

No. 17 of 1974

AN ORDINANCE

Relating to Crimes.

I, THE GOVERNOR-GENERAL of Australia, acting with the advice of the Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1973*.

Dated this tenth day of April, 1974.

PAUL HASLUCK
Governor-General.

By His Excellency's Command,

LIONEL MURPHY
Attorney-General.

CRIMES ORDINANCE 1974

1. This Ordinance may be cited as the *Crimes Ordinance 1974*.* Short title.
2. In this Ordinance, "the Crimes Act" means the Crimes Act, 1900 of the State of New South Wales in its application to the Territory. Definition.
3. Section 1 of the Crimes Act is amended— Short title and contents of Act.
 - (a) by omitting the words—
" (4) *Sentences of whipping or irons.—ss. 434-436.*";
 - (b) by omitting the words—
" (3) *Whipping sentences.—ss. 455, 456.*";
 - (c) by omitting the words—
" (B) COMMUTATION OR MITIGATION OF SENTENCES.—ss. 459-464."
and substituting the words—
" (B) MITIGATION OF SENTENCES.—ss. 461-464."; and
 - (d) by omitting the words—
" CHAPTER 2.—*Offences punishable summarily in certain cases by whipping.—ss. 482-492.*"
4. Section 61 of the Crimes Act is amended by omitting the words " , and if the person assaulted is a female, shall, in addition, be liable to be once privately whipped ". Common assault prosecuted by indictment.

* Notified in the *Australian Government Gazette* on 17 April 1974.

- Repeal.** **5.** Sections 434, 435 and 436 of the Crimes Act and the heading immediately preceding section 434 are repealed.
- Provision for passing sentences of less duration than those fixed.** **6.** Section 442 of the Crimes Act is amended—
- (a) by omitting sub-section (1) and substituting the following sub-section:—
- “ (1) Where, by this Act, an offender is made liable to imprisonment for life or to imprisonment for a fixed term, the court may nevertheless pass a sentence of imprisonment of less duration.”;
- (b) by omitting from sub-section (2) the words “ or whipping,”; and
- (c) by omitting from sub-section (3) the word “ judge ” and substituting the word “ court ”.
- Repeal.** **7.** Sections 453 and 454 of the Crimes Act are repealed.
- Repeal.** **8.** Sections 455 and 456 of the Crimes Act and the heading immediately preceding section 455 are repealed.
- Amendment of heading.** **9.** The heading immediately preceding section 459 of the Crimes Act is amended by omitting the words “ COMMUTATION OR ”.
- Repeal.** **10.** Sections 459 and 460 of the Crimes Act are repealed.
- 11.** Sections 476, 477, 478, 480 and 481 of the Crimes Act are repealed and the following sections substituted:—
- “ 476. (1) Where—
- (a) a person is charged before the court of Petty Sessions with an offence to which this section applies;
- (b) the evidence for the prosecution is, in the opinion of the Court, sufficient to put the accused on his trial;
- (c) the Court is of the opinion that the case may properly be disposed of summarily; and
- (d) the amount of the money involved, or the value of the property involved, as the case may be, does not, in the opinion of the Court, exceed Five hundred dollars,
- the Court has jurisdiction to hear and determine the charge in a summary manner, and pass sentence upon the person so charged.
- “ (2) The following offences, namely—
- (a) simple larcency;
- (b) stealing any chattel, money or valuable security from the person of another;
- (c) an offence mentioned in sections 126, 131, 132, 133, 139, 140, 144, 148, 150, 151, 152, 179 and 247 of this Act; and
- (d) attempting to commit an offence mentioned in this sub-section,
- are offences to which this section applies.

“ (3) Where a person is convicted by the Court of Petty Sessions of an offence to which this section applies, he is liable to imprisonment for a term not exceeding six months or to a fine not exceeding Five hundred dollars.

“ 477. (1) Subject to section 478, where—

- (a) a person is charged before the Court of Petty Sessions with an offence;
- (b) in the opinion of the Court the charge is not one that the Court has jurisdiction, apart from this section, to hear and determine in a summary manner;
- (c) the evidence for the prosecution is, in the opinion of the Court, sufficient to put the accused on his trial;
- (d) the Court is of the opinion that the case may properly be disposed of summarily;
- (e) the accused consents to it being so disposed of; and
- (f) in the case of an offence relating to money or property other than a vehicle, the amount of the money involved, or the value of the property involved, as the case may be, does not, in the opinion of the Court, exceed Two thousand dollars,

Offences that may be dealt with summarily with consent of accused.

the Court has jurisdiction to hear and determine the charge in a summary manner, and pass sentence upon the person so charged.

“ (2) Where a person is convicted of an offence by virtue of this section, he is liable to imprisonment for a term not exceeding two years or to a fine not exceeding Two thousand dollars or if he is, in the opinion of the Court, under sixteen years of age, to imprisonment for a term not exceeding six months or a fine not exceeding Five hundred dollars.

“ (3) In this section, ‘vehicle’ has the same meaning as in section 154A.

“ 478. Nothing in section 477 applies to or in relation to an offence punishable by imprisonment for life or for a term exceeding ten years.

Certain offences not to be dealt with summarily.

“ 479. Nothing in this chapter affects the operation of any other law in force in the Territory by which jurisdiction is conferred on the Court of Petty Sessions.

Saving of other summary jurisdiction.

“ 480. Where the Court of Petty Sessions has heard and determined a charge in pursuance of section 476 or 477 and has dismissed the charge, the Magistrate constituting the Court or the Clerk of the Court shall, if so requested by the person charged, give that person a certificate under his hand stating the fact of the dismissal.

Certificate of dismissal.

“ 481. (1) A conviction upon a charge disposed of summarily in pursuance of section 476 or 477 has the same effect as a conviction upon indictment for the offence would have had and a person who is so convicted is not afterwards liable to prosecution for the same cause.

Summary conviction or dismissal a bar to indictment.

“(2) The dismissal by the Court of Petty Sessions of an information heard and determined by the Court in pursuance of section 476 or 477 has the same effect as an acquittal of the person charged in a trial on indictment.”.

Repeal of
Chapter 2 of
Part XIV.
Sixth
Schedule.

12. Chapter 2 of Part XIV of the Crimes Act is repealed.

13. The Sixth Schedule to the Crimes Act is repealed.

Penal
servitude
deemed to be
imprison-
ment.

14. Where, by any law in force in the Territory, an offence is punishable by penal servitude for life or by penal servitude for a fixed term, the offence shall be deemed to be punishable by imprisonment for life or by imprisonment for that term, as the case may be.