



AUSTRALIAN CAPITAL TERRITORY

Crimes (Amendment) Act (No. 2) 1998

No. 22 of 1998

An Act to amend the *Crimes Act 1900*

[Notified in ACT Gazette S190: 10 July 1998]

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. 2) 1998*.

2. Commencement

This Act commences on the day on which it is notified in the *Gazette*.

3. Principal Act

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

4. Insertion

Section 4 of the Principal Act is amended by inserting in subsection (1) the following definitions:

“ ‘knife’ includes—

- (a) a knife blade;
- (b) a razor blade; and
- (c) any other blade;

but does not include a knife of a class or description excluded from this definition by the regulations;

‘school’ means—

- (a) a school or college established or maintained by or on behalf of the Territory; or
- (b) a school or college registered or provisionally registered under the *Education Act 1937*.”.

5. Insertion

After section 349DA of the Principal Act the following section is inserted in Division 1A of Part X:

“349DB. Power to conduct search of person for knife

“(1) Subject to subsection (2), if a police officer suspects on reasonable grounds that a person who is in a public place or school has a knife in his or her possession, the police officer may—

- (a) conduct a frisk search or an ordinary search of the person; and
- (b) seize any knife found as a result of the search.

“(2) A police officer may conduct a search of a person under subsection (1) only if the police officer—

- (a) provides evidence to the person that he or she is a police officer, unless the police officer is in uniform; and
- (b) informs the person of the reason for the search.

“(3) As soon as practicable after a search has been conducted under subsection (1), the police officer who conducted the search shall record the time, location and nature of the search.”.

6. Return of knife or thing which is seized

Section 349ZZD of the Principal Act is amended by inserting before subsection (1) the following subsection:

“(1A) If a knife is seized under section 349DB, the person from whom it was seized or, if that person is under 16 years of age, his or her parent or guardian is entitled to have the knife returned if—

- (a) a prosecution for an offence under section 495 in respect of that knife has not been commenced before the end of 60 days after the seizure; or
- (b) a prosecution for an offence under section 495 in respect of that knife has been commenced before the end of 60 days after the

seizure and the prosecution (and any appeal to a court in relation to that prosecution) has been completed without the knife having been forfeited under section 349ZZH.”.

7. Insertion

After section 349ZZG of the Principal Act the following section is inserted:

“349ZZH. Forfeiture of knife

“(1) A knife that has been seized under section 349DB shall be forfeited to the Territory where the person from whom the knife was seized—

- (a) was convicted of an offence under section 495 in respect of that knife; or
- (b) was charged with an offence under section 495 in respect of that knife that was dealt with under section 556A.

“(2) If there are reasonable grounds for believing that the person who was in possession of a knife forfeited under subsection (1) was the owner of the knife, it may be destroyed or disposed of in such manner as the Commissioner of Police directs.

“(3) If there are reasonable grounds for believing that the person who was in possession of a knife forfeited under subsection (1) was not the owner of the knife, it may be destroyed or disposed of in such manner as the Commissioner of Police directs if—

- (a) 6 months have elapsed since the person was found guilty of an offence under section 495 in relation to the knife; and
- (b) reasonable attempts have been made to ascertain the whereabouts of the owner of the knife.”.

8. Insertion

After section 494 of the Principal Act the following sections are inserted:

“495. Possession of knife in public place or school

“(1) A person shall not, without reasonable excuse, have a knife in his or her possession in a public place or school.

Penalty: 10 penalty units or imprisonment for 6 months.

“(2) Without limiting what may constitute a reasonable excuse, it is a reasonable excuse for a person to have a knife in his or her possession in a public place or school if—

- (a) the possession is necessary or reasonable for, or for a purpose incidental to—
 - (i) the lawful pursuit of the person’s occupation;
 - (ii) the preparation or consumption of food;
 - (iii) participation in a lawful entertainment, recreation or sport;
 - (iv) the exhibition of knives for retail or other trade purposes;
 - (v) an organised exhibition by knife collectors;
 - (vi) the wearing of an official uniform; or
 - (vii) religious purposes; or
- (b) the possession is of a prescribed kind.

“(3) It is not a reasonable excuse for a person to have a knife in his or her possession in a public place or school solely for the purpose of self-defence or the defence of another person.

“496. Sale of knife to person under 16

“(1) A person shall not sell a knife to a person under the age of 16 years.

Penalty: 10 penalty units or imprisonment for 6 months.

“(2) In this section—

‘sell’ includes—

- (a) barter or exchange;
- (b) offer or expose for sale, barter or exchange;
- (c) supply, or offer to supply, in circumstances in which the supplier derives, or would derive, a direct or indirect pecuniary benefit; and
- (d) supply, or offer to supply, gratuitously but with a view to gaining or maintaining custom, or otherwise with a view to commercial gain.”.

NOTES

Principal Act

1. Reprinted as at 30 November 1996. See also Act No. 74, 1996; Nos. 10, 23, 52, 86, 96 and 117, 1997; No. 9, 1998.

Penalty units

See section 33AA of the *Interpretation Act 1967*.

[Presentation speech made in Assembly on 20 May 1998]

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