



Serial 194
Criminal Code
Amendment (No. 4)
Mr Manzie

NORTHERN TERRITORY OF AUSTRALIA

A BILL for AN ACT

to amend the Criminal Code

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 *Criminal Code Amendment Act (No. 4) 1992*.

2. REPEAL AND SUBSTITUTION

Section 137 of the Criminal Code is repealed and the following substituted:

"137. PRODUCING OR COPYING, &c., CHILD PORNOGRAPHY

"(1) A person who -

- (a) produces or copies;
- (b) causes to be produced or copied;
- (c) participates in the production or copying of; or
- (d) offers or advertises for sale or distribution,

child pornography, whether a film or other publication or representation, is guilty of a crime and is liable to imprisonment for 10 years.

"(2) In subsection (1), 'produce' means to provide creative, technical or theatrical services (including scripting, directing, filming and performing), published, print or manufacture, whether or not for a fee, reward or other consideration.

"137A. POSSESSION OF CHILD PORNOGRAPHY

"(1) A person who possesses film or a photograph of a child who is, or apparently is, under the age of 16 years and who is engaged in sexual activity or is depicted in an indecent sexual manner, is guilty of a crime and liable to imprisonment for 2 years.

"(2) It is a defence to a charge of a crime defined by this section to prove that -

- (a) in the case of a film or of a photograph contained in a publication, at the time of the alleged offence the film or publication was classified under the *Classification of Publications and Films Act*;
- (b) the film or photograph possesses artistic merit or is for a genuine medical, legal, scientific or educational purpose;
- (c) the possession was for the exercise of a power under the *Classification of Publications and Films Act*;
- (d) the accused person believed on reasonable grounds that the child had attained the age of 16 years or that he or she was married to the child; or
- (e) at the time of the alleged offence the accused person was not more than 2 years older than the child was or appeared to be.

"(3) Notwithstanding subsection (2)(b), the defence of artistic merit cannot be relied on in a case where the prosecution proves that the child was actually under the age of 16 years.

"(4) In this section -

'film' has the same meaning as it has in the *Classification of Publications and Films Act*;

'photograph' includes a photocopy or a reproduction of a photograph."
