



Australian Capital Territory

Crimes (Offences against the Government) Act 1989 No 34

Republication No 2A

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About this republication

The republished law

This is a republication of the *Crimes (Offences against the Government) Act 1989* effective from 1 July 1994 to 30 November 1994.

Kinds of republications

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- authorised republications to which the *Legislation Act 2001* applies
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The status of this republication appears on the bottom of each page.



Australian Capital Territory
**CRIMES (OFFENCES AGAINST THE GOVERNMENT)
ACT 1989**

As at 1 July 1994

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Australian Capital Territory

CRIMES (OFFENCES AGAINST THE GOVERNMENT) ACT 1989

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

Short title

1. This Act may be cited as the *Crimes (Offences against the Government) Act 1989*.¹

Commencement

2.¹ (1) Section 1 and this section commence on the day on which this Act 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* of the Commonwealth.

Interpretation

3. In this Act, 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.

Presumption regarding ownership of Territory property

3A. For the purposes of this Act, property that is or was in the possession, custody or control of the Territory or of a Territory authority shall be presumed to belong, or to have then belonged, to the Territory or to that authority, as the case requires, but that presumption is rebuttable.

Minister’s certificate as evidence of possession or occupancy

3B. In proceedings for an offence under this Act in which the question whether, at a particular time or during a particular period—

- (a) any property was in the possession, custody or control of the Territory or of a Territory authority; or
- (b) any land, building or part of a building was occupied by the Territory or by a Territory authority;

is in issue, a certificate purporting to be signed by the Minister to the effect that, at that time or during that period—

- (c) the property was in the possession, custody or control of the Territory or of the Territory authority; or
- (d) the land, building or part of a building was occupied by the Territory or by the Territory authority;

as the case requires, is evidence of that fact.

Destroying or damaging property

4. (1) A person who wilfully and unlawfully destroys or damages 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 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* of the Commonwealth 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.

Unlawfully removing property

9. A person who, without lawful authority, takes any 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 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 public employees

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.

Theft, misappropriation or conversion

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.

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 money or other property or any part thereof.

Falsification of books or records by public employees

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 public employees

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 of 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 public employees

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 employees

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 employees

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 Government Service or with regard to an application by any person for employment in the Government 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.

NOTE

1. The *Crimes (Offences against the Government) Act 1989* as shown in this reprint comprises Act No. 34, 1989 amended as indicated in the Tables below.

Citation of Laws—The *Self-Government (Citation of Laws) Act 1989* (No. 21, 1989) altered the citation of most Ordinances so that after Self-Government day they are to be cited as Acts. That Act also affects references in ACT laws to Commonwealth Acts.

Table 1

Table of Ordinances

| Ordinance | Number and year | Date of notification in <i>Gazette</i> | Date of commencement | Application, saving or transitional provisions |
|--|-----------------|--|---|--|
| <i>Crimes (Offences against the Government) Ordinance 1989</i> | 34, 1989 | 10 May 1989 | Ss. 1 and 2: 10 May 1989 Remainder: 11 May 1989 (see s. 2 (2) and <i>Gazette</i> 1989, No. S164) | |

Self-Government day 11 May 1989

Table 2

Table of Acts

| Act | Number and year | Date of notification in <i>Gazette</i> | Date of commencement | Application, saving or transitional provisions |
|--|-----------------|--|---|--|
| <i>Crimes (Offences against the Government) (Amendment) Act 1991</i> | 54, 1991 | 2 Oct 1991 | 2 Oct 1991 | — |
| <i>Public Sector Management (Consequential and Transitional Provisions) Act 1994</i> | 38, 1994 | 30 June 1994 | Ss. 1 and 2: 30 June 1994 Remainder: 1 July 1994 (see <i>Gazette</i> 1994, No. S142, p. 2) | Ss. 3, 5-12, 15 and 19 |

NOTE—continued

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision | How affected |
|-----------------|----------------------|
| Ss. 3A, 3B..... | ad. Act No. 54, 1991 |
| S. 4 | am. Act No. 54, 1991 |
| S. 9 | am. Act No. 54, 1991 |
| S. 11 | am. Act No. 54, 1991 |
| S. 20 | am. Act No. 38, 1994 |

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