



AUSTRALIAN CAPITAL TERRITORY

## Crimes Amendment Act 2000 (No 4)

No 85 of 2000

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### An Act to amend the *Crimes Act 1900*

[Notified in ACT Gazette S69: 21 December 2000]

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

**1 Name of Act**

This Act is the *Crimes Amendment Act 2000 (No 4)*.

**2 Commencement**

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

**3 Act amended**

This Act amends the *Crimes Act 1900*.

**4 Interpretation**

Section 4 is amended by omitting from subsection (1) the definition of *offensive weapon* and substituting the following definition:

“*offensive weapon* means—

- (a) anything made or adapted for use, or capable of being used, for causing injury to or incapacitating a person; or

(b) anything intended for that use by the person who is carrying it or otherwise has it in his or her possession; and includes an imitation or replica of an offensive weapon.”.

**5 Replacing s 34A**

Section 34A is omitted and the following section substituted:

**“34A Stalking**

**“(1)** A person must not stalk someone with intent—

- (a) to cause apprehension, or fear of harm, in the person stalked or someone else; or
- (b) to cause harm to the person stalked or someone else; or
- (c) to harass the person stalked.

Maximum penalty:

- (a) imprisonment for 5 years if—
  - (i) the offence involved a contravention of an injunction or other order made by a court; or
  - (ii) the offender was in possession of an offensive weapon; or
- (b) imprisonment for 2 years in any other case.

**“(2)** For this section, a person stalks someone else (the *stalked person*) if, on at least 2 occasions, the person does 1 or more of the following:

- (a) follows or approaches the stalked person;
- (b) loiters near, watches, approaches or enters a place where the stalked person resides, works or visits;
- (c) keeps the stalked person under surveillance;
- (d) interferes with property in the possession of the stalked person;
- (e) gives or sends offensive material to the stalked person or leaves offensive material where it is likely to be found by, given to or brought to the attention of, the stalked person;
- (f) telephones or otherwise contacts the stalked person;
- (g) acts covertly in a way that could reasonably be expected to arouse apprehension or fear in the stalked person;
- (h) engages in conduct amounting to intimidation, harassment or molestation of the stalked person.

“(3) However, this section does not apply to reasonable conduct engaged in by a person as part of the person’s employment if it is a function of the person’s employment to engage in the conduct and the conduct is not otherwise unlawful.

“(4) Without limiting subsection (1), a person is also taken to have the intent mentioned in the subsection if the person knows that, or is reckless about whether, stalking the other person would be likely—

- (a) to cause apprehension or fear of harm in the person stalked or someone else; or
- (b) to harass the person stalked.

“(5) In a prosecution for an offence against subsection (1), it is not necessary to prove that the person stalked or someone else apprehended or feared harm or that the person stalked was harassed.

“(6) For this section:

*harm* means physical harm, harm to mental health, or disease, whether permanent or temporary.

*harm to mental health* includes psychological harm.

*physical harm* includes unconsciousness, pain, disfigurement and physical contact that might reasonably be objected to in the circumstances, whether or not there was an awareness of the contact at the time.”.

*Crimes Amendment (No 4) No 85, 2000*

**Endnote**

**Act amended**

1 Republished as in force on 10 November 1999 (Republication No 6). See also Acts 1999 Nos 71 and 91; 2000 Nos 3, 56 and 58.

*[Presentation speech made in Assembly on 18 October 2000]*

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