

1997
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Crimes (Amendment) Bill 1997

A BILL

FOR

An Act to amend the *Crimes Act 1900*

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

Short title

1. This Act may be cited as the *Crimes (Amendment) Act 1997*.

5 Commencement

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

Principal Act

3. In this Act, "Principal Act" means the *Crimes Act 1900*.¹

Interpretation

4. Section 349AA of the Principal Act is amended by inserting “, socks” after “shoes” in paragraph (a) of the definition of “ordinary search”.

5 **Power to conduct ordinary search of arrested person**

5. Section 349ZJ of the Principal Act is amended—

- 10 (a) by omitting all the words from and including “A police officer” to and including “person” (second occurring) and substituting “If a police officer suspects on reasonable grounds that a person who has been arrested”;
- (b) by omitting from paragraph (a) “that or another” and substituting “any”; and
- (c) by inserting “the police officer may” before “conduct”.

Power to conduct search at police station

15 6. Section 349ZL of the Principal Act is amended—

- (a) by omitting subsection (2) and substituting the following subsection:

“(2) Where—

- 20 (a) a person is in lawful custody in a police station; and
- (b) a police officer—
- (i) of the rank of sergeant or higher; or
- (ii) who is for the time being in charge of the police station;

25 suspects on reasonable grounds that it is prudent to do so in order to ascertain whether the person is carrying any evidential material in relation to any offence or seizable items;

the police officer may cause a frisk search or an ordinary search of the person to be conducted.”;

- 30 (b) by omitting from subsection (3) “arrested for an offence”;
- (c) by omitting from paragraph (3) (a) “that or another” and substituting “any”; and
- (d) by adding at the end the following subsection:

“(4) Where a person is searched under this section, the police officer who conducts or causes the search to be conducted shall make a record of the reasons for the search and of the type of search.”.

5 **Insertion**

7. After section 349ZN of the Principal Act the following section is inserted:

Safekeeping of things seized

10 “349ZO. (1) A police officer who seizes a thing as a result of searching a person in lawful custody under this Division shall—

- (a) make a record of the thing seized, including a description of it and the date on which it was seized; and
 - (b) give the thing seized and the record of it to the police officer for the time being in charge of the police station where the person was searched.
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“(2) A police officer for the time being in charge of a police station is responsible for the safekeeping of any thing seized as a result of a search of a person in lawful custody under this Part conducted at that place.

20 “(3) A police officer who has responsibility for the safekeeping of a thing under subsection (2) shall, on release of the person from whom it was seized, take reasonable steps to return the thing to that person or to the owner of the thing if that person is not entitled to possession, unless the thing affords evidence in relation to an offence.

25 “(4) Where a thing is not returned to the person from whom it was seized or the owner under subsection (3), the police officer responsible for the safekeeping of the thing shall—

- (a) make a note on the record made under paragraph (1) (a) indicating the thing has been retained; and
 - (b) take reasonable steps to give a copy of that record to the person from whom the thing was seized.”.
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Matters to which court to have regard

8. Section 429A of the Principal Act is amended by adding at the end of paragraph (1) (u) “and, if so, the stage of the proceedings at which the person did so or indicated an intention to do so”.

NOTE

Principal Act

1 Reprinted as at 30 November 1996 See also Act No 74, 1996