

2013

LEGISLATIVE ASSEMBLY OF THE
NORTHERN TERRITORY

ATTORNEY-GENERAL AND MINISTER FOR JUSTICE

SENTENCING AMENDMENT BILL 2013

SERIAL NO. 34

EXPLANATORY STATEMENT

GENERAL OUTLINE

The Sentencing Amendment Bill 2013 amends Division 6A of the *Sentencing Act*. Current Division 6A was inserted into the *Sentencing Act* by the *Sentencing Amendment (Mandatory Minimum Sentences) Act 2013* which commenced on 1 May 2013.

This Bill is intended to clarify that the phrase ‘previously convicted of a violent offence’ is not limited by section 78EA of the *Sentencing Act* and includes any prior conviction for an offence listed in Schedule 2 of the *Sentencing Act* committed at any time in the past, whether before or after the commencement of current Division 6A.

NOTES ON CLAUSES

Clause 1. Short Title.

This is a formal clause which provides for the citation of the Bill. The Bill when passed may be cited as the *Sentencing Amendment Act 2013*.

Clause 2. Act amended

This clause states that the Sentencing Amendment Bill 2013 will amend the *Sentencing Act*.

Clause 3. Section 78D amended

Clause 3 of the Bill amends section 78D(1)(b) of the *Sentencing Act* to include the words

‘whenever committed’ so that it is clear that a prior conviction for the purposes of this section is one in respect of an offence committed at any time in the past, whether before or after the commencement of section 78D (which was 1 May 2013).

Clause 4. Section 78DA amended

Clause 4 of the Bill amends section 78DA(1)(b) of the *Sentencing Act* to include the words ‘whenever committed’ so that it is clear that a prior conviction for the purposes of this section is one in respect of an offence committed at any time in the past, whether before or after the commencement of section 78DA (which was 1 May 2013).

Clause 5. Section 78DC amended

Clause 5 of the Bill amends section 78DC(1)(b) of the *Sentencing Act* to include the words ‘whenever committed’ so that it is clear that a prior conviction for the purposes of this section is one in respect of an offence committed at any time in the past, whether before or after the commencement of section 78DC (which was 1 May 2013).

Clause 6. Section 78DD amended

Clause 6 of the Bill amends section 78DD(1)(b) of the *Sentencing Act* to include the words ‘whenever committed’ so that it is clear that a prior conviction for the purposes of this section is one in respect of an offence committed at any time in the past, whether before or after the commencement of section 78DD (which was 1 May 2013).

Clause 7. Section 78DF amended

Clause 7 amends section 78DF(1)(b) of the *Sentencing Act* to include the words ‘whenever committed’ so that it is clear that a prior conviction for the purposes of this section is one in respect of an offence committed at any time in the past, whether before or after the commencement of section 78DF (which was 1 May 2013).

Clause 8 Section 78EA amended

Clause 8 amends section 78EA to insert the words ‘the sentencing of an offender for’ into that section to clarify that Division 6A does not have retrospective application to apply in relation to the sentencing of an offender for an offence committed prior to the commencement of Division 6A (which was 1 May 2013). This means that section 78EA does not apply to the word ‘offence’ wherever it is found in Division 6A, but applies specifically to the offence for which

the offender is being sentenced. This amendment, together with the amendments made by clauses 3 to 7 of the Bill, means that a court must take into account all prior convictions in respect of violent offences whenever committed in the past in determining whether the mandatory minimum sentences apply under Division 6A.