

EXPLANATORY STATEMENT
AUSTRALIAN CAPITAL TERRITORY
INTERPRETATION (AMENDMENT) ORDINANCE (No. 2) 1985
No. 58 of 1985

The purpose of this Ordinance is to make a minor amendment to the Interpretation Ordinance 1967 (the Principal Ordinance) to remove uncertainty that has arisen, following a recent decision of the A.C.T. Supreme Court, as to the relationship between certain sections of the Commonwealth Crimes Act 1914 and provisions of the Crimes Act 1900 of New South Wales in its application to the Territory.

Section 33G of the Principal Ordinance applies certain provisions of the Commonwealth Crimes Act 1914, insofar as they are applicable, to all A.C.T. Ordinances as if an Ordinance were a law of the Commonwealth. A provision to this effect first appeared in the Interpretation Ordinance 1937. As the only remaining operative provision of that Ordinance, the 1937 Ordinance was repealed and a provision to similar effect included in the Principal Ordinance earlier this year.

Some of the provisions of the Commonwealth Crimes Act 1914 applied by section 33G of the Principal Ordinance have counterparts in Territory legislation (e.g. sections 19B, 20 and 20A, which relate to conditional release of offenders, have their counterparts in sections 556A, 556B and 556C of the Crimes Act 1900 of NSW in its application to the Territory). These latter sections are used daily in the A.C.T. Court of Petty Sessions.

In a recent case in the A.C.T. Supreme Court, the Court held that section 20 of the Commonwealth Crimes Act 1914 applied to the conditional release of offenders against a law of the Territory and not section 556B of the Crimes Act 1900 of New South Wales as it applies in the Territory. Such a result was contrary to what was intended by section 33G of the Principal Ordinance (which was to supplement substantive Territory law).

The decision led to uncertainty whether the provisions of the Crimes Act 1900 of New South Wales in its application to the Territory affected by the decision could have any application to offences against Territory laws. It is desirable that the relevant provisions of that Act, which were inserted in 1971, apply to Territory offences rather than the similar, but not identical, provisions in the Commonwealth Crimes Act 1914.

The Ordinance therefore removes the references in section 33G of the Principal Ordinance to those sections of the Commonwealth Crimes Act 1914 (sections 19, 19B, 20 and 20A) that have a direct counterpart in Territory legislation.

Details of the Ordinance are as follows.

Section 1 provides that the Ordinance may be cited as the Interpretation (Amendment) Ordinance (No. 2) 1985.

Section 2 amends section 33G of the Principal Ordinance by deleting the references to sections 19, 19B, 20, and 20A of the Commonwealth Crimes Act 1914.

Ord. 50/85

Authorised by the
Attorney-General