

AUSTRALIAN CAPITAL TERRITORY

Crimes (Amendment) Ordinance 1986

No. 15 of 1986

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 29 May 1986.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

LIONEL BOWEN
Attorney-General

An Ordinance to amend the Crimes Act, 1900 of the State of New South Wales in its application to the Territory

Short title

1. This Ordinance may be cited as the *Crimes (Amendment) Ordinance 1986*.¹

Commencement

2. This Ordinance shall come into operation on 1 July 1986.

The Crimes Act

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

Interpretation

4. Section 93 of the Crimes Act is amended by inserting after the definition of “imitation firearm” the following definition:

“ ‘instrument’ means—

- (a) a document, whether of a formal or informal character;
- (b) a card by means of which property or credit can be obtained;
and
- (c) a disc, tape, sound track or other device on or in which information is recorded or stored by mechanical, electronic or other means;”.

5. After Division 3 of Part IV of the Crimes Act the following Division is inserted:

“Division 3A—Forgery and the use of forged instruments

Making of false instrument

“135A. (1) For the purpose of this Division, an instrument is false if it purports—

- (a) to have been made in the form in which it is made by a person who did not in fact make it in that form;
- (b) to have been made in the form in which it is made on the authority of a person who did not in fact authorise its making in that form;
- (c) to have been made in the terms in which it is made by a person who did not in fact make it in those terms;
- (d) to have been made in the terms in which it is made on the authority of a person who did not in fact authorise its making in those terms;
- (e) to have been altered in any respect by a person who did not in fact alter it in that respect;
- (f) to have been altered in any respect on the authority of a person who did not in fact authorise the alteration in that respect;
- (g) to have been made or altered on a date on which, or at a place at which, or otherwise in circumstances in which, it was not in fact made or altered; or

- (h) to have been made or altered by an existing person who did not in fact exist.

“(2) For the purposes of this Division, a person is to be treated as making a false instrument if the person alters an instrument so as to make it false in any respect (whether or not it is false in some other respect apart from that alteration).

Act or omission to a person’s prejudice

“135B. (1) For the purposes of this Division, an act or omission is to a person’s prejudice if, and only if, it is one that, if it occurs—

- (a) will result—
 - (i) in the person’s temporary or permanent loss of property;
 - (ii) in the person’s being deprived of an opportunity to earn remuneration or greater remuneration; or
 - (iii) in the person’s being deprived of an opportunity to obtain a financial advantage otherwise than by way of remuneration; or
- (b) will result in any person being given an opportunity—
 - (i) to earn remuneration or greater remuneration from the first-mentioned person; or
 - (ii) to obtain a financial advantage from the first-mentioned person otherwise than by way of remuneration; or
- (c) will be the result of the person’s having accepted a false instrument as genuine, or a copy of a false instrument as a copy of a genuine one, in connection with the person’s performance of a duty.

“(2) In this Division—

- (a) a reference to inducing a person to accept a false instrument as genuine, or a copy of a false instrument as a copy of a genuine instrument, shall be read as including a reference to causing a machine to respond to the instrument or copy as if it were a genuine instrument or a copy of a genuine instrument; as the case may be; and
- (b) where—
 - (i) a machine so responds to an instrument or copy; and

- (ii) the act or omission intended to be caused by the machine's so responding is an act or omission that, if it were an act or omission of a person, would be to a person's prejudice within the meaning of sub-section (1),

the act or omission intended to be caused by the machine's so responding shall be deemed to be an act or omission to a person's prejudice.

Forgery and the use of forged instruments

"135C. (1) A person shall not make a false instrument with the intention that he or she, or another person, shall use it to induce another person to accept it as genuine, and by reason of so accepting it to do or not to do some act to that other person's, or to another person's, prejudice.

"(2) A person shall not use an instrument which is, and which he or she knows to be, false, with the intention of inducing another person to accept it as genuine, and by reason of so accepting it to do or not to do some act to that other person's, or to another person's, prejudice.

