

2001

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

# Crimes Legislation Amendment Bill 2001

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(Attorney-General)

# **Crimes Legislation Amendment Bill 2001**

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## **A Bill for**

An Act to amend Acts relating to the criminal law, and for other purposes

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

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2001 015B

1

2

## Part 1 Preliminary

3

### 1 Name of Act

4

This Act is the *Crimes Legislation Amendment Act 2001*.

5

### 2 Commencement

6

(1) Part 10 (Supreme Court Act 1933) commences on a day fixed by the Minister by notice in the Gazette.

7

8

(2) The remaining provisions commence on a day fixed by the Minister by notice in the Gazette.

9

10

(3) The *Legislation Act 2001*, section 79 (Automatic commencement of postponed law) does not apply to the commencement of part 10 under subsection (1).

11

12

13

*Note 1* The naming and commencement provisions automatically commence on the notification day (see *Legislation Act 2001*, s 75).

14

15

*Note 2* A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see *Legislation Act 2001*, s 77 (1)).

16

17

18

*Note 3* If a provision mentioned in s (2) has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see *Legislation Act 2001*, s 79). However, this does not apply to the commencement of pt 10 (see s (3)).

19

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21

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## Part 2 Children and Young People Act 1999

### 3 Act amended in pt 2

This part amends the *Children and Young People Act 1999*.

### 4 Definitions for div 2 Section 76, definition of *authorised officer*

*substitute*

*authorised officer* means—

- (a) the chief police officer; or
- (b) a police officer exercising the functions of a superintendent or sergeant; or
- (c) another police officer authorised in writing by the chief police officer.

### 5 Identifying material New section 84 (3A) and (3B)

*insert*

(3A) However, if a young person is in lawful custody for an offence allegedly committed while the young person was 16 or 17 years old, an authorised officer or police officer may take prints of the young person's fingers or photographs of the young person, or cause them to be taken, without a magistrate's approval.

(3B) Subsection (3A) does not apply if—

- (a) there are reasonable grounds for the authorised officer or police officer concerned to believe that the young person does not have sufficient mental capacity to understand what is being done to him or her; and

Section 6

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- 1 (b) the young person has not been arrested and charged with the  
2 offence.

**6 Section 84 (7)**

4 *substitute*

- 5 (7) Identifying material of a young person may only be taken under this  
6 section in the presence of—

- 7 (a) a person with parental responsibility for the young person; or  
8 (b) if a person with parental responsibility for the young person is  
9 unavailable, or is unacceptable to the young person—someone  
10 else (other than a police officer within the meaning of section  
11 76) who can represent the interests of the young person and  
12 who is, as far as is practicable in the circumstances, acceptable  
13 to the young person.

- 14 (8) If identifying material of a young person is taken under this section  
15 otherwise than in the presence of a person with parental  
16 responsibility for the young person, the authorised officer or police  
17 officer concerned must, as soon as practicable, take all reasonable  
18 steps to tell a person with parental responsibility for the young  
19 person about the action taken.

**7 Section 84**

21 *renumber subsections when Act next republished under Legislation*  
22 *Act 2001*

**8 New section 84A**

24 *insert*

**84A Destruction of identifying material**

- 26 (1) Identifying material taken under section 84 must be destroyed as  
27 soon as practicable if—  
28 (a) 1 year has elapsed since the material was taken; and

- 1           (b) a proceeding has not been begun in relation to an offence to  
2           which the material relates or, if such a proceeding has been  
3           begun, the proceeding has been discontinued.
- 4       (2) If identifying material of a young person has been taken under  
5       section 84 and—
- 6           (a) the young person is found to have committed an offence to  
7           which the identifying material relates, but no conviction is  
8           recorded; or
- 9           (b) the young person is acquitted of an offence to which the  
10          identifying material relates and—
- 11               (i) no appeal is made against the acquittal; or
- 12               (ii) an appeal is made against the acquittal, but the acquittal  
13               is confirmed or the appeal is withdrawn;
- 14          the identifying material must be destroyed as soon as practicable,  
15          unless an investigation or proceeding in relation to another offence  
16          to which the material relates is pending.
- 17       (3) On application by a police officer, a magistrate may, if satisfied that  
18       there are special reasons for doing so in relation to particular  
19       identifying material, extend—
- 20           (a) the period of 1 year mentioned in subsection (1); or
- 21           (b) that period as previously extended under this subsection.
- 22       (4) In this section:
- 23       *identifying material*—see section 84 (1).

