



Australian Capital Territory

Criminal Code Amendment Act 2010

A2010-44

An Act to amend the *Criminal Code 2002*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Criminal Code Amendment Act 2010*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Legislation amended

This Act amends the *Criminal Code 2002*.

4 New division 2.3.6

insert

Division 2.3.6 Lawful purpose

43A Lawful possession

- (1) A person is not criminally responsible for an offence of possessing a particular material or thing if—
- (a) the person is—
 - (i) employed by, or appointed as a member of, a law enforcement or justice agency; or
 - (ii) required to provide technical, professional or expert services to a law enforcement or justice agency; or
 - (iii) a legal practitioner, or a person employed by or required to provide technical, professional or expert services to a legal practitioner; and

- (b) the possession is—
 - (i) for a law enforcement purpose; and
 - (ii) reasonable in the circumstances for that purpose.
- (2) Possession of a particular material or thing is for a law enforcement purpose if the possession is necessary for, or of assistance in, any of the following:
 - (a) enforcing a law of the Commonwealth, a State or Territory;
 - (b) monitoring compliance with, or investigating a contravention of, a law of the Commonwealth, a State or Territory;
 - (c) the administration of justice.

Examples—law enforcement purpose

- 1 police investigation
- 2 giving legal advice or providing legal representation
- 3 carrying out analyses or tests for forensic reasons
- 4 judicial service

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) In determining a person's criminal responsibility, the question of whether a person's possession of a particular material or thing is for a law enforcement purpose is a question of fact.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 23 September 2010.

2 Notification

Notified under the Legislation Act on 24 November 2010.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Criminal Code Amendment Bill 2010, which was passed by the Legislative Assembly on 16 November 2010.

Acting Clerk of the Legislative Assembly

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