

Serial 2
Criminal Code Amendment Bill 2024
Mr Maley

A Bill for an Act to amend the Criminal Code and for related purposes

NORTHERN TERRITORY OF AUSTRALIA

CRIMINAL CODE AMENDMENT ACT 2024

Act No. [] of 2024

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2024

An Act to amend the Criminal Code and for related purposes

[Assented to [] 2024]
[Introduced [] 2024]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Criminal Code Amendment Act 2024*.

2 Commencement

This Act commences on the day after the day on which the Administrator's assent to this Act is declared.

Part 2 Amendment of Criminal Code

3 Act amended

This Part amends the Criminal Code.

4 Section 38 replaced

Section 38

repeal, insert

38 Age of criminal responsibility

A child under 10 years of age is not criminally responsible for an offence.

5 Section 38A amended (Child 12 or 13 years of age)

(1) Section 38A, heading

omit

12 or 13

insert

10 years of age or older but under 14

(2) Section 38A(1)

omit

aged 12 or 13 years

insert

10 years of age or older but under 14 years of age

6 Section 43AP replaced

Section 43AP

repeal, insert

43AP Age of criminal responsibility

A child under 10 years of age is not criminally responsible for an offence.

7 Section 43AQ amended (Child 12 or 13 years of age)

(1) Section 43AQ, heading

omit

12 or 13

insert

10 years of age or older but under 14

(2) Section 43AQ(1)

omit

aged 12 or 13 years

insert

10 years of age or older but under 14 years of age

8 Section 241A inserted

After section 241

insert

241A Ram-raid

- (1) A person commits an offence if:
- (a) the person drives a motor vehicle; and
 - (b) the person engages in that conduct with the intention of using the vehicle to damage property belonging to another person; and
 - (c) the conduct results in damage to the property.

Maximum penalty: Imprisonment for 10 years.

Examples for subsection (1)

- 1 *Ramming a police vehicle.*
- 2 *Ramming a store to gain entry.*

- (2) Subsection (1)(b) is the fault element for the conduct in subsection (1)(a).
- (3) Strict liability applies to subsection (1)(c).

9 Part VIIA, Division 3, inserted

After section 276G

insert

Division 3 Post and boast**276H Publishing material about offending conduct**

- (1) A person commits an offence if the person:
- (a) publishes material on social media; and
 - (b) the material depicts conduct that constitutes an offence against:
 - (i) a provision of Part VI, Division 3A, 4, 5 or 5A; or
 - (ii) a provision of Part VII, Division 1 or 6; or
 - (iii) a provision prescribed by regulation; and
 - (c) the person publishes the material with the intention of any of the following:
 - (i) increasing the reputation or notoriety of a person who engaged in the conduct;
 - (ii) boasting of the conduct;
 - (iii) glorifying the conduct;
 - (iv) encouraging others to engage in the same or similar conduct.

Maximum penalty: Imprisonment for 2 years.

- (2) Subsection (1)(c) is the fault element for the conduct in subsection (1)(a).
- (3) Strict liability applies to subsection (1)(b).
- (4) It is a defence to a prosecution for an offence against subsection (1) if the material is:
- (a) fictional; or
 - (b) published for a genuine academic, artistic, educational, journalistic, literary, satirical or scientific purpose; or

- (c) published to inform the public of criminal conduct in order to:
- (i) complain about the conduct; or
 - (ii) warn, notify or promote awareness of the conduct.

Examples for subsection (4)(c)

1 *Residents posting videos of the conduct to document offences in their community.*

2 *Police posting videos warning against engaging in the conduct.*

- (5) A person may be proceeded against, and convicted of, an offence against subsection (1) whether or not anyone is charged or convicted of the offence mentioned in subsection (1)(b) depicted in the material.
- (6) A person may be convicted of both an offence against subsection (1) and the offence mentioned in subsection (1)(b) depicted in the material.
- (7) In this section:

material includes anything that contains data from which text, sound or images can be generated.

Examples for definition material

Digital photographs and videos.

publish, in relation to material, means to make the material available to the public by electronic means.

social media means digital technology that allows the sharing of ideas and information, including text, sound and images, through virtual networks, virtual communities or any service for carrying communications by means of guided or unguided electromagnetic energy.

Examples for definition social media

Facebook, Instagram, Snapchat, Telegram, TikTok, WhatsApp, YouTube and X (Twitter).

Note for definition social media

Social media is often located on the internet, including the dark web and the deep web.

10 Section 465 amended (Definitions)

Section 465

insert

end date means the commencement of section 3 of the *Criminal Code Amendment Act 2024*.

11 Section 466 amended (Application of sections 38 and 43AP)

Section 466(1), after "commencement" (*second reference*)

insert

but before the end date

12 Section 467 amended (Cessation of proceedings)

Section 467(1)

omit

, including offences committed before the commencement

insert

before the end date

13 Section 469 amended (Expungement of charge or conviction)

(1) Section 469(1), after "committed" (*all references*)

insert

before the end date

(2) Section 469(7), (8) and (9)

omit

14 Section 470 amended (No entitlement to compensation or damages)

Section 470(a), (b), (c) and (d), after "been committed"

insert

before the end date

15 Section 473 repealed (Unlawful disclosure)

Section 473

repeal

16 Part XI, Division 21, inserted

After section 478

insert

Division 21 Criminal Code Amendment Act 2024

479 Definition

commencement means the commencement of section 3 of the *Criminal Code Amendment Act 2024*.

480 Application of sections 38 and 43AP

- (1) Sections 38 and 43AP, as in force immediately after the commencement, apply in relation to offences committed after the commencement.
- (2) Sections 38 and 43AP, as in force immediately before the commencement, continue to apply in relation to offences committed before the commencement.

481 Application of sections 38A and 43AQ

- (1) Sections 38A and 43AQ, as in force immediately after the commencement, apply in relation to offences committed after the commencement.
- (2) Sections 38A and 43AQ, as in force immediately before the commencement, continue to apply in relation to offences committed before the commencement, whether or not a trial or hearing to determine guilt had begun before the commencement.

Part 3 Consequential amendments

Division 1 Amendment of Sentencing Act 1995

17 Act amended

This Division amends the *Sentencing Act 1995*.

18 Section 78AA amended (Aggravated property offences)

Section 78AA(d), after "section 241"

insert

or 241A

Division 2 Amendment of Youth Justice Act 2005

19 Act amended

This Division amends the *Youth Justice Act 2005*.

20 Section 181 amended (Definitions)

Section 181, definition *interstate detainee*

omit

12 or more years of age

insert

10 years of age or older

Part 4 Repeal of Act

21 Repeal of Act

This Act is repealed on the day after it commences.