

EXPLANATORY STATEMENT  
AUSTRALIAN CAPITAL TERRITORY  
CRIMES (AMENDMENT) ORDINANCE (NO. 3) OF 1985  
NO. 40 of 1985

This Ordinance amends the Crimes Act 1900 (NSW) in its application to the Australian Capital Territory (Crimes Act 1900) by:

- . extending the summary jurisdiction of the Court of Petty Sessions in relation to certain indictable offences
- . increasing the penalties which may be imposed when the Court deals with these indictable offences summarily.

These amendments will bring into line the jurisdiction of the ACT Court of Petty Sessions with that of the Magistrates Courts of New South Wales and Victoria.

Sections 1 and 2: are the short title and formal provision.

Section 3: inserts a definition of the term "motor vehicle" into sub-section 4(1) of the Crimes Act 1900.

Section 4: Repeals existing sections 476, 477, 477A and 478 of the Crimes Act 1900 and substitutes the following sections:-

Section 476: provides that all offences against the Crimes Act 1900 which are punishable by a fine only or by a term of imprisonment which does not exceed 12 months are summary offences.

Section 477: is the main provision which deals with the summary disposal of certain indictable offences

sub-section (1): provides that this section applies to any Territory offence which is either a common law offence, an offence relating to property or money which is punishable by a term of imprisonment not exceeding 14 years or any other offence which is punishable by a term of imprisonment which does not exceed 10 years;

sub-section (2): gives the Court of Petty Sessions a discretion to deal with a charge summarily in accordance with the succeeding sub-sections where the defendant is charged with an offence to which the section applies, the Court does not otherwise have jurisdiction to determine such a charge summarily and if the charge relates to money or property other than a motor vehicle the value of such does not exceed \$10,000;

sub-sections (3) and (4): enables the Court to invite the defendant to plead to the charge and where the defendant does enter a plea of guilty the Court may accept or reject the plea:

sub-section (5): provides that a defendant is deemed to have pleaded not guilty to the charge where he has failed to enter a plea when invited to do so by the Court under sub-section (3) or where the Court has rejected the defendants plea of guilty under sub-section (4);

sub-section (6): gives the Court a discretion to hear and determine the charge summarily where the defendant has pleaded or is deemed to have pleaded not guilty, the defendant consents to it being so disposed of if it is not a prescribed charge and the Court having regard to the matters specified in sub-section (8) is of the opinion that the case can be disposed of summarily.

sub-section (7): is in similar terms to sub-section (6) but applies where the Court accepts a plea of guilty;

sub-section (8): sets out the matters to which the Court must advert in forming its opinion that a case can be disposed of summarily. These matters are -

- . relevant representations made by the defendant or the prosecutor provided that the prosecutor's representations are made in the presence of the defendant.
- . the circumstances and the degree of seriousness of the case is such that the penalty the court can impose if the charge is dealt with summarily would be inadequate.
- . any other circumstances which in the opinion of the court make it more appropriate to deal with the case or indictment.

sub-section (9): provides that where the Court has accepted a plea of guilty but is of the opinion that it is inappropriate to deal with the case summarily or where the defendant has failed to consent where his consent is required to deal with the case summarily then sub-sections 90A(5) to (10) inclusive of the Court of Petty Sessions Ordinance 1930 applies. The effect of this is that the defendant is committed to the Supreme Court to be dealt with.

sub-section (10): limits the maximum penalty the Court may impose where the case has been dealt with summarily under this section and the defendant was 18 years of age or older at the time of the commission of the offence. The penalties are:

- . where the charge is a prescribed charge - 1 year imprisonment or a fine of \$2,000
- . in any other case 2 years imprisonment or a fine of \$5,000.

4.

sub-section (11): limits the penalty to which may be imposed to a maximum of 6 months imprisonment or a fine of \$1,000 where the Court has dealt with the case summarily and the defendant was under 18 years of age at the time the offence was committed.

sub-section (12): defines the term "prescribed charge" to be a charge which relates to money or property the value of which does not exceed \$2,500, in which case the Court may dispose of the charge summarily without the consent of the defendant.

Section 5 amends section 479 of the Crimes Act 1900 by omitting the word "chapter" and substituting the word "Part" as the Act is no longer divided into chapters.

Sections 6 and 7 contain consequential amendments to sections 480 and 481 of the Crimes Act 1900.

Section 8 repeals section 497 of the Crimes Act 1900 as this section is now covered by the provisions contained in section 4.

Section 9 is a transitional provision which provides that where the Court disposes of a case summarily under the new section 477 and convicts the defendant of an offence committed before the commencement of the Ordinance, then the Court cannot impose a greater penalty than that which the Court could impose prior to the commencement of the Ordinance.

Authorised by the  
Attorney-General



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