



Australian Capital Territory

# **Crimes (Offences against the Government) Act 1989**

**A1989-34**

**Republication No 6**

**Effective: 9 April 2004 – 9 April 2004**

Republication date: 9 April 2004

Last amendment made by A2004-15

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Crimes (Offences against the Government) Act 1989* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 9 April 2004. It also includes any amendment, repeal or expiry affecting the republished law to 9 April 2004.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Crimes (Offences against the Government) Act 1989

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09/04/04

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Australian Capital Territory

# Crimes (Offences against the Government) Act 1989

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

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**1 Short title**

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

**3 Definitions for Act**

In this Act:

*Note* A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

**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 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.

**3A Presumption regarding ownership of Territory property**

For 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.

**3B Minister's certificate as evidence of possession or occupancy**

In proceedings for an offence against 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.

**4 Destroying or damaging property**

- (1) A person who wilfully and unlawfully destroys or damages any property belonging to the Territory or to a Territory authority commits an offence.

Maximum penalty: imprisonment for 10 years.

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

**5 False pretences**

- (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 commits an offence.

Maximum penalty: imprisonment for 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 commits an offence.

Maximum penalty: imprisonment for 5 years.

**6 False representation**

A person who imposes, or endeavours to impose, on 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 commits an offence.

Maximum penalty: imprisonment for 2 years.

**7 Statements in applications for grant of money etc**

A person who in, or in connection with, an application to the Territory, an officer of the Territory or a Territory authority for any grant, payment or allotment of money or allowance under a Territory law makes, either orally or in writing, any untrue statement commits an offence.

Maximum penalty: imprisonment for 2 years.

**8 Fraud**

A person who defrauds the Territory or a Territory authority commits an offence.

Maximum penalty: fine of \$100 000, imprisonment for 10 years or both.

**9 Unlawfully removing property**

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

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

commits an offence.

Maximum penalty: imprisonment for 1 year.

**11 Theft, misappropriation or conversion**

- (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 commits an offence.

Maximum penalty: imprisonment for 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 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 commits an offence.

Maximum penalty: imprisonment for 7 years.

**12 Proof of general deficiency sufficient**

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.

**13 Falsification of books or records by public employees**

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

commits an offence.

Maximum penalty: imprisonment for 7 years.

**14 Corruption and bribery of public employees**

- (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, commits an offence.

Maximum penalty: imprisonment for 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

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promises or offers to give or confer, any property or benefit of any kind to or on the officer or any other person commits an offence.

Maximum penalty: imprisonment for 2 years.

**15 Corruption and bribery of members of Legislative Assembly**

- (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, commits an offence.

Maximum penalty: imprisonment for 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 commits an offence.

Maximum penalty: imprisonment for 2 years.

**16 False returns or certificates by public employees**

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 commits an offence.

Maximum penalty: imprisonment for 2 years.

## **17 Personating public employees**

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;

commits an offence.

Maximum penalty: imprisonment for 2 years.

## **17A Personation of police officers**

(1) A person other than a police officer shall not—

(a) hold himself or herself out as a police officer; or

(b) wear a uniform or badge of a police officer; or

(c) wear any clothing or badge so closely resembling the uniform or badge of a police officer as would be likely to deceive.

Maximum penalty: \$5 000, imprisonment for 6 months or both.

- (2) A person other than a police officer of the rank of detective shall not—
- (a) hold himself or herself out as a detective; or
  - (b) carry on or assist in a business under the description of a detective business or agency.

Maximum penalty: \$5 000, imprisonment for 6 months or both.

## **18 Resisting or obstructing public employees**

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; or
- (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;

commits an offence.

Maximum penalty: imprisonment for 2 years.

## **20 Buying or selling offices**

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, on or for any person any property or benefit of any kind on account of any such act or omission;

commits an offence.

Maximum penalty: imprisonment for 2 years.

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

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 Territory law;

knowingly makes a false statement commits an offence.

Maximum penalty: imprisonment for 2 years.

**22 False certificates**

A person who, being authorised or required by a Territory law 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 commits an offence.

Maximum penalty: imprisonment for 2 years.

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
cl = clause	pres = present
def = definition	prev = previous
dict = dictionary	(prev...) = previously
disallowed = disallowed by the Legislative Assembly	pt = part
div = division	r = rule/subrule
exp = expires/expired	reg = regulation/subregulation
Gaz = Gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

The *Crimes (Offences against the Government) Act 1989* was originally the *Crimes (Offences against the Government) Ordinance 1989*. It became an ACT Act on self-government (11 May 1989).

After 11 May 1989 and before 10 November 1999, Acts commenced on their notification day unless otherwise stated (see *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) s 25).

#### Legislation before self-government

##### **Crimes (Offences against the Government) Act 1989 No 34**

notified 10 May 1989

s 1, s 2 commenced 10 May 1989 (s 2 (1))

remainder commenced 11 May 1989 (s 2 (2) and see Cwlth Gaz 1989 No S164)

as amended by

#### Legislation after self-government

##### **Crimes (Offences against the Government) (Amendment) Act 1991 No 54**

notified 2 October 1991 (Gaz 1991 No S98)

commenced 2 October 1991

##### **Public Sector (Management (Consequential and Transitional Provisions) Act 1994 No 38 sch 1 pt 22**

notified 30 June 1994 (Gaz 1994 No S121)

s 1, s 2 commenced 20 June 1993 (s 2 (1))

sch 1 pt 22 commenced 1 July 1994 (s 2 (2) and Gaz 1994 No S142)

##### **Crimes (Amendment) Act (No 2) 1994 No 75 sch 3**

notified 23 November 1994 (Gaz 1994 No S247)

ss 1-3 commenced 23 November 1993 (s 2 (1))

sch 3 commenced 1 December 1994 (s 2 (2) and Gaz 1994 No S270)

##### **Legislation (Consequential Amendments) Act 2001 No 44 pt 92**

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 92 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

**Criminal Code (Theft, Fraud, Bribery and Related Offences)  
Amendment Act 2004 A2004-15 sch 3 pt 3.3**

notified LR 26 March 2004

s 1, s 2 commenced 26 March 2004 (LA s 75 (1))

sch 3 pt 3.3 commenced 9 April 2004 (s 2 (1))

## 4 Amendment history

### Commencement

s 2 om 2001 No 44 amdt 1.1011

### Presumption regarding ownership of Territory property

s 3A ins 1991 No 54 s 3

### Minister's certificate as evidence of possession or occupancy

s 3B ins 1991 No 54 s 3

### Destroying or damaging property

s 4 am 1991 No 54 s 4

### Unlawfully removing property

s 9 am 1991 No 54 s 5

### Disclosure of information by public employees

s 10 am A2004-15 amdt 3.15  
reloc to Crimes Act 1900 s 153 by A2004-15 amdt 3.16

### Theft, misappropriation or conversion

s 11 am 1991 No 54 s 6

### Personation of police officers

s 17A ins 1994 No 75 sch 3

### Additional offences on Territory premises

s 19 am A2004-15 amdt 3.17  
reloc to Crimes Act 1900 s 154 by A2004-15 amdt 3.18

### Buying or selling offices

s 20 am 1994 No 38 sch 1 pt 22

## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Republication No	Amendments to	Republication date
1	Act not amended	31 July 1991

## Endnotes

5 Earlier republications□

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<b>Republication No</b>	<b>Amendments to</b>	<b>Republication date</b>
2	Act 1991 No 54	31 January 1994
3	Act 1994 No 75	31 January 1995
4	Act 1994 No 75	30 November 1996
5	A2001-44	31 January 2002

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