"(3) A person shall not make a copy of an instrument which is, and which he or she knows to be, a false instrument, with the intention that he or she, or another person, shall use it to induce another person to accept it as a copy of a genuine instrument and by reason of so accepting it to do or not to do some act to that other person's, or to another person's, prejudice.

"(4) A person shall not use a copy of an instrument which, is and which he or she knows to be, a false instrument, with the intention of inducing another person to accept it as a copy of a genuine instrument and by reason of so accepting it to do or not to do some act to that other person's, or to another person's, prejudice.

Penalty: Imprisonment for 10 years.

Possession of false instrument

"135D. A person shall not have in his or her custody, or under his or her control, an instrument which is, and which he or she knows to be, false, with the intention that the person or another shall use it to induce another person to accept it as genuine, and by reason of so accepting it to do or not to do some act to that other person's, or to another person's, prejudice.

Penalty: Imprisonment for 10 years.

Possession of machine, &c.

“135E. (1) A person shall not make, or have in his or her custody, or under his or her control, a machine or implement, or paper or other material, which is, and which he or she knows to be, designed or adapted for the making of a false instrument, with the intention that that person or another person shall make an instrument which is false and that that person or another person shall use the instrument to induce another person to accept it as genuine, and by reason of so accepting it to do or not to do an act to that other person’s, or to another person’s, prejudice.

Penalty: Imprisonment for 10 years.

“(2) A person shall not, without lawful excuse, make or have in his or her custody, or under his or her control, a machine or implement, or paper or other material, which is and which the person knows to be designed or adapted for the making of a false instrument.

Penalty: Imprisonment for 2 years.

Forfeiture

“135F. Where—

- (a) a person is convicted of an offence against this Division;
- (b) a person is charged with an offence against this Division and, pursuant to sub-section 556A (1), the charge is dismissed or an order is made in respect of the person; or
- (c) pursuant to section 448, an offence against this Division has been taken into account in passing sentence upon a person,

the Court may, in accordance with section 464, order that any articles used in relation to the offence be forfeited.

General allegation of intent sufficient

“135G. In any proceedings for an offence against this Division, where it is necessary to allege an intent to induce a person to accept a false instrument as genuine, or a copy of a false instrument as a copy of a genuine one, it is not necessary to allege that the accused intended so to induce a particular person.”.

Repeal of Part V

- 6. Part V of the Crimes Act is repealed.

Seizure of forfeited articles

7. Section 350 of the Crimes Act is amended by omitting from sub-section (2) “returned to the person from whom it was taken” and substituting “delivered to such person as the Court is satisfied is entitled to the article”.

Repeal of section 390

8. Section 390 of the Crimes Act is repealed.

9. Before section 465 of the Crimes Act the following section is inserted:

Procedure on forfeiture

“464. (1) Where, under a provision of this Act, a Court may order the forfeiture of an article, the Court shall—

- (a) where the Court is of the view that it is desirable to make further inquiries with respect to the article—order that notice of the proposed forfeiture be given to such persons as the Court directs; or
- (b) in any other case—order that the article be forfeited to the Crown.

“(2) After hearing such of the persons to whom notice under sub-section (1) was given as appear, the Court shall—

- (a) where it is satisfied that the article should be forfeited—order that the article be forfeited to the Crown; or
- (b) in any other case—order that the article be delivered to such person as the Court is satisfied is entitled to the article.

“(3) Where a prosecution is pending in relation to an article, the Court shall not make an order under sub-section (2) in relation to the article until the prosecution is determined.

“(4) All articles forfeited under sub-section (2) shall be dealt with as directed by the Attorney-General, and pending his direction, may be detained in such custody as the Court directs.”.

Abolition of common law offence

10. (1) The common law offence of forgery is abolished.

(2) Section 38 of the *Interpretation Ordinance 1967* applies to an in relation to the abolition by this Ordinance of the common law offence of forgery in the same manner as it applies to and in relation to the repeal of an Ordinance or part of an Ordinance.

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on 6 June 1986.