



Western Australia

Criminal Law Amendment (Home Burglary and Other Offences) Act 2015

As at 24 Sep 2015

No. 25 of 2015

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Criminal Law Amendment (Home Burglary and Other Offences) Act 2015

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Western Australia

Criminal Law Amendment (Home Burglary and Other Offences) Act 2015

No. 25 of 2015

An Act to amend *The Criminal Code* and the *Sentencing Act 1995*.

[Assented to 24 September 2015]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Criminal Law Amendment (Home Burglary and Other Offences) Act 2015*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

Part 2 — *The Criminal Code* amended

Division 1 — Preliminary

3. Act amended

This Part amends *The Criminal Code*.

Division 2 — Amendments relating to offences committed in the course of aggravated home burglary

4. Section 1 amended

In section 1(1) insert in alphabetical order:

The term ***adult offender*** means, with respect to a person convicted of an offence, a person who had reached 18 years of age when the offence was committed;

The term ***aggravated home burglary*** means a home burglary committed in circumstances of aggravation (within the meaning given in section 400(1));

The term ***home burglary*** means an offence against any provision of Chapter XXXIX (as enacted at any time) other than section 407 committed in respect of a place (within the meaning given in section 400(1)) ordinarily used for human habitation;

The term ***juvenile offender*** means, with respect to a person convicted of an offence, a person who had reached 16 but not 18 years of age when the offence was committed;

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5. Section 279 amended

- (1) In section 279(4) delete “case” and insert:

case, subject to subsection (5A),

- (2) After section 279(4) insert:

(5A) If the offence is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender, if it does not impose a term of life imprisonment must, notwithstanding any other written law, impose a term of imprisonment of at least 15 years.

- (3) After section 279(5) insert:

(6A) If the offence is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary and the court sentences the offender under subsection (5)(a) but does not impose a term of life imprisonment, it —

- (a) must, notwithstanding the *Young Offenders Act 1994* section 46(5a), impose either —
- (i) a term of imprisonment of at least 3 years; or
 - (ii) a term of detention under the *Young Offenders Act 1994* of at least 3 years, as the court thinks fit; and
- (b) must not suspend any term of imprisonment imposed; and
- (c) must record a conviction against the offender.

- (6B) Subsection (6A) does not prevent a court from —
- (a) making a direction under the *Young Offenders Act 1994* section 118(4); or
 - (b) making a special order under Part 7 Division 9 of that Act.

6. Section 280 amended

- (1) In section 280 delete “If” and insert:
- (1) If
- (2) At the end of section 280 insert:
- (2) If the offence is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender, if it does not impose a term of imprisonment for life must, notwithstanding any other written law, impose a term of imprisonment of at least 15 years.
 - (3) If the offence is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender —
 - (a) if it does not impose a term of imprisonment for life must, notwithstanding the *Young Offenders Act 1994* section 46(5a), impose either —
 - (i) a term of imprisonment of at least 3 years; or
 - (ii) a term of detention under the *Young Offenders Act 1994* of at least 3 years, as the court thinks fit; and

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- (b) must not suspend any term of imprisonment imposed; and
 - (c) must record a conviction against the offender.
- (4) Subsection (3) does not prevent a court from —
- (a) making a direction under the *Young Offenders Act 1994* section 118(4); or
 - (b) making a special order under Part 7 Division 9 of that Act.

7. Section 281 amended

After section 281(2) insert:

- (3) If the offence is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender must, notwithstanding any other written law, impose a term of imprisonment of at least 75% of the term specified in subsection (1).
- (4) If the offence is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender —
- (a) must, notwithstanding the *Young Offenders Act 1994* section 46(5a), impose either —
 - (i) a term of imprisonment of at least 3 years; or
 - (ii) a term of detention under the *Young Offenders Act 1994* of at least 3 years, as the court thinks fit; and
 - (b) must not suspend any term of imprisonment imposed; and

- (c) must record a conviction against the offender.
- (5) Subsection (4) does not prevent a court from —
 - (a) making a direction under the *Young Offenders Act 1994* section 118(4); or
 - (b) making a special order under Part 7 Division 9 of that Act.

8. Section 283 amended

- (1) In section 283 delete “Any person” and insert:
 - (1) Any person
- (2) In section 283:
 - (a) delete “(1) Attempts” and insert:
 - (a) attempts
 - (b) delete “(2) With” and insert:
 - (b) with
- (3) At the end of section 283 insert:
 - (2) If the offence is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender, if it does not impose a term of life imprisonment must, notwithstanding any other written law, impose a term of imprisonment of at least 15 years.

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- (3) If the offence is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender —
- (a) if it does not impose a term of imprisonment for life, must, notwithstanding the *Young Offenders Act 1994* section 46(5a), impose either —
 - (i) a term of imprisonment of at least 3 years; or
 - (ii) a term of detention under the *Young Offenders Act 1994* of at least 3 years, as the court thinks fit; and
 - (b) must not suspend any term of imprisonment imposed; and
 - (c) must record a conviction against the offender.
- (4) Subsection (3) does not prevent a court from —
- (a) making a direction under the *Young Offenders Act 1994* section 118(4); or
 - (b) making a special order under Part 7 Division 9 of that Act.

9. Section 294 amended

(1) In section 294 delete “Any person who,” and insert:

(1) Any person who,

(2) In section 294:

(a) delete “(1) unlawfully” and insert:

(a) unlawfully

(b) delete “(2) unlawfully” and insert:

(b) unlawfully

(c) delete “(3) unlawfully” and insert:

(c) unlawfully

(d) delete “(4) sends” and insert:

(d) sends

(e) delete “(5) causes