contravenes any provision of this section:
- (a) the court may, on application by the prosecution:
 - (i) if the jury have been sworn – discharge the jury and adjourn the trial; or
 - (ii) otherwise – adjourn the trial; and
 - (b) the court or prosecution may make comment to the jury in relation to the contravention (but must not suggest that, because of the contravention, the accused is guilty of the offence to which the trial relates).

5 Amendment of section 371 (Discharge of jury)

Section 371, at the end

insert

Note

The jury may also be discharged under section 331A(7)(a)(i).

6 New Part XII

After section 444

insert

Part XII Transitional matters for Criminal Code Amendment (Expert Evidence) 2009

445 Application

The amendments made to this Act by the *Criminal Code Amendment (Expert Evidence) Act 2009* apply only to a trial that starts at least 14 days after the commencement of that Act.