

AUSTRALIAN CAPITAL TERRITORY

No. 1 of 1979

An Ordinance relating to Crimes

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

Dated this twenty-fourth day of January 1979.

ZELMAN COWEN
Governor-General

By His Excellency's Command,

P. DURACK
Attorney-General

CRIMES (AMENDMENT) ORDINANCE 1979

1. This Ordinance may be cited as the *Crimes (Amendment) Ordinance 1979*.¹ Short title

2. In this Ordinance, " the Crimes Act " means the Crimes Act, 1900 Definition of the State of New South Wales in its application to the Territory.

3. Section 52A of the Crimes Act is repealed and the following section substituted:

"52A. (1) In this section, 'drug' has the same meaning as in the *Motor Traffic Ordinance 1936*. Culpable driving

"(2) A person who, by the culpable driving of a motor vehicle, causes the death of another person is guilty of an offence and punishable, on conviction, by imprisonment for a term not exceeding 5 years.

"(3) A person who, by the culpable driving of a motor vehicle, causes grievous bodily harm to another person is guilty of an offence and punishable, on conviction, by imprisonment for a term not exceeding 3 years.

"(4) For the purposes of sub-sections (2) and (3), a person drives a motor vehicle culpably if he drives the motor vehicle—

- (a) recklessly;
- (b) negligently;

- (c) while under the influence of alcohol to such an extent as to be incapable of having proper control of the motor vehicle; or
- (d) while under the influence of a drug to such an extent as to be incapable of having proper control of the motor vehicle.

“(5) An information or indictment for an offence against sub-section (2) or (3) shall specify the nature of the culpability within the meaning of sub-section (4) that is alleged.

“(6) For the purposes of this section, a person drives a motor vehicle recklessly if he consciously and unjustifiably disregards a substantial risk that the death of another person or the infliction of grievous bodily harm upon another person may result from his driving.

“(7) For the purposes of this section, a person drives a motor vehicle negligently if he fails unjustifiably and to a gross degree to observe the standard of care which a reasonable man would have observed in all the circumstances of the case.

“(8) Nothing in sub-section (5) renders inadmissible in proceedings for an offence against sub-section (2) or (3) evidence that, apart from that sub-section, would be admissible in the proceedings.

“(9) Nothing in this section affects—

- (a) the liability of a person to be convicted of an offence of murder or manslaughter or any other offence; or
- (b) the punishment that may be imposed for such an offence.

“(10) A person who has been convicted or acquitted of an offence against sub-section (2) or (3) is not liable to be convicted of any other offence against this Act on the same or substantially the same facts.

“(11) A person who has been convicted or acquitted of an offence is not liable to be convicted of an offence against sub-section (2) or (3) on the same or substantially the same facts.

“(12) Upon the trial of a person charged with an offence of murder or manslaughter or an offence against section 53 or 54 of this Act, being an offence arising out of the driving by that person of a motor vehicle, the jury may, if it is satisfied that the person is guilty of an offence against this section, find the person not guilty of the offence with which he is charged but guilty of an offence against sub-section (2) or (3), as the case may be, of this section.”.

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on 31 January 1979.