

EXPLANATORY STATEMENT  
AUSTRALIAN CAPITAL TERRITORY  
CRIMES (AMENDMENT) ORDINANCE OF 1987  
No 3, 1987

Sub-section 12 (1) of the Seat of Government (Administration) Act 1910 provides that the Governor-General may make Ordinances for the peace, order and good government of the Territory.

The proposed Ordinance will amend the Crimes Act 1900 (NSW) in its application to the Australian Capital Territory (Crimes Act 1900) by -

- creating a new offence of employing a person who is under 16 years of age for pornographic purposes;
- repealing certain summary offences which are either in-operative or no longer applicable in view of the reform of the property related offences in Part IV of the Crimes Act 1900;
- creating new summary offences of
  - . possessing an offensive weapon
  - . publishing a bogus advertisement knowing the advertisement to be false
  - . public mischief where a person makes a false representation that is intended to make it appear that a situation exists which calls for investigation or action by a police officer or an emergency service officer and the representation comes to the knowledge of the police officer or emergency service officer;
  - . amending section 527A of the Crimes Act 1900 by making it clear that the section also covers the possession of 'money' reasonably suspected of having been stolen or unlawfully obtained; and
- making a miscellaneous amendment to correct a minor drafting error

The proposed amendments are part of the ongoing review of the Crimes Act 1900. They will update the summary offences so that they are consistent with reforms made in other jurisdictions and make amendments consequential upon earlier reforms to the Crimes Act 1900.

Details of the proposed Ordinance are as follows:

Section 1 and 2: are the short title and formal provisions

Section 3: will insert a new section 92NA into the Crimes Act 1900. This new section will create offences in relation to the employment, whether for reward or not, of young persons for pornographic purposes. Proposed paragraph 92NA(1)(a) creates an offence of employing a person under the age of 16 years for the purpose of engaging in an act of a sexual nature or of being in the presence of another person who is engaged in an act of a sexual nature, in circumstances that would offend a reasonable adult person.

Proposed paragraph 92NA(1)(b) creates an offence of employing a person under the age of 16 years for the purpose of making a film, photograph drawing, video, audio tape etc which will represent that person as being engaged in, or being in the presence of another person engaged in, an act of a sexual nature, where the representation would offend a reasonable adult person.

Both offences carry a maximum penalty of imprisonment for 10 years. Proposed sub-section 92NA(2) defines the term 'an act of a sexual nature' to mean sexual intercourse or an act of indecency. A definition of the term 'sexual intercourse' is contained in section 92 of the Crimes Act 1900.

Section 4: Amends section 98 of the Crimes Act 1900 by inserting 'unlawfully' in sub-paragraph 98(1)(a)(ii) before 'taken'. The proposed amendment will redefine 'stolen property'. Where property was obtained outside the ACT it will only be 'stolen property' if it was obtained in circumstances which would have constituted an offence against both the law of the ACT and of the jurisdiction where it was obtained.

Section 5: Amends section 349A of the Crimes Act 1900 by making it clear that police officers can only enter premises to take action where it is not only necessary but also reasonable, to prevent the commission or repetition of an offence or breach of the peace etc. The clause also amends section 349A by authorising a police officer to enter premises at the request of a person where the officer reasonably believes that person to be a resident of the premises.

Section 6: Amends section 349B of the Crimes Act 1900 by making it clear that where a magistrate issues a warrant under this section, the magistrate may only authorise a police officer to enter premises using such assistance as is reasonable and by such force as is necessary and reasonable.

Section 7: Amends section 400 of the Crimes Act 1900 by deleting the provision that gives the presiding judge the power to order the accused to enter the dock or usual place of arraignment, as it no longer accords with the practice of the Supreme Court of the ACT. As a general rule in each case before the court the defendant remains on the floor of the Court.

Section 8: Repeals sections 493, 494, 495, 496, 498, 499 and 500 of the Crimes Act 1900 and inserts two new summary offences of possessing an offensive weapon. The sections which are to be repealed by this clause are either out-dated, no longer applicable because of other recent amendments to the Crimes Act 1900 or are adequately covered elsewhere.

The new sections which are to be inserted by this clause provide as follows:

Proposed section 493: Creates a new offence of possessing, without reasonable excuse, in a public place an offensive weapon or disabling substance, in circumstances which are likely to cause alarm. Proposed sub-section 493(2) defines the terms a 'disabling substance' and 'offensive weapon'. The offence carries a maximum penalty of a fine of \$1,000 or imprisonment for six months.

Proposed section 494: Creates a more serious offence of possessing an offensive weapon or disabling substance, in circumstances indicating an intention to use the weapon or substance to commit an offence involving actual or threatened violence. Proposed sub-section 494(2) defines the terms 'disabling substance' and 'offensive weapon'. This offence carries a maximum penalty of a fine of \$2,000 or imprisonment for 12 months.

Section 9: Amends section 527A of the Crimes Act 1900 by expressly providing that the section also covers the possession of 'money' reasonably suspected of having been stolen or otherwise unlawfully obtained.

Section 10: Inserts two new sections into the Crimes Act 1900. These are as follows;

Proposed section 546D: Creates a new summary offence of publishing or causing to be published a bogus advertisement knowing the advertisement to be bogus. Proposed sub-section 546D(2) defines a 'bogus advertisement' to mean an 'advertisement or notice that contains a statement or representation that is false or misleading in a material particular in relation to a birth, death, engagement, marriage, employment or any other matter concerning another person or that other person's property'. The offence carries a maximum penalty of a fine of \$1,000 or imprisonment for 6 months.

Proposed section 546E: Creates a new summary public mischief offence where a person makes a false representation or creates any circumstances which are intended to make it appear that a situation exists or an event has occurred, which calls for investigation or action by a police officer or an emergency service officer and the representation comes to the knowledge of such an officer. Proposed sub-section 546E(2) defines the term 'emergency service officer' to mean an 'ambulance officer, fire brigade officer, a member of the Bush Fire Council or an officer of any other emergency service'. The offence carries a maximum penalty of a fine of \$2,000 or imprisonment for 12 months.

Section 11: Amends section 10 of the Crimes (Amendment) Ordinance (No 4) of 1986 by correcting a minor drafting error by substituting 'by the Magistrates Court' for the words 'by the Court' which due to a recent amendment no longer appear in the section which is the subject of the amendment. Sub-clause 11(2) provides that this amendment is deemed to have come into operation on 3 October 1986.

Authorised by the  
Attorney-General