

2018

LEGISLATIVE ASSEMBLY OF THE
NORTHERN TERRITORY

ATTORNEY-GENERAL AND MINISTER FOR JUSTICE

CRIMINAL CODE AMENDMENT BILL 2018

SERIAL NO. 69

EXPLANATORY STATEMENT

GENERAL OUTLINE

The purpose of this Bill is to amend the Criminal Code by expanding the operation of section 189A providing an offence of assaults on police to include emergency workers such as ambulance officers and firefighters, and to provide that section 161A (violent act causing death) is an alternative verdict to manslaughter in section 316(2).

NOTES ON CLAUSES

Clause 1. Short Title

This is a formal clause which provides for the citation of the Bill. The Bill, when passed, may be cited as the *Criminal Code Amendment Act 2018*.

Clause 2. Commencement

This is a formal clause which provides when the Act will commence. The Act will commence on a day fixed by the Administrator by Gazette notice.

Clause 3. Act amended

This is a formal clause which provides that amendments are made to the Criminal Code.

Clause 4. Section 1 amended (Definitions)

This clause amends section 1 by inserting new definitions for 'emergency worker' for the purposes of Part VI, Division 5 of the Criminal Code, which provides for assaults as offences against the person. The new definition is defined in new section 187(2).

Clause 5. Section 187 amended (Definition)

This clause amends the section 187 heading by replacing 'definition' with 'definitions'. The clause also inserts a new subsection 187(2) which defines 'emergency worker' which is relevant for section 188A (assaults on workers) and section 189A (assaults on police).

'Emergency worker' will mean a member of the Northern Territory Fire and Rescue Service, defined by section 5(1) of the *Fire and Emergency Act*; a member of the Northern Territory Emergency Service, defined by section 8 of the *Emergency Management Act*; or an ambulance officer or paramedic employed or engaged in providing ambulance services.

The definition of emergency worker includes a medical practitioner or health practitioner (as defined in the Health Practitioner Regulation National Law) who is accompanying or assisting an ambulance officer or paramedic employed or engaged in providing ambulance services; or a medical practitioner or health practitioner attending a situation in the absence or unavailability of an ambulance officer or paramedic employed or engaged in providing ambulance services.

The definition extends to medical practitioners or health practitioners in this manner to ensure that in circumstances where formal ambulance services are not available, such as in regional and remote areas, medical practitioners or health practitioners who may be providing the same service as would otherwise be provided by an ambulance service are covered as in the same way as formal ambulance officers or paramedics.

A note is also inserted to clarify that ambulance services are not limited to road services, and may (for example) include helicopter or fixed-wing aero-medical services.

Clause 6. Section 188A amended (Assaults on workers)

This clause amends section 188A by replacing the existing subsection 188A(4), which excludes police officers from the application of section 188A, with a new subsection which expands the list of persons to whom this section will not apply to include an emergency worker, as defined in clause 4.

Clause 7. Section 189A amended (Assaults on police)

This clause amends section 189A, which provides an offence of assaults on police by subsection (1) inserting 'or emergency workers' at the end of the heading.

Subsection (2) amends subsection 189A(1) by replacing 'in the execution of the officer's' with 'or emergency worker in the execution of the officer's or worker's'.

Subsection (3) amends subsection 189A(2) by inserting 'or emergency worker' after 'officer'.

These amendments will expand the persons to whom this section applies to include an emergency worker, as defined in clause 4. The amended offence will be ‘assaults on police or emergency workers’.

Clause 8. Section 316 amended (Indictment containing count of murder or manslaughter)

This clause amends section 316 of the Criminal Code, which provides for alternative verdicts for murder or manslaughter by amending subsection 316(2) to insert ‘161A’. Subsection 316(2) provides for offences of which a person charged on indictment with manslaughter may alternatively be found guilty. Section 161A (violent act causing death) will therefore be an offence which may be an alternative verdict to an indictment under section 160 (manslaughter).

Clause 9. Part XI, Division 13 inserted

This clause inserts a new Division (Division 13) which provides for the application of sections 189A and 316 for offences committed before and after commencement of this Act. The amended sections will only apply to acts committed after the commencement of this Act.

The clause inserts a new section 455 which provides for transitional provisions for the operation of the section 189A as amended by clause 6.

Section 189A as amended will only apply if the conduct constituting the offence is committed after the commencement of this Act. Section 189A as in force prior to commencement of this Act will continue to apply to offences that are committed prior to commencement.

This clause also inserts a new section 456 which creates transitional provisions for the operation of the section 316 as amended by clause 7.

Section 316 as amended will only apply if the conduct constituting the offence is committed after the commencement of this Act. Section 316 as in force prior to commencement of this Act will continue to apply to offences that are committed prior to commencement.

Clause 10. Repeal of Act

This is a standard clause which provides that the *Criminal Code Amendment Act 2018* is repealed on the day after it commences.