

# AUSTRALIAN CAPITAL TERRITORY

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## Crimes (Offences against the Government) Ordinance 1989

No. 34 of 1989

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 9 May 1989.

BILL HAYDEN  
Governor-General

By His Excellency's Command,

CLYDE HOLDING  
Minister of State for the Arts and Territories

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An Ordinance relating to offences against the government of the Territory and to related matters

(Ord. 39/89)—Cat. No.

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

**Short title**

1. This Ordinance may be cited as the *Crimes (Offences against the Government) Ordinance 1989*.<sup>1</sup>

**Commencement**

2. (1) Section 1 and this section commence on the day on which this Ordinance is notified in the *Gazette*.

(2) The remaining provisions commence on the date of commencement of section 22 of the *Australian Capital Territory (Self-Government) Act 1988*.

**Interpretation**

3. In this Ordinance, unless the contrary intention appears—

“government premises” means any land, building or part of a building occupied by the Territory or by a Territory authority;

“officer of the Territory” means a person who is—

(a) a public servant; or

(b) permanently or temporarily employed by a Territory authority;

and, for the purposes of sections 10, 13, 14, 16, 17 and 18 includes a person who, although not a public servant or employed by a Territory authority, performs services for or on behalf of the Territory or a Territory authority;

“property” means real and personal property of every description;

“unreasonable obstruction” means any act or thing done by a person that constitutes, or contributes to, an obstruction of, or interference with, the exercise or enjoyment by other persons of their lawful rights or privileges (including rights of passage along the public streets) where, having regard to all the circumstances of the obstruction or interference, including its place, time, duration and nature, it constitutes an unreasonable obstruction or interference.

**Destroying or damaging Territory property**

4. (1) A person who wilfully and unlawfully destroys or damages any property, whether real or personal, belonging to the Territory or to a Territory authority is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 10 years.

(2) For the purposes of this section, land which the Executive is responsible for managing under section 29 of the *Australian Capital Territory (Planning and Land Management) Act 1988* shall be deemed to be real property belonging to the Territory.

### **False pretences**

5. (1) A person who, with intent to defraud, by any false pretence obtains from the Territory or from a Territory authority any chattel, money, valuable security or benefit is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 5 years.

(2) A person who, with intent to defraud, by any false pretence, causes or procures any money to be paid or any chattel, valuable security or benefit to be delivered or given by the Territory or by any Territory authority to any person is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 5 years.

### **False representation**

6. A person who imposes, or endeavours to impose, upon the Territory or a Territory authority by any untrue representation, made in any manner whatsoever, with a view to obtaining money or any other benefit or advantage is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 2 years.

### **Statements in applications for grant of money etc.**

7. A person who in, or in connection with, an application to the Territory, an officer of the Territory or to a Territory authority for any grant, payment or allotment of money or allowance under a law of the Territory makes, either orally or in writing, any untrue statement is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 2 years.

### **Fraud**

8. A person who defrauds the Territory or a Territory authority is guilty of an offence punishable, on conviction, by a fine not exceeding \$100,000 or imprisonment for a period not exceeding 10 years, or both.

### **Seizing goods in the custody of the Territory**

9. A person who, without lawful authority, takes any goods or property out of the possession, custody or control of—

- (a) the Territory;

- (b) a Territory authority; or
- (c) an officer of the Territory who has the possession, custody or control of the goods or property by virtue of his or her office;

is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 1 year.

### **Disclosure of information by officers of the Territory**

**10. (1)** A person who, being an officer of the Territory, publishes or communicates, except to some person to whom he or she is authorised to publish or communicate it, any fact or document which comes to his or her knowledge, or into his or her possession, by virtue of him or her being an officer of the Territory and which it is his or her duty not to disclose, is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 2 years.

**(2)** A person who, having been an officer of the Territory, publishes or communicates, without lawful authority, any fact or document which came to his or her knowledge, or into his or her possession, by virtue of the person having been an officer of the Territory and which, at the time when he or she ceased to be an officer of the Territory, it was his or her duty not to disclose, is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 2 years.

### **Stealing property of the Territory**

**11. (1)** A person who steals, fraudulently misappropriates or fraudulently converts to his or her own use any property belonging to the Territory or to a Territory authority is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 7 years.

**(2)** Any property which comes into the possession of an officer of the Territory by reason of the fact that he or she is an officer of the Territory shall, for the purposes of this section, be deemed to be the property of the Territory or, if the officer is employed by a Territory authority, of that authority, notwithstanding that the officer was not authorised to receive it.

**(3)** A person who receives property belonging to the Territory or a Territory authority knowing the property to have been stolen or unlawfully obtained is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 7 years.

(4) For the purposes of this section, property in the possession, custody or control of the Territory or a Territory authority shall be deemed to belong to the Territory or to that authority, as the case may be.

### **Proof of general deficiency sufficient**

12. In any prosecution under section 11, it shall not be necessary to prove the stealing, fraudulent misappropriation or conversion of any specific sum of money or other property if there is proof of a general deficiency on the examination of the books of account or entries kept or made by the defendant or another person and the court or jury is satisfied that the accused person stole, fraudulently misappropriated or converted to his or her own use the deficient money or other property or any part thereof.