1

2

## Part 3                      Crime Prevention Powers Act 1998

3

4

### **9      Act amended in pt 3**

5

This part amends the *Crime Prevention Powers Act 1998*.

6

### **10     Section 4**

7

*substitute*

8

### **4      Move-on powers**

9

(1) This section applies if there are reasonable grounds for a police officer to believe that a person in a public place has engaged, or is likely to engage, in violent conduct in that place.

10

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13

(2) The police officer may direct the person to leave the vicinity of the public place.

14

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(3) The direction may be made subject to either or both of the following conditions:

16

17

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20

(a) if the police officer has reasonable grounds for believing that the person is likely to engage in violent conduct while, or immediately after, leaving the vicinity by a particular route—that the person leave the vicinity by a different route (whether the route is stated or unstated);

21

22

(b) that the person not return to the vicinity for a stated period of not longer than 6 hours.

23

24

25

(4) A person must not, without reasonable excuse, contravene a direction (including a condition of a direction) given to the person under subsection (2).

26

Maximum penalty: 2 penalty units.

- 1       (5) This section does not apply in relation to a person who, whether in  
2       the company of other people or not, is—  
3       (a) picketing a place of employment; or  
4       (b) demonstrating or protesting about a particular issue; or  
5       (c) speaking, bearing or otherwise identifying with a banner,  
6       placard or sign or otherwise behaving in a way that is  
7       apparently intended to publicise the person's view about a  
8       particular issue.

1

2 **Part 4 Crimes Act 1900**3 **11 Act amended in pt 4**4 This part amends the *Crimes Act 1900*.5 **12 Section 102**6 *substitute*7 **102 Burglary**8 (1) A person commits an offence if the person enters or remains in a  
9 building as a trespasser with intent—

10 (a) to steal anything in the building; or

11 (b) to commit an offence involving an assault on anyone in the  
12 building; or13 (c) to commit an offence involving damage to the building or any  
14 property in the building if the offence is punishable by  
15 imprisonment for 5 years or longer.

16 Maximum penalty: Imprisonment for 14 years.

17 (2) In this section:

18 *building* includes—

19 (a) any part of a building; or

20 (b) a vehicle or vessel in or on which someone lives, whether or  
21 not the vehicle or vessel is occupied at the particular time.



**13 New section 107A***insert***107A Valueless cheques**

- (1) A person commits an offence if the person obtains any goods, services, other property, credit, benefit or advantage, or discharges any debt or liability, by passing a cheque that is not paid on presentation.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) It is a defence to a prosecution for an offence against this section if the defendant establishes that the defendant—

(a) had reasonable grounds for believing that the cheque would be paid in full on presentation; and

(b) had no intention to defraud.

- (3) The fact that, when the cheque was passed, there were some funds to the credit of the account on which the cheque was drawn is not itself a defence.

**14 New section 349AC***after section 349AB, insert***349AC Application of Cwlth Crimes Act, pt 1C**

- (1) The Commonwealth Crimes Act, part 1C (Investigation of Commonwealth offences) and the schedule (Form of explanation under section 23V) apply to summary offences in the same way as they apply to indictable offences.

*Note* The Cwlth Crimes Act provisions apply to indictable offences against ACT laws if the investigating officer is a police officer (see s 23A (6) of that Act).

