

Serial 7
Sentencing Amendment Bill (No. 3) 2001
Dr Toyne

**A BILL
for
AN ACT**

to amend the *Sentencing Act*

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NORTHERN TERRITORY OF AUSTRALIA
SENTENCING AMENDMENT ACT (NO. 3) 2001

No. of 2001

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NORTHERN TERRITORY OF AUSTRALIA

No. of 2001

AN ACT

to amend the *Sentencing Act*

[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 *Sentencing Amendment Act (No. 3) 2001*.

2. Commencement

This Act comes into operation on 22 October 2001.

3. Principal Act

The *Sentencing Act* is in this Act referred to as the Principal Act.

4. Interpretation

Section 3 of the Principal Act is amended –

- (a) by omitting from subsection (1) the definition of "approved project" and substituting the following:

"'aggravated property offence' means –

- (a) an offence against section 211, 212, 213 or 215 of the Criminal Code;

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- (b) an offence against section 218 of the Criminal Code if subsection (2) of the section applies to the offence;
- (c) an offence against section 226B of the Criminal Code if subsection (3) of the section applies to the offence;
- (d) an offence against section 251 of the Criminal Code if subsection (2) of the section applies to the offence; and
- (e) an attempt to commit an offence against section 213 of the Criminal Code;

'approved project' means a rehabilitation program or work, or both, approved by a community work advisory committee under the *Prisons (Correctional Services) Act*;

- (b) by omitting from subsection (1) the definition of "community service order" and substituting the following:

" 'community work order' means a community work order made under Division 4 of Part 3;"; and

- (c) by omitting from subsection (1) the definitions of "mandatory period", "property offence" and "punitive work order".

5. New section

The Principal Act is amended by inserting in Division 4 of Part 3, before section 34, the following:

"33A. Purpose of community work orders

"The purpose of making a community work order is to reflect the public interest in ensuring that a person who commits an offence makes amends to the community for the offence by performing work that is of benefit to the community."

6. Repeal and substitution

Division 6 of Part 3 of the Principal Act is repealed and the following substituted:

"Division 6 – Aggravated property offences

"78A. Purpose

"The purpose of this Division is to ensure that community disapproval of persons committing aggravated property offences is adequately reflected in the sentences imposed on those persons.

"78B. Aggravated property offences

"(1) A court that finds a person guilty of an aggravated property offence must take into account the purpose of this Division before sentencing the person in relation to the offence.

"(2) A court that records a conviction against an offender found guilty of an aggravated property offence must –

- (a) order the offender to serve a term of imprisonment; or
- (b) order the offender to participate in an approved project under a community work order,

unless there are exceptional circumstances in relation to the offence or the offender.

"(3) A court that orders an offender to serve a term of imprisonment in accordance with subsection (2)(a) may only wholly suspend the sentence on the offender entering into a home detention order.

"(4) Nothing in subsection (2) is to be taken to affect the power of a court to make any other order authorised by or under this or any other Act in addition to an order made in accordance with the subsection."

7. Repeal

Division 7 of Part 3 of the Principal Act is repealed.

8. Victim impact statements and victim reports

Section 106B of the Principal Act is amended by inserting after subsection (5) the following:

"(5A) A victim impact statement or victim report may contain a statement as to the victim's wishes in respect of the order that the court may make in relation to the offence referred to in the statement or the report."

9. Repeal

Schedule 1 to the Principal Act is repealed.

10. Further amendments

The Principal Act is further amended as specified in the Schedule.

11. Transitional matters

(1) The Principal Act, as amended by this Act, applies to the sentencing of an offender in relation to an offence committed before the commencement of this Act.

(2) A community service order, within the meaning of the Principal Act as in force before the commencement of this Act, is, on that commencement, to be taken to be a community work order.

(3) A punitive work order, within the meaning of the Principal Act as in force before the commencement of this Act, is, on that commencement, to be taken to be a community work order.

(4) For the purposes of a court having regard to sentencing practices that were current immediately before the expiry of section 58 of the Principal Act, a court is not to have regard to sentencing practices relating to sections 78A and 78B of the Principal Act as in force before the commencement of this Act.

SCHEDULE

Section 10

| Provision | Amendment | |
|------------------------------------|--|------------------------------|
| | omit | substitute |
| Section 5(2)(fa) | the whole paragraph | |
| Sections 5(2)(q) and 7(f) | community service | community work |
| Sections 27, 28, 29, 30 and 31 | community service (wherever occurring) | community work |
| Heading to Division 4 of Part 3 | <i>Community Service Orders</i> | <i>Community work orders</i> |
| Sections 34, 35, 36, 37, 38 and 39 | community service (wherever occurring) | community work |
| Section 51(1) | Subject to section 78A, where | If |
| Section 52(3) | a property offence, | |
| Section 53(1A) and (2A) | the whole subsection | |

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|----------------|---------------------------------|--------------------------------|
| Section 54(1A) | the whole subsection | |
| Section 58(1) | Subject to section 78A, when | If |
| Section 78P(1) | property offence | aggravated property offence |

ALTERATIONS TO SECTION HEADINGS

On the day on which the *Sentencing Act* is amended by this Act, in addition to any alteration to section headings indicated in the text of this Act, the headings to sections 26, 27, 28, 29, 30, 34, 35, 36, 37, 38 and 39 are altered by omitting "**community service**" and substituting "**community work**".

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