

# AUSTRALIAN CAPITAL TERRITORY

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## Crimes (Amendment) Ordinance (No. 3) 1985

No. 40 of 1985

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 28 August 1985.

J.A. ROWLAND  
Administrator

By His Excellency's Command,

LIONEL BOWEN  
Attorney-General

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An Ordinance to amend the Crimes Act, 1900 of the State of New South Wales in its application to the Territory

### Short title

1. This ordinance may be cited as the *Crimes (Amendment) Ordinance (No. 3) 1985*.<sup>1</sup>

### The Crimes Act

2. In this Ordinance, “the Crimes Act” means the Crimes Act, 1900 of the State of New South Wales in its application to the Territory.

### Interpretation

3. Section 4 of the Crimes Act is amended by inserting after the definition of “Money” in sub-section (1) the following definition:

“ ‘motor vehicle’ means a vehicle that runs on wheels (not being an aircraft or a vehicle used on a railway) and that uses or is designed to use any

power other than human or animal power as its principal means of propulsion;”.

4. Sections 476, 477, 477A and 478 of the Crimes Act are repealed and the following sections substituted:

**Summary offences**

“476. An offence against this Act that is—

- (a) not punishable by imprisonment; or
- (b) punishable by imprisonment for a term not exceeding 12 months,

is punishable on summary conviction.

**Summary disposal of certain cases**

“477. (1) This section applies in relation to any offence against a law of the Territory, being—

- (a) a common law offence; or
- (b) an offence punishable by imprisonment for a term not exceeding—
  - (i) if the offence relates to money or other property—14 years; or
  - (ii) in any other case—10 years.

“(2) Where—

- (a) a person (in this section referred to as the defendant) is before the Court of Petty Sessions charged with an offence in relation to which this section applies;
- (b) the Court is of the opinion that it has no jurisdiction, apart from this section, to hear and determine the charge summarily; and
- (c) in the case of a charge relating to money or to property other than a motor vehicle—the amount of the money or the value of the property does not, in the opinion of the Court, exceed \$10,000,

the Court may proceed in accordance with the succeeding provisions of this section.

“(3) The Court may invite the defendant to plead guilty or not guilty to the charge.

“(4) Where the defendant pleads guilty to the charge, the Court may accept or reject the plea.

“(5) Where—

- (a) the defendant does not plead to the charge when invited to do so under sub-section (3); or
- (b) a plea of guilty to the charge is rejected under sub-section (4),

the defendant shall be taken to have pleaded not guilty to the charge.

“(6) Where—

- (a) the defendant pleads or is to be taken to have pleaded not guilty to a charge;
- (b) the Court is of the opinion that the case can properly be disposed of summarily; and
- (c) if the charge is not a prescribed charge—the defendant has consented to its being so disposed of,

the Court may hear and determine the charge summarily and may sentence or otherwise deal with the defendant according to law.

“(7) Where—

- (a) the Court accepts a plea of guilty to a charge;
- (b) the Court is of the opinion that the case can properly be disposed of summarily; and
- (c) if the charge is not a prescribed charge—the defendant has consented to its being so disposed of,

the Court may sentence or otherwise deal with the defendant according to law.

“(8) Before forming an opinion whether or not a case can properly be disposed of summarily, the Court shall have regard to—

- (a) any relevant representations made by the defendant;
- (b) any relevant representations made by the prosecutor in the presence of the defendant;
- (c) whether, if the defendant were found guilty or the defendant’s plea of guilty has been accepted by the Court, the Court is, by virtue of this section, empowered to impose an adequate penalty, having regard to the circumstances and, in particular, to the degree of seriousness of the case; and

(d) any other circumstances which appear to the Court to make it more appropriate for the case to be dealt with on indictment rather than summarily.

“(9) Where the Court accepts a plea of guilty to a charge, and—

- (a) the Court is of the opinion that the case cannot properly be disposed of summarily; or
- (b) if the charge is not a prescribed charge—the defendant has not consented to its being so disposed of,

sub-sections 90A (5) to (10) (inclusive) of the *Court of Petty Sessions Ordinance 1930* apply in relation to the defendant as if the Court had accepted a plea of guilty to the charge under that section.

“(10) Where the Court disposes of a case summarily pursuant to this section and convicts the defendant of the offence, then, subject to sub-sections (11) and (12), but notwithstanding any other law of the Territory—

- (a) if the charge is a prescribed charge—the Court may not impose a sentence of imprisonment exceeding 1 year nor impose a fine exceeding \$2,000; or
- (b) in any other case—the Court may not impose a sentence of imprisonment exceeding 2 years nor impose a fine exceeding \$5,000.

“(11) Where, pursuant to this section, the Court disposes of a case summarily and convicts a defendant who, at the time of the commission of the offence of which he or she was convicted, had not attained the age of 18 years, then, subject to sub-section (12), but notwithstanding any other law of the Territory, the Court may not impose a sentence of imprisonment exceeding 6 months nor impose a fine exceeding \$1,000.

“(12) Where—

- (a) The Court disposes of a case summarily pursuant to this section and convicts the defendant of an offence; and
- (b) the maximum penalty prescribed for the offence by the law creating that offence (in this sub-section referred to as the prescribed penalty) is less than the maximum penalty that the Court, by virtue of sub-section (10) or (11), as the case requires, is authorized to impose,

the Court shall not impose on the defendant a penalty that exceeds the prescribed penalty.

“(13) In this section, a reference to a prescribed charge shall be read as a reference to a charge relating to money or other property where the amount of the money or the value of the property to which the charge relates does not, in the opinion of the Court, exceed \$2,500.”.

### **Saving of other summary jurisdiction**

5. Section 479 of the Crimes Act is amended by omitting “chapter” and substituting “Part”.

### **Certificate of dismissal**

6. Section 480 of the Crimes Act is amended by omitting “476, 477 or 477A” and substituting “477”.

### **Summary conviction or dismissal a bar to indictment**

7. Section 481 of the Crimes Act is amended by omitting from sub-section (1) and (2) “476, 477 or 477A” (wherever occurring) and substituting “477”.

### **Repeal of section 497**

8. Section 497 of the Crimes Act is repealed.

### **Transitional**

9. Notwithstanding sub-sections 477 (10), (11) and (12) of the Crimes Act as amended by this Ordinance, where—

- (a) the Court of Petty Sessions disposes of a case summarily pursuant to section 477 of the Crimes Act as so amended and convicts the defendant of an offence committed before the commencement of this Ordinance; and
- (b) the maximum penalty that the Court would have been authorized to impose if the case had been disposed of before that commencement pursuant to Part XIV of the Crimes Act as then in force (in this section referred to as the former maximum penalty) is less than the maximum penalty that the Court would, but for this sub-section, be authorized to impose,

the Court shall not impose on the defendant a penalty that exceeds the former maximum penalty.

**NOTE**

1. Notified in the *Commonwealth of Australia Gazette* on 5 September 1985.