- (2) However, the provisions of the Commonwealth Crimes Act mentioned in subsection (1) do not apply to—

Section 15

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- 1 (a) an offence against the *Road Transport (Alcohol and Drugs)*  
2 *Act 1977*; or
- 3 (b) an infringement notice offence for the *Road Transport*  
4 *(General) Act 1999*, if the police officer concerned—
- 5 (i) intends to serve an infringement notice under that Act for  
6 the offence on the offender concerned; or
- 7 (ii) intends to take no further action against the offender  
8 concerned in relation to the offence.
- 9 (3) Also, the following provisions of the Commonwealth Crimes Act  
10 only apply under subsection (1) if the person being interviewed or  
11 questioned is under arrest (within the meaning of that Act, section  
12 23B (Definitions), as applied by subsection (1)) for a summary  
13 offence:
- 14 (a) section 23K (Persons under 18);
- 15 (b) section 23V (Tape recording of confessions and admissions).

**15 Part 10, division 3, heading***substitute***Division 3 Powers to stop and search****16 New sections 349SA and 349SB***before section 349T, insert***349SA Stopping, searching and detaining people**

- 22 (1) This section applies if a police officer suspects, on reasonable  
23 grounds, that a person is carrying, or otherwise has in his or her  
24 possession, any of the following things (the *relevant thing*):
- 25 (a) a thing stolen or otherwise unlawfully obtained;
- 26 (b) a thing used, or intended to be used, to commit an indictable  
27 offence.

- 1 (2) If this section applies, the police officer may—  
2 (a) stop and detain the person; and  
3 (b) conduct a frisk search or ordinary search of the person for the  
4 relevant thing; and  
5 (c) seize the thing if the officer finds it.  
6 (3) If, in the course of searching for the relevant thing, the police officer  
7 finds any evidential material, the officer may seize the material if  
8 the officer suspects, on reasonable grounds, that—  
9 (a) it is necessary to seize it to prevent its concealment, loss or  
10 destruction; and  
11 (b) it is necessary to seize it without the authority of a search  
12 warrant because the circumstances are serious and urgent.  
13 (4) The police officer must exercise his or her powers under this section  
14 subject to section 349SB.

15 **349SB How a police officer exercises a power under**  
16 **s 349SA**

17 In exercising a power under section 349SA in relation to a person, a  
18 police officer must not detain the person for longer than is necessary  
19 and reasonable to conduct a frisk search or ordinary search of the  
20 person.

21 **17 Searches without warrant in emergency situations**  
22 **Section 349T, heading**

23 *substitute*

24 **349T Stopping, searching and detaining conveyances**

Section 18

---

**18 Section 349T (1)***substitute*

(1) This section applies if a police officer suspects, on reasonable grounds, that any of the following things (the *relevant thing*) is in or on a conveyance:

(a) a thing stolen or otherwise unlawfully obtained;

(b) a thing used, or intended to be used, to commit an indictable offence.

**19 Power of arrest without warrant by police officers  
Section 349W (1) and (1A)***omit*

believes

*substitute*

suspects

**20 Section 349W (2) (a)***omit*

(1A)

*substitute*

(2)

**21 Section 349W (2) (b)***omit*

believe

*substitute*

suspect

---

1 **22 Section 349W (3)**

2 *omit*

3 believes

4 *substitute*

5 suspects

6 **23 Section 349W (1) to (3)**

7 *renumber as section 349W (1) to (4)*

8 **24 Arrest of prisoner unlawfully at large**  
9 **Section 349Y (1)**

10 *omit*

11 believes

12 *substitute*

13 suspects

14 **25 Arrest without warrant for offences committed outside**  
15 **the Territory**  
16 **Section 349ZB (2)**

17 *omit*

18 believes

19 *substitute*

20 suspects

21 **26 Power to enter premises to arrest offender**  
22 **Section 349ZE (2) (b)**

23 *substitute*

24 (b) the offence is an indictable offence or relevant summary  
25 offence; and

Section 27

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1 **27 Section 349ZE (4)**2 *substitute*

3 (4) In this section:

4 *dwelling house* includes a conveyance, and a room in a hotel, motel,  
5 boarding house or club, where people ordinarily sleep at night.6 *relevant summary offence* means—

