

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY

CRIMES (OFFENCES AGAINST THE GOVERNMENT) ORDINANCE 1989

ORDINANCE NO. 34 OF 1989

Section 7 of the Australian Capital Territory (Self-Government) Act 1988 establishes the Territory as a body politic under the Crown.

The Crimes (Offences against the Government) Ordinance 1989 (the Ordinance), which is based on equivalent provisions in the Crimes Act 1914, makes provision for offences against the Territory. It will become a Territory law on its commencement on Self-Government Day and may be amended or repealed by the Territory Legislative Assembly.

To the extent that a matter is not specifically dealt with by the Ordinance, the Common Law relating to misconduct by public officials remains unchanged.

The Ordinance does not make separate provision for procedural matters, inchoate offences (such as attempts, incitements or conspiracies to do a criminal act) or pecuniary penalties. Procedural matters are dealt with by other laws which apply to offences under Territory law such as the Crimes Act 1900 (NSW in its application in the Territory). Inchoate offences are established in relation to offences under laws in force in the Territory by the Crimes (Amendment) Ordinance (No. 2) 1988. Pecuniary penalties are established in relation to offences under laws in force in the Territory by section 32 of the Interpretation Ordinance 1967.

The Attachment contains details of the individual provisions of the Ordinance.

ISSUED UNDER THE AUTHORITY  
OF THE MINISTER FOR THE ARTS  
AND TERRITORIES

CRIMES (OFFENCES AGAINST THE GOVERNMENT) ORDINANCE 1989

Section 1 cites the short title of the Ordinance as the Crimes (Offences against the Government) Ordinance 1989.

Section 2 provides that the formal parts of the Ordinance commence on gazettal and that the remaining parts of the Ordinance commence on the day section 22 of the Australian Capital Territory (Self-Government) Act commences.

Section 3 defines terms used in the Ordinance. Other terms used in the Ordinance, such as "the Territory", "Territory Authority" and "Public Servant", are defined in the Interpretation Ordinance 1967.

Section 4, which is based on section 29 of the Commonwealth Crimes Act 1914, provides that it is an offence to destroy or damage of the Territory or a Territory Authority. Territory property is given an extended meaning to include land (and fixtures and other incidents of an estate in land) for which the Territory Executive is responsible for managing under section 29 of the Planning and Land Management Act 1988.

Section 5, which is based on section 29A of the Commonwealth Crimes Act 1914, provides for offences of false pretences in relation to the Territory or a Territory Authority.

Section 6, which is based on section 29B of the Commonwealth Crimes Act 1914, provides for the offence of false representation.

Section 7, which is based on section 29C of the Commonwealth Crimes Act 1914, provides for offences in relation to untrue statements made in applications to the Territory or a Territory Authority.

Section 8, which is based on section 29F of the Commonwealth Crimes Act 1914, provides for the offence of defrauding the Territory or a Territory Authority.

Section 9, which is based on section 30 of the Commonwealth Crimes Act 1914, provides for the offence of seizing goods in the custody of the Territory, a Territory authority or an officer of the Territory.

Section 10, which is based on section 70 of the Commonwealth Crimes Act 1914, provides for the offence of unlawfully disclosing information by present and past officers of the Territory.

Section 11, which is based on section 71 of the Commonwealth Crimes Act 1914, provides for the offence of stealing the property of the Territory.

Section 12, makes provision in relation to the proof of an offence under section 11. It is based on section 71A of the Commonwealth Crimes Act 1914.

Section 13, which is based on section 72 of the Commonwealth Crimes Act 1914, provides for the offence of falsification of books or records by Territory officers.

Section 14, which is based on section 73 of the Commonwealth Crimes Act 1914, provides for the offences of corruption and bribery of Territory officers.

Section 15, which is similar to provision made in relation to members of the Commonwealth Parliament by section 73A of the Commonwealth Crimes Act 1914, provides for the offences of corruption and bribery of members of the Legislative Assembly.

Section 16, which is based on section 74 of the Commonwealth Crimes Act 1914, provides for the offences of false returns or certificates by Territory officers.

Section 17, which is based on section 75 of the Commonwealth Crimes Act 1914, provides for the offences of personating an officer of the Territory. For this purpose, "officer of the Territory" has an extended meaning under section 3 of the Ordinance. Consequently, the offence includes a situation where the personation is of a person who is not a public servant but who is performing services for or on behalf of the Territory or a Territory Authority.

Section 18, which is based on section 76 of the Commonwealth Crimes Act 1914, provides for offences in relation to resisting or obstructing an officer of the Territory.

Section 19 provides for certain additional offences in relation to government premises (which is defined by section 3 of the Ordinance to mean any land, building or part of a building occupied by the Territory or by a Territory authority). It is an offence to trespass on government premises. Additionally, certain behaviour on government premises also constitutes an offence.

Section 20, which is based on section 88 of the Commonwealth Crimes Act 1914, provides for offences in relation to the buying or selling of offices.