

1998

**THE LEGISLATIVE ASSEMBLY OF
THE AUSTRALIAN CAPITAL TERRITORY**

CRIMES (AMENDMENT) BILL 1998

EXPLANATORY MEMORANDUM

Circulated by the authority of the Attorney General

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Crimes (Amendment) Bill 1998

Explanatory Memorandum

Outline

The Crimes (Amendment) Bill 1998 (the Bill) amends provisions of the *Crimes Act 1900* . (the Act) to give effect to a new fine enforcement scheme proposed by the Magistrates Court (Amendment) Bill 1998.

Financial Implications

Nil

Notes on Clauses

Formal provisions

Clauses 1, 2 and 3 are formal clauses setting out the short title of the Act, providing for the commencement of its provisions and providing that references in the Act to "the Principal Act" are references to the *Crimes Act 1900*.

Commencement

Subclause 2(2) provides that the substantive provisions of the Bill will commence on the day on which the substantive provisions of the Magistrates Court (Amendment) Act 1998 commence.

Concurrent and cumulative sentences

Clause 4 amends section 443 of the Act, which deals with the Court's discretion in determining whether a sentence of imprisonment is to be served concurrently or cumulatively with other sentences of imprisonment. Subsection 443(2) presently provides that where court sentences a person to term of imprisonment in default of payment of a fine the term is, unless the court otherwise orders, to be served cumulatively on any

uncompleted sentence for fine default, but concurrently on any uncompleted sentence other than for fine default.

Subsection 443(7) - an interpretation provision - is amended to reflect the changed arrangements for commitment of defaulters to imprisonment. Under the new scheme, the Registrar, rather than the Court, will issue warrants of commitment. The amendment effected by **clause 4** ensures that, under the new arrangements, periods of imprisonment for fine default will be served cumulatively. There will be no discretion in the Registrar to order that such periods of imprisonment be served concurrently.

Directions to perform work

Clause 5 amends section 556G of the Act. Subsection 556G(3) enables a court to require a fine defaulter to perform community service work, as an alternative to imprisonment for fine default. This provision is omitted by **clause 5**, as it is inconsistent with the proposed new enforcement arrangements under the Magistrates Court Act. The amendment to subsection 556G(4) is consequential on the omission of subsection 556G(3).

Repeal

Clause 6 repeals section 556H of the Act, consequentially on the omission of subsection 556G(3).

Revocation and variation of community service order and variation of nature of work

Clause 7 amends section 556M of the Act consequentially on the omission of subsection 556G(3).

Repeal

Clause 8 repeals section 556R of the Act, consequentially on the omission of subsection 556G(3).

Schedule 5

Clause 9 amends Schedule 5 of the Act consequentially on the omission of subsection 556G(3).

Transitional

Clause 10 is to the effect that the changes to the community service provisions of the Act, in relation to fine default, effected by the Bill, do not apply in relation to a person who is already the subject of a community service order when the new scheme commences.