

AUSTRALIAN CAPITAL TERRITORY

Crimes (Amendment) Ordinance 1987

No. 3 of 1987

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 5 February 1987.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

LIONEL BOWEN
Attorney-General

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 1987*.¹

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.

3. After section 92N of the Crimes Act the following section is inserted:

Employment of young persons for pornographic purposes

"92NA. (1) A person who employs or permits the employment, whether for reward or not, of a person who is under the age of 16 years (in this section referred to as the 'young person')—

(Ord. 63/85)—Cat. No.

- (a) to engage in an act of a sexual nature, or to be in the presence of another person who is engaged in an act of a sexual nature, being an act that would, in the circumstances, offend a reasonable adult person; or
- (b) for the purpose of depicting or otherwise representing, by means of a film, photograph, drawing, audio tape, video tape or any other means, the young person as being engaged in, or as being in the presence of another person engaged in, an act of a sexual nature where the depiction or other representation of the young person in those circumstances would offend a reasonable adult person,

is guilty of an offence punishable, on conviction, by imprisonment for 10 years.

“(2) In sub-section (1), ‘act of a sexual nature’ means sexual intercourse or an act of indecency.”.

Stolen property—interpretation

4. Section 98 of the Principal Ordinance is amended by inserting “unlawfully” in sub-paragraph (1) (a) (ii) before “taken”.

Police powers of entry

5. Section 349A of the Principal Ordinance is amended—

- (a) by inserting “and reasonable” after “necessary”; and
- (b) by omitting from paragraph (a) “apparently” and substituting “or is reasonably believed to be”.

Issue of warrant

6. Section 349B is amended by omitting from sub-section (1) “if necessary by force” and substituting “reasonable and by such force as is necessary and reasonable”.

Practice as to entering dock

7. Section 400 of the Crimes Act is amended by omitting the proviso.

8. Sections 493, 494, 495, 496, 498, 499 and 500 of the Crimes Act are repealed and the following sections substituted:

Possession of offensive weapons

“493. (1) A person who, without reasonable excuse, has in his or her possession, in a public place, in circumstances likely to cause alarm, an

offensive weapon or a disabling substance is guilty of an offence punishable, on conviction, by a fine of \$1,000 or by imprisonment for 6 months.

“(2) In sub-section (1)—

‘disabling substance’ means any anaesthetising or other substance made for use for disabling a person, or intended for that use by the person who has it in his or her possession;

‘offensive weapon’ means any thing made or adapted for use for causing bodily injury, or intended for that use by the person who has it in his or her possession.

Possession of offensive weapon with intent

“494. (1) A person who has on his or her person an offensive weapon or a disabling substance, in circumstances indicating intent to use the weapon or substance to commit an offence involving actual or threatened violence, is guilty of an offence punishable, on conviction, by a fine of \$2,000 or by imprisonment for 12 months.

“(2) In sub-section (1)—

‘disabling substance’ means any anaesthetising or other substance made for use for disabling a person, or intended for that use by the person who has it in his or her possession;

‘offensive weapon’ means any thing capable of being used for causing bodily injury.”.

Unlawful possession

9. Section 527A of the Crimes Act is amended—

- (a) by inserting in sub-sections (1) and (2) “money or” before “goods” (wherever occurring);
- (b) by inserting in paragraph (1) (b) “is or” before “are”;
- (c) by inserting in sub-section (1) “is or” before “are reasonably”;
- (d) by inserting in sub-section (2) “was or” after “committed”;
- (e) by omitting sub-section (3) and substituting the following sub-section:

“(3) Where—

- (a) a person convicted of an offence in respect of money or goods under sub-section (1) is the owner of that money or those goods; or
- (b) the identity of the owner of any money or goods suspected of having been stolen or otherwise unlawfully obtained without the consent of the owner is not ascertained before the expiration of the period of 3 months commencing on the date on which a person was convicted of an offence under sub-section (1) in respect of that money or those goods,

then—

- (c) in the case of money—the money shall be paid to the Commonwealth; and
- (d) in the case of goods—the goods may be sold by public auction and any proceeds of the sale shall be paid to the Commonwealth.”; and
- (f) by omitting from sub-section (4) all the words from and including “goods claims” to and including “public auction” (second occurring) and substituting “money or goods referred to in paragraph (3) (b) claims the money or the goods, an amount equal to the amount of that money shall be paid to him or her by the Commonwealth, or the goods shall be returned to him or her or, if the goods have been sold”.

10. After section 546C of the Crimes Act, the following sections are inserted:

Bogus advertisements

“546D. (1) A person shall not publish nor cause to be published a bogus advertisement, knowing the advertisement to be bogus.

Penalty: \$1,000 or imprisonment for 6 months.

“(2) In sub-section (1), ‘bogus advertisement’ means an advertisement or notice containing any statement or representation that is false or misleading in a material particular with respect to—

- (a) any matter related to birth, death, engagement to be married, marriage or employment; or
- (b) any matter concerning a person or the property of a person, not being the person who published the advertisement or caused it to be published.

Public mischief

“546E. (1) A person who, by any means, makes any representation, creates any circumstance or does any other act intended to make it appear falsely that a situation exists, or an event has occurred, that calls for investigation or action by a police officer or emergency services officer is, if the representation, circumstance or act comes to the knowledge of a police officer or emergency services officer, guilty of an offence punishable, on conviction, by a fine of \$2,000 or by imprisonment for 12 months.

“(2) In sub-section (1), ‘emergency services officer’ means—

- (a) an ambulance officer;
- (b) a member of the Australian Capital Territory Fire Brigade;
- (c) a member of the Bush Fire Council; or
- (d) an officer of any other emergency service.”.

Amendment of *Crimes (Amendment) Ordinance (No. 4) 1986*

11. (1) Section 10 of the *Crimes (amendment) Ordinance (No. 4) 1986* is amended by omitting from paragraph (b) “ ‘by the Court’ ” and substituting “ ‘by the Magistrates Court’ ”.

(2) The amendment effected by sub-section (1) shall be deemed to have come into operation on 3 October 1986.

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on 11 February 1987.