7 (a) an offence against any of the following sections of this Act:

- 8
- section 99A (Minor theft)
9  - section 493 (Possession of offensive weapons)
10  - section 494 (Possession of offensive weapon with
11 intent); or

12 (b) an offence against the *Road Transport (Alcohol and Drugs)*  
13 *Act 1977*, section 19 (Prescribed blood alcohol concentration14 exceeded); or15 (c) a summary offence against any of the following provisions of  
16 the *Road Transport (Safety and Traffic Management) Act*  
17 *1999*:

- 18
- section 6 (Negligent driving)
19  - section 7 (Furious, reckless or dangerous driving)
20  - section 8 (1) or (2) (Menacing driving); or

21 (d) an offence against the *Road Transport (Safety and Traffic*  
22 *Management) Regulations 2000*, regulation 109 (2) (Additional23 powers of police).

**28 Power to conduct frisk search of arrested person****Section 349ZH***omit*

A police officer

*substitute*

- (1) A police officer

**29 New section 349ZH (2) and (3)***insert*

- (2) The police officer may arrange for another police officer to conduct the frisk search if, having regard to section 349ZZ (Conduct of ordinary searches and frisk searches), the officer considers that it would be more appropriate for the other officer to conduct the frisk search.

- (3) The other police officer is authorised—

- (a) to conduct the frisk search; and  
(b) to seize any seizable items found as a result of the search.

**30 Power to conduct ordinary search of arrested person****Section 349ZJ***omit*

If

*substitute*

- (1) If

**31 New section 349ZJ (2) and (3)***insert*

- (2) The police officer may arrange for another police officer to conduct the ordinary search if, having regard to section 349ZZ (Conduct of ordinary searches and frisk searches), the officer considers that it

Section 32

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1 would be more appropriate for the other officer to conduct the frisk  
2 search.

3 (3) The other police officer is authorised—

4 (a) to conduct the ordinary search; and

5 (b) to seize anything mentioned in subsection (1) found as a result  
6 of the search.

7 **32 Taking fingerprints, recordings, samples of handwriting**  
8 **or photographs**  
9 **Section 349ZP (3)**

10 *substitute*

11 (3) If a person is in lawful custody for an offence, a police officer of the  
12 rank of sergeant or higher, or for the time being in charge of a police  
13 station, may take identification material from the person, or cause  
14 identification material from the person to be taken, if any 1 or more  
15 of the following paragraphs apply:

16 (a) the identification material is prints of the person's fingers or  
17 photographs of the person;

18 (b) the person consents in writing;

19 (c) the police officer believes on reasonable grounds that it is  
20 necessary to do so to—

21 (i) establish who the person is; or

22 (ii) identify the person as the person who committed the  
23 offence; or

24 (iii) provide evidence of, or relating to, the offence;

25 (d) the police officer suspects on reasonable grounds that the  
26 person has committed another offence and the identification  
27 material is to be taken for the purpose of identifying the person  
28 as the person who committed the other offence or of providing  
29 evidence of, or relating to, the other offence.



- 1 **33 Return of knife or thing which is seized**  
2 **Section 349ZZD (1) and (2)**
- 3 *omit*
- 4 section 349T
- 5 *substitute*
- 6 section 349SA (Stopping, searching and detaining people) or section  
7 349T (Stopping, searching and detaining conveyances)
- 8 **34 Section 349ZZD (1A), (1) and (2)**
- 9 *renumber as section 349ZZD (1), (2) and (3)*
- 10 **35 Magistrates Court may permit a thing to be retained**  
11 **Section 349ZZE (1)**
- 12 *omit*
- 13 section 349T
- 14 *substitute*
- 15 section 349SA (Stopping, searching and detaining people) or section  
16 349T (Stopping, searching and detaining conveyances)
- 17 **36 Provision of interpreters in the investigation of summary**  
18 **offences**  
19 **Section 354**
- 20 *omit*
- 21 **37 Executive or judge may direct inquiry**  
22 **Section 475**
- 23 *omit*

Section 38

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**38 Noise abatement directions****Section 546C (1)***omit*

member of the police force

*substitute*

police officer

**39 New section 546C (5) to (8)***insert*

(5) If a police officer believes on reasonable grounds that a person has committed an offence against subsection (2) or (3), the officer may seize anything (other than an animal) that the officer suspects on reasonable grounds was used in, or in connection with, committing the offence.

