

1998
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health and Community Care)

Crimes (Amendment) Bill (No. 7) 1998

A BILL

FOR

An Act to amend the *Crimes Act 1900*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1. Short title

This Act may be cited as the *Crimes (Amendment) Act (No. 7) 1998*.

5 2. Commencement

(1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

88069 (1998/167) (T69/1998)

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

5 **3. Principal Act**

In this Act, "Principal Act" means the *Crimes Act 1900*.¹

4. Repeal

Section 428A of the Principal Act is repealed.

5. Interpretation

10 Section 428B of the Principal Act is amended by inserting the following definition:

 " 'mental illness' has the same meaning as in the *Mental Health (Treatment and Care) Act 1994*;"

6. Criteria for detention

15 Section 428D of the Principal Act is amended by inserting in paragraph (a) "or mental illness" after "dysfunction".

7. Heading—Division 3, Part XIA

The heading to Division 3 of Part XIA of the Principal Act is amended by omitting "*illness*" and substituting "*impairment*".

20 **8. Acquittal on grounds of mental impairment**

Section 428N of the Principal Act is amended—

- (a) by omitting from subsection (1) "*illness*" and substituting "*impairment*";
- 25 (b) by inserting in subsection (1) "or mental illness" after "*dysfunction*"; and
- (c) by omitting from subsections (2) and (3) "*illness*" and substituting "*impairment*".

9. Plea of not guilty by reason of mental impairment

30 Section 428O of the Principal Act is amended by omitting "*illness*" and substituting "*impairment*".

10. Explanation to jury

Section 428P of the Principal Act is amended by omitting "*illness*" and substituting "*impairment*".

11. Court orders following acquittal—non-serious offences

Section 428Q of the Principal Act is amended by omitting from subsection (1) “illness” and substituting “impairment”.

12. Court orders following acquittal—serious offences

5 Section 428R of the Principal Act is amended by omitting from subsection (1) “illness” and substituting “impairment”.

13. Heading—Division 4, Part XIA

The heading to Division 4 of Part XIA of the Principal Act is amended by inserting “*or mentally ill*” after “*dysfunctional*”.

10 **14. Application**

Section 428S of the Principal Act is amended by inserting in paragraph (b) “or mentally ill” after “*dysfunctional*”.

15. Referral to Tribunal

Section 428T of the Principal Act is amended—

- 15 (a) by inserting in paragraphs (a) and (b) “or mentally ill” after “*dysfunctional*”; and
(b) by inserting in subsection (2) “or mentally ill” after “*dysfunctional*”.

16. Heading—Division 5, Part XIA

20 The heading to Division 5 of Part XIA of the Principal Act is amended by inserting “*or mentally ill*” after “*dysfunctional*”.

17. Indictable offences heard and determined summarily

Section 428V of the Principal Act is amended by inserting in paragraph (a) “or mental illness” after “*dysfunction*”.

25 **18. Powers of Magistrates Court**

Section 428W of the Principal Act is amended—

- (a) by inserting in paragraph (1) (a) “or mentally ill” after “*dysfunctional*”; and
(b) by inserting in subsection (6) “or mentally ill” after “*dysfunctional*”.

NOTE

Principal Act

1. Reprinted as at 1 June 1998. See also Act Nos. 9, 22, 29, #, #, and #, 1998.

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