

Serial 310
Sexual Offences
(Evidence and
Procedure)
Amendment
Mr Manzie

NORTHERN TERRITORY OF AUSTRALIA
SEXUAL OFFENCES (EVIDENCE AND PROCEDURE)
AMENDMENT BILL 1994

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NORTHERN TERRITORY OF AUSTRALIA

A BILL for AN ACT

to amend the *Sexual Offences (Evidence and Procedure) Act*

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Sexual Offences (Evidence and Procedure) Amendment Act 1994*.

2. COMMENCEMENT

This Act shall come into operation on the commencement of the *Evidence Amendment Act 1994*.

3. PRINCIPAL ACT

The *Sexual Offences (Evidence and Procedure) Act* is in this Act referred to as the Principal Act.

4. DEFINITIONS

Section 3 of the Principal Act is amended -

(a) by omitting the definition of "sexual offence" and substituting the following:

"'sexual offence' means an offence against -

(a) sections 128 to 132 (inclusive), 134, 135 or 201 of the Criminal Code; or

(b) section 127 of the Criminal Code, in the circumstances referred to in subsection (2) of that section;"; and

- (b) by omitting from the definition of "trial" the word "convicted" and substituting "found guilty".

5. RULES OF EVIDENCE IN RELATION TO SEXUAL OFFENCES

Section 4 of the Principal Act is amended -

- (a) by omitting from subsection (1)(b) "a person other than the defendant," and substituting "any other person,";
- (b) by omitting from subsection (2) "a person or persons other than the defendant" and substituting "any other person"; and
- (c) by adding at the end the following:

"(5) On the trial of a person for a sexual offence or an assault with intent to commit such an offence -

- (a) the Judge shall not warn, or suggest in any way to, the jury that the law regards complainants as an unreliable class of witness; and

(b) where -

- (i) evidence is given;
- (ii) a question is asked of a witness; or
- (iii) a statement is made in the course of an address on evidence,

which tends to suggest that there was delay in making a complaint about the alleged sexual offence, or alleged assault with intent to commit such an offence, by the person against whom the offence is alleged to have been committed, the Judge shall -

- (iv) warn the jury that delay in complaining does not necessarily indicate that the allegation is false; and
- (v) inform the jury that there may be good reasons why a victim of a sexual offence may hesitate in complaining about it.

"(6) Nothing in subsection (5) prevents a Judge from making any comment on evidence given in a trial that it is appropriate to make in the interests of justice."

6. REPEAL AND SUBSTITUTION

Section 5 of the Principal Act is repealed and the following substituted:

"5. UNREPRESENTED DEFENDANT NOT TO CROSS-EXAMINE COMPLAINANT

"(1) Notwithstanding any other law in force in the Territory, where, in an examination of witnesses or a trial, a defendant is not represented by a legal practitioner and the defendant wishes to cross-examine the complainant, the defendant -

(a) shall not be entitled to cross-examine the complainant directly; and

(b) shall put any question to the complainant by stating the question to the Justice, Judge or another person approved by the Court, and the Justice, Judge or other person shall repeat the question accurately to the complainant.

"(2) Where, in a trial, a defendant who is not represented by a legal practitioner conducts a cross-examination in accordance with subsection (1), the Judge shall cause a warning to be issued to the jury in accordance with section 21A(3) of the *Evidence Act*."

7. OFFENCES

Section 11(3) of the Principal Act is amended by omitting "\$20,000" and "\$1,000" and substituting "\$25,000" and "\$5,000" respectively.

8. LIABILITY OF DIRECTORS, &c., OF BODY CORPORATE

Section 13 of the Principal Act is amended by omitting "in publication in a newspaper" and substituting "of publication in a newspaper or other periodical".