(6) If a police officer seizes anything under subsection (5), the officer must give the occupier of the premises, or the person from whom the thing was seized, a written notice that—

(a) describes the thing seized; and

(b) states the police station where the thing will be taken; and

(c) states that the thing may be claimed from that police station not earlier than 48 hours after the seizure.

(7) If a police officer seizes anything under subsection (5), then, not earlier than 48 hours after the seizure, the occupier of the premises from which the thing was seized, or the owner of the thing, is entitled to its return from the police station where the thing has been taken if the person produces the notice under subsection (6) or anything else that provides satisfactory proof that the person is entitled to its possession.

(8) However, if—

(a) a person is charged with an offence against this section; and

1 (b) the chief police officer or director of public prosecutions  
2 believes, on reasonable grounds, that something seized by a  
3 police officer under subsection (5) may provide evidence of the  
4 offence;

5 no-one is entitled to its return until the prosecution for the offence  
6 has been finally decided.

7 **40 Section 546C (5)**

8 *renumber as section 546C (9)*

9 **41 New part 17**

10 *after part 15A, insert*

11 **Part 17 Inquiries into convictions**

12 **Division 17.1 Preliminary**

13 **557A Definitions for pt 17**

14 In this part:

15 ***Full Court*** means the Supreme Court constituted by a Full Court.

16 ***inquiry*** means an inquiry under this part into a person's conviction  
17 for an offence (whether summarily or on indictment).

18 ***registrar*** means the registrar of the Supreme Court.

19 ***relevant proceeding***, in relation to an offence, means a prosecution  
20 or other proceeding in relation to the offence, including an appeal in  
21 relation to the finding of a court in relation to the offence.

1     **Division 17.2           How to start an inquiry**

2     **557B Grounds for ordering inquiry**

3       (1) An inquiry may be ordered under this part into the conviction of a  
4           person for an offence only if—

5           (a) there is a doubt or question about whether the person is guilty  
6               of the offence; and

7           (b) the doubt or question relates to—

8               (i) any evidence admitted in a relevant proceeding; or

9               (ii) any material fact that was not admitted in evidence in a  
10                  relevant proceeding; and

11          (c) the doubt or question could not have been properly addressed  
12             in a relevant proceeding; and

13          (d) there is a significant risk that the conviction is unsafe because  
14             of the doubt or question; and

15          (e) the doubt or question cannot now be properly addressed in an  
16             appeal against the conviction; and

17          (f) if an application is made to the Supreme Court for an inquiry in  
18             relation to the conviction—an application has not previously  
19             been made to the court for an inquiry in relation to the doubt or  
20             question; and

21          (g) it is in the interests of justice for the doubt or question to be  
22             considered at an inquiry.

23       **Example (paragraphs (a) to (e))**

24       John has been convicted of murder. Expert evidence that blood found on  
25       John's jacket shortly after the murder was almost certain to be the victim's  
26       blood was the main evidence connecting John with the murder.

27       Later DNA testing, by a method developed after all proceedings in relation  
28       to the conviction had been finalised (and the time for making any appeal  
29       had lapsed), shows that the blood is almost certainly *not* the victim's blood.  
30       This gives rise to a doubt or question about the blood evidence that could  
31       not have been (and cannot now be) properly addressed in any relevant

1 proceeding in relation to the murder, and a significant risk that the  
2 conviction is unsafe.

3 (2) The inquiry is limited to matters stated in the order for the inquiry.

4 (3) If the inquiry is ordered by the Supreme Court, the court may set  
5 limits on the inquiry under subsection (2) despite anything in the  
6 application for the inquiry.