### **Falsification of books or records by officers**

13. A person who, being an officer of the Territory, fraudulently and in breach of his or her duty—

- (a) makes a false entry in any book, record or document;
- (b) omits to make an entry in any book, record or document;
- (c) by act or omission falsifies any book, record or document;
- (d) destroys or damages any book, record or document;
- (e) furnishes a false return of any property; or
- (f) omits to furnish a return of any property;

is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 7 years.

### **Corruption and bribery of officers of the Territory**

14. (1) An officer of the Territory who asks for, receives or obtains, or offers or agrees to ask for, receive or obtain, any property or benefit of any kind for the officer or any other person, on an understanding that the performance by him or her of his or her duty, or the exercise by him or her of his or her authority, as an officer of the Territory will, in any manner, be influenced or affected, is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 2 years.

(2) A person who, in order to influence or affect an officer of the Territory in the performance of his or her duty, or the exercise of his or her authority, as an officer of the Territory, gives or confers, or promises or offers to give or confer, any property or benefit of any kind to or on the officer or any other

person is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 2 years.

### **Corruption and bribery of members of the Legislative Assembly**

**15. (1)** A member of the Legislative Assembly who asks for, receives or obtains, or offers or agrees to ask for, receive or obtain, any property or benefit of any kind for himself or herself or for any other person, on an understanding that the performance by the member of his or her duty, or the exercise by the member of his or her authority, as such a member will, in any manner, be influenced or affected, is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 2 years.

**(2)** A person who, in order to—

- (a) influence or affect a member of the Legislative Assembly in the performance of his or her duty, or the exercise of his or her authority, as such a member; or
- (b) induce a member of the Legislative Assembly to absent himself or herself from the Legislative Assembly or any committee of the Legislative Assembly;

gives or confers, or promises or offers to give or confer, any property or benefit of any kind to or on the member or any other person is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 2 years.

### **False returns or certificates by officers**

**16.** A person who, being an officer of the Territory, and employed in a capacity in which he or she is required or enabled to furnish returns or statements relating to—

- (a) any remuneration payable, or claimed to be payable, to himself or herself or any other person; or
- (b) any other matter required by law to be certified for the purpose of any payment of money or delivery of goods to be made to any person;

makes a return or statement relating to any such matter which is, to his or her knowledge, false in a material particular is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 2 years.

### **Personating public officers**

**17.** A person who—

- (a) personates an officer of the Territory on an occasion when the officer of the Territory is required to do an act or attend a place by virtue of being an officer of the Territory; or
- (b) falsely represents himself or herself to be an officer of the Territory, and purports to do an act or attend a place for the purpose of doing any act by virtue of pretending to be an officer of the Territory;

is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 2 years.

### **Resisting or obstructing public officers**

**18.** A person who—

- (a) wilfully obstructs or resists an officer of the Territory while engaged in the discharge or attempted discharge of the duties of his or her office under a law of the Territory;
- (b) wilfully obstructs or resists a person while engaged in the discharge or attempted discharge of a duty imposed on him or her by a law of the Territory; or
- (c) by violence, threats or intimidation of any kind interferes with, hinders or obstructs a person performing a service or function for or on behalf of the Territory in the performance of that service or function;

is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 2 years.

### **Additional offences on Territory premises**

**19. (1)** A person who, without reasonable excuse, trespasses on government premises is guilty of an offence punishable, on conviction, by a fine not exceeding \$100 or imprisonment for a period not exceeding 1 month, or both.

**(2)** A person who—

- (a) engages in unreasonable obstruction in relation to the passage of persons or vehicles into, out of, or on government premises, or otherwise in relation to the use of government premises;
- (b) being in or on government premises, behaves in an offensive or disorderly manner; or

- (c) being in or on government premises, refuses or neglects, without reasonable excuse, to leave those premises on being directed to do so by a police officer or by a person authorised in writing by a Minister or the Territory authority occupying the premises to give directions for the purposes of this section;

is guilty of an offence punishable, on conviction, by a fine not exceeding \$250 or imprisonment for a period not exceeding 3 months, or both.

### **Buying or selling offices**

**20.** A person who—

- (a) corruptly asks, receives or obtains, or agrees or attempts to receive or obtain any property or benefit of any kind for himself or herself or for any other person on account of anything done or omitted to be done, or to be afterwards done or omitted to be done, by him or her or by any other person with regard to the appointment or contemplated appointment of any person to any office or employment in the Public Service or with regard to an application by any person for employment in the Public Service; or
- (b) corruptly gives, confers or procures, or promises or offers to give or confer, or to procure or attempt to procure, to, upon or for any person any property or benefit of any kind on account of any such act or omission;

is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 2 years.

### **False statements in documents filed etc. under laws of the Territory**

**21.** A person who—

- (a) in a document that, under a law of the Territory is, or is required to be, produced or furnished to, or filed or lodged with, an officer of the Territory; or
- (b) in a document that is required to be registered under, or to be prepared for the purposes of, a law of the Territory;

knowingly makes a false statement is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 2 years.

**False certificates**

22. A person who, being authorised or required by a law of the Territory to give a certificate relating to any matter by virtue of which the rights of any person may be adversely affected, gives a certificate which is, to his or her knowledge, false in a material particular is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 2 years.

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**NOTES**

1. Notified in the *Commonwealth of Australia Gazette* on 10 May 1989.