

Serial 11  
Criminal Code Amendment (Mental Impairment and Unfitness to be Tried)  
Bill 2016  
Ms Fyles

A Bill for an Act to amend the Criminal Code



NORTHERN TERRITORY OF AUSTRALIA

CRIMINAL CODE AMENDMENT (MENTAL IMPAIRMENT AND  
UNFITNESS TO BE TRIED) ACT 2016

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Act No. [ ] of 2016

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# NORTHERN TERRITORY OF AUSTRALIA

Act No. [ ] of 2016

An Act to amend the Criminal Code

[Assented to [ ] 2016]  
[Second reading [ ] 2016]

The Legislative Assembly of the Northern Territory enacts as follows:

## 1 Short title

This Act may be cited as the *Criminal Code Amendment (Mental Impairment and Unfitness to be Tried) Act 2016*.

## 2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

## 3 Act amended

This Act amends the Criminal Code.

## 4 Section 43E amended

Section 43E

*omit*

all words after "(b)"

*insert*

or (c):

(a) is a question of fact; and

- 
- (b) subject to sections 43H and 43XA, is to be determined by a jury on the balance of probabilities.

## **5 Section 43R amended**

- (1) Section 43R(3), after "12 months,"

*insert*

subject to section 43XA,

- (2) Section 43R(9)(b), before "hold"

*insert*

subject to section 43XA,

## **6 Sections 43XA and 43XB inserted**

After section 43X

*insert*

### **43XA Dispensing with special hearing**

If, at any time before or during a special hearing, the parties to the prosecution of the offence agree that the evidence establishes the defence of mental impairment, the court may accept a plea and record a finding of not guilty of the offence because of mental impairment.

### **43XB Effect of finding under section 43XA**

If the court records a finding under section 43XA, the court must:

- (a) declare that the accused person is liable to supervision under Division 5; or
- (b) order that the accused person be released unconditionally.

## **7 Section 43Y amended**

Section 43Y(1), after "or (3)"

*insert*

or 43XB(a)

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**8 Section 43Z amended**

Section 43Z(a)

*omit*

or 43X(2)(a) or (3)

*insert*

, 43X(2)(a) or (3) or 43XB(a)

**9 Expiry of Act**

This Act expires on the day after it commences.