7 **557C Executive order for inquiry**

8 The Executive may order an inquiry on its own initiative.

9 **557D Supreme Court order for inquiry**

10 (1) The Supreme Court may order an inquiry on application by the  
11 convicted person, or by someone else on the convicted person's  
12 behalf.

13 (2) The registrar must give a copy of an application for an inquiry to the  
14 Attorney-General.

15 (3) The Supreme Court may consider a written submission by the  
16 Attorney-General or the director of public prosecutions (or both) in  
17 relation to the application.

18 (4) Proceedings on an application are not judicial proceedings.

19 (5) If the Supreme Court orders an inquiry, the registrar must give a  
20 copy of the order to the Attorney-General.

21 **557E Rights and duties in relation to orders for inquiry**

22 (1) This division does not create a right to the order of an inquiry, and  
23 does not create a duty to order an inquiry.

24 (2) Without limiting subsection (1), there is no right of appeal in  
25 relation to a decision whether to order an inquiry.

1     **Division 17.3                      Inquiry procedure**

2     **557F Application of Inquiries Act**

3             The *Inquiries Act 1991* applies to an inquiry, subject to this division.

4     **557G Appointment of board of inquiry**

5         (1) If an inquiry is ordered, the Executive must appoint a board of  
6             inquiry under the *Inquiries Act 1991*.

7         (2) The inquiry must be stated in the appointment to be in relation to the  
8             matter stated in the order, and in relation to no other matter.

9         (3) The board of inquiry must be constituted by a judge of the Supreme  
10            Court or a magistrate.

11        (4) A judge or magistrate who has been involved in any way (whether  
12            as judge or magistrate, or in another capacity) in a relevant  
13            proceeding in relation to the offence, or in any investigation in  
14            relation to the acts or omissions alleged to constitute the offence,  
15            must not be appointed to constitute the board of inquiry.

16    **557H Report by board**

17        (1) After finishing an inquiry, the board must give a copy of a written  
18            report of the inquiry to the registrar.

19        (2) Together with the report, the board must give to the registrar, for  
20            safe-keeping, any documents or things held by the board for the  
21            purpose of the inquiry.

22        (3) Even if the board does not comply with subsection (2), the Supreme  
23            Court may exercise its powers under division 17.4 in relation to the  
24            report.

25        (4) The *Inquiries Act 1991*, sections 14 (Reports of boards) and 14A  
26            (Tabling of reports) do not apply to the inquiry.

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## **Division 17.4      Supreme Court orders following inquiry report**

### **557I Publication of report**

- (1) The registrar must give a copy of the report of a board of inquiry appointed under division 17.3 to the Attorney-General and the convicted person, together with a copy of any order under this section.
- (2) The Supreme Court may make an order that the report, or particular parts of the report—
  - (a) must not be disclosed to anyone else by—
    - (i) the Territory; or
    - (ii) the convicted person (except to obtain legal advice or representation); or
    - (iii) someone else who obtains a copy of the report; or
  - (b) may be disclosed only to particular people or on stated conditions (for example, a condition requiring the consent of the court).
- (3) The Supreme Court may make an order under this section only if it considers that it is in the interests of justice, having regard to the public interest and the interests of the convicted person.
- (4) An order under this section may be enforced in the same way as any other order of the Supreme Court.

### **557J Action on report by Supreme Court**

- (1) The Full Court must consider the report of a board into an inquiry.
- (2) Having regard to the report, the Full Court must, by order—
  - (a) confirm the conviction; or
  - (b) confirm the conviction and recommend that the Executive pardon the convicted person or remit the convicted person's

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- 1 sentence under section 557 (Grant of pardon) or 558  
2 (Remission of penalties); or  
3 (c) quash the conviction and order a new trial.
- 4 (3) The registrar must give a copy of the order, together with any  
5 reasons given for the order, to the Attorney-General and the  
6 convicted person.
- 7 (4) This section does not give the convicted person a right to an order of  
8 the Full Court mentioned in subsection (2) (b) or (c), or to an  
9 Executive pardon or remission.

**557K Nature of Supreme Court proceedings**

- 11 (1) In considering whether to make an order under this part about a  
12 report, the Supreme Court—  
13 (a) may have regard only to matters stated in the report, or to  
14 documents or things given to the registrar with the report; and  
15 (b) must not hear submissions from anyone.
- 16 (2) The consideration of whether to make an order under this part is not  
17 a judicial proceeding.

**Division 17.5 Application to earlier convictions****557L Inquiries about earlier convictions**

- 20 This part applies in relation to a conviction for an offence even if the  
21 conviction happened before the commencement of this part.

**42 Crimes Act—renumbering**

- 23 *renumber provisions when Act next republished under Legislation*  
24 *Act 2001*



4 This part amends the *Interpretation Act 1967*.

8            *omit*

9 21,

10 **45 New section 33H**

11 *insert*

12 **33H When must prosecutions begin?**

- 13 (1) A prosecution for any of the following offences against a law of the  
14 Territory may be begun at any time:
- 15 (a) an offence by an individual punishable by imprisonment, on a  
16 first conviction, for longer than 6 months;
- 17 (b) an offence by a corporation punishable, on a first conviction,  
18 by a fine of more than 150 penalty units;
- 19 (c) an aiding and abetting offence by an individual in relation to an  
20 offence by a corporation punishable, on a first conviction, by a  
21 fine of more than 150 penalty units;
- 22 (d) an offence against the *Crimes Act 1900*, section 99A (Minor  
23 theft).
- 24 (2) A prosecution for any other offence against a law of the Territory  
25 may only be begun within—
- 26 (a) 1 year after the day of commission of the offence; or

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- 1           (b) if a law of the Territory provides for another period—that  
2           period.
- 3       (3) However, if a coroner's inquest or inquiry, or an inquiry under the  
4       *Inquiries Act 1991* or the *Royal Commissions Act 1991*, is held into  
5       a matter that relates to an offence mentioned in subsection (2), a  
6       prosecution for the offence may be begun within 1 year after the day  
7       when—
- 8           (a) the coroner's report is made; or
- 9           (b) the report of the board of inquiry or royal commission is given  
10          to the Chief Minister.
- 11       (4) In this section:
- 12       *aiding and abetting offence* means—
- 13           (a) an offence arising under the *Crimes Act 1900*, section 345  
14           (Aiding and abetting); or
- 15           (b) another offence against a law of the Territory dealing with  
16           aiding and abetting.

1

2

3

## **Part 6                      Intoxicated Persons (Care and Protection) Act 1994**

4

### **46      Act amended in pt 6**

5

This part amends the *Intoxicated Persons (Care and Protection) Act 1994*.

6

7

### **47      Interpretation**

8

#### **Section 3 (1), definition of *intoxicated***

9

*substitute*

10

*intoxicated* means apparently under the influence of alcohol, another drug or substance, or a combination of alcohol, drugs or substances.

11

12

13

#### **Examples of substances**

14

1      Glue

15

2      Petrol

16

3      Another solvent

17

### **48      Detention of intoxicated persons**

18

#### **New section 4 (2)**

19

*insert*

20

- (2) The police officer may take the person into custody only if the officer is satisfied that there is no other reasonable alternative for the person's care and protection.

21

22

23

### **49      Section 4 (5)**

24

*omit*

25

(4)

26

*substitute*

27

(5)

- 1 **50 Section 4 (2) to (5)**
- 2 *renumber as section 4 (3) to (6)*

*omit*

1

2

3

## Part 8 Road Transport (Safety and Traffic Management) Act 1999

4

### **53 Act amended in pt 8**

5

6

This part amends the *Road Transport (Safety and Traffic Management) Act 1999*.

7

8

### **54 Surrender and forfeiture of traffic offence evasion articles Section 10 (1)**

9

*omit*

10

believes

11

*substitute*

12

suspects

13

### **55 New section 10 (2) and (3)**

14

*insert*

15

16

(2) If subsection (1) (b) applies in relation to a police officer, the officer may—

17

(a) stop and detain the vehicle; and

18

(b) search the vehicle for the traffic offence evasion article; and

19

(c) seize the article if the officer finds it in or on the vehicle.

