

2004

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Mr Greg Cornwell)

## Crimes Amendment Bill 2004

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### A Bill for

An Act to amend the *Crimes Act 1900*

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

**1 Name of Act**

This Act is the *Crimes Amendment Act 2004*.

**2 Commencement**

This Act commences on the day after its notification day.

*Note* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

**3 Legislation amended**

This Act amends the *Crimes Act 1900*.

**4 New sections 384A and 384B**

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**384A Sale of spray paint can to child**

(1) A person commits an offence if—

(a) the person sells a spray paint can; and

(b) the person to whom the spray paint can is sold is a child.

Maximum penalty: 10 penalty units.

(2) Strict liability applies to subsection (1) (b).

(3) An employer commits an offence if an employee of the employer sells a spray paint can to a child.

Maximum penalty: 10 penalty units.

(4) An offence against subsection (3) is a strict liability offence.

(5) Without limiting subsection (4), it does not matter that the spray paint can is sold without the employer's authority or contrary to the employer's orders or instructions.

- 1 (6) It is a defence to a prosecution for an offence against subsection (3)  
2 in relation to the sale of a spray paint can to a child if the employer  
3 proves that the employer—  
4 (a) had no knowledge of the sale; and  
5 (b) could not, by the exercise of appropriate diligence, have  
6 prevented the sale.
- 7 (7) An employer may be prosecuted for, and convicted of, an offence  
8 against subsection (3) in relation to the sale of a spray paint can by  
9 an employee to a child whether or not the employee has been  
10 prosecuted for, or convicted of, an offence against subsection (1) in  
11 relation to the sale.
- 12 (8) The regulations may provide that this section does not apply in  
13 relation to a stated kind of spray paint can.
- 14 (9) In this section:  
15 *spray paint can* means a spray can that contains spray paint.

16 **384B Regulations under the Magistrates Court Act 1930**

- 17 (1) The provisions set out in the *Crimes Amendment Act 2004*,  
18 schedule 1 are taken, on the commencement of this section, to be  
19 regulations made under the *Magistrates Court Act 1930*, section 258  
20 (Power to make rules or regulations).
- 21 (2) To remove any doubt and without limiting subsection (1), the  
22 provisions set out in the *Crimes Amendment Act 2004*, schedule 1  
23 may be amended or repealed as if they had been made as regulations  
24 by the Executive under the *Magistrates Court Act 1930*, section 258.
- 25 (3) To remove any doubt, the regulations mentioned in subsection (1)  
26 are taken to have commenced on the day this section commences.

1           (4) Subsections (1), (2) and (3) are laws to which the Legislation Act,  
2           section 88 (Repeal does not end effect of transitional laws etc)  
3           applies.

4           (5) This section expires on the day it commences.

5       **5       Expiry of Act**

6           This Act expires on the day after it commences.

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1 **Schedule 1**      **New regulations**  
2 (see s 3)



Australian Capital Territory

3 **Magistrates Court (Crimes Infringement**  
4 **Notices) Regulations 2004**

5 **1**      **Name of regulations**

6      These regulations are the *Magistrates Court (Crimes Infringement*  
7      *Notices) Regulations 2004*.

8 **2**      **Purpose of regulations**

9      The purpose of these regulations is to provide for infringement  
10      notices under the *Magistrates Court Act 1930*, part 8 for certain  
11      offences against the Crimes Act.

12      *Note*      The *Magistrates Court Act 1930*, pt 8 creates a system of infringement  
13      notices for offences against various Acts. The infringement notice  
14      system is intended to provide an alternative to prosecution.

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1     **3           Notes**

2                 A note included in these regulations is explanatory and is not part of  
3                 these regulations.

4                 *Note*       See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

5     **4           Meaning of *Crimes Act***

6                 In these regulations:

7                 ***Crimes Act*** means the *Crimes Act 1900*.

8     **5           Administering authority**

9                 The administering authority for an infringement notice offence  
10                against the Crimes Act is the chief police officer.

11    **6           Infringement notice offences**

12                The *Magistrates Court Act 1930*, part 8 applies to an offence against  
13                a provision of the Crimes Act mentioned in schedule 1, column 2.

14    **7           Infringement notice penalties**

15                (1) The penalty payable by an individual for an offence against the  
16                Crimes Act, under an infringement notice for the offence, is the  
17                amount mentioned in schedule 1, column 4 for the offence.

18                (2) The penalty payable by a corporation for an offence against the  
19                Crimes Act, under an infringement notice for the offence, is 5 times  
20                the amount mentioned in schedule 1, column 4 for the offence.

21                (3) The cost of serving a reminder notice for an infringement notice  
22                offence against the Crimes Act is \$34.

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**8 Contents of infringement notices—other information**

- (1) An infringement notice served on a company by an authorised person for an infringement notice offence against the Crimes Act must include the company's ACN.

*Note* The requirement under this regulation is additional to the requirement under the *Magistrates Court Act 1930*, s 121 (1) (c).

- (2) In this regulation:

**company** means a company registered under the Corporations Act.

**9 Contents of infringement notices—identifying authorised person**

An infringement notice served on a person by an authorised person who is a police officer for an infringement notice offence against the Crimes Act must identify the authorised person by the authorised person's service number as a police officer.

**10 Contents of reminder notices—identifying authorised person**

A reminder notice served on a person by an authorised person who is a police officer for an infringement notice offence against the Crimes Act must identify the authorised person by the authorised person's service number as a police officer.

**11 Authorised people for infringement notice offences**

A police officer may serve—

- (a) an infringement notice for an infringement notice offence against the Crimes Act; and
- (b) a reminder notice for an infringement notice offence against the Crimes Act.

(see reg 6 and reg 7)

column 1 item	column 2 offence provision	column 3 offence penalty (penalty units)	column 4 infringement penalty (\$)
1	section 384A (1)	10	100
2	section 384A (3)	10	100

## 1 Presentation speech

Presentation speech made in the Legislative Assembly on 2004.

Notified under the Legislation Act on 2004.

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).