20

21

(3) In exercising a power under subsection (2) in relation to a vehicle, a police officer—

22

(a) may use such assistance as is necessary; and

23

24

(b) must search the vehicle in a public place or somewhere else to which members of the public have ready access; and

25

26

(c) must not detain the vehicle for longer than is necessary and reasonable to search it; and

- 1 (d) may use such force as is necessary and reasonable in the  
2 circumstances, but must not damage the vehicle by forcing  
3 open a part of the vehicle unless—
- 4 (i) someone apparently in charge of the vehicle has been  
5 given a reasonable opportunity to open that part; or
- 6 (ii) it is not possible to give anyone apparently in charge of  
7 the vehicle a reasonable opportunity to open that part.

8 **56 Section 10 (2)**

9 *omit everything before paragraph (a), substitute*

- 10 (4) If subsection (1) applies in relation to a police officer or authorised  
11 person, the police officer or authorised person may—

12 **57 Section 10 (2) (a)**

13 *omit*

14 the person

15 *substitute*

16 the person mentioned in subsection (1)

17 **58 New section 10 (5)**

18 *insert*

- 19 (5) Subsection (4) does not limit the powers of a police officer under  
20 subsection (3).

21 **59 Section 10 (3)**

22 *omit*

23 subsection (2)

24 *substitute*

25 subsection (4)

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1 **60 Section 10 (3)**

2 *renumber as section 10 (6)*

3 **61 Section 10 (4)**

4 *omit*

5 subsection (3)

6 *substitute*

7 subsection (6)

8 **62 Section 10 (4) to (6)**

9 *renumber as section 10 (7) to (9)*



1

2

**Part 9                      Road Transport (Offences)  
   Regulations 2000**

3

4

**63      Regulation amended in pt 9**

5

This part amends the *Road Transport (Offences) Regulations 2000*.

6

**64      Short descriptions, penalties and demerit points  
Schedule, part 12, item 15, column 2**

7

8

*omit*

9

10 (3)

10

*substitute*

11

10 (6)

1

## 2        **Part 10                                  Supreme Court Act 1933**

### 3        **65       Act amended in pt 10**

4                This part amends the *Supreme Court Act 1933*.

### 5        **66       Appellate jurisdiction**

#### 6                **New section 37E (2) (aa)**

7                *insert*

8                (aa) orders to review under section 37R (Order to review acquittal);

### 9        **67       Section 37E (2)**

10               *renumber paragraphs when Act next republished under Legislation*  
11               *Act 2001*

### 12       **68       New section 37R**

13               *insert*

## 14       **37R    Order to review acquittal**

15               (1) This section applies if a person (the *defendant*) has been acquitted  
16               of an offence following a trial by judge alone, or a jury trial.

17               (2) The Court of Appeal may, on application by the director of public  
18               prosecutions, make an order (an *order to review* the acquittal) to set  
19               aside the acquittal and to hold a new trial of the defendant for the  
20               offence.

- 1       (3) The Court of Appeal may make an order to review an acquittal only  
2       if the court considers that—  
3       (a) the trial judge made an error of law in the course of the trial; or  
4       (b) for a jury trial—the trial judge misdirected the jury to acquit  
5       the defendant.

6       **Example (paragraph (a))**

7       George is acquitted of an offence in a jury trial in the Supreme Court. During the  
8       trial, the judge decided to exclude certain evidence sought to be admitted by the  
9       prosecution. The director of public prosecutions applies for an order to review the  
10      acquittal. The Court of Appeal decides that the judge made an error of law in  
11      excluding the evidence. The Court of Appeal may accordingly make an order to  
12      review George's acquittal.

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## Endnote

### Penalty units

The *Interpretation Act 1967*, s 33AA deals with the meaning of offence penalties that are expressed in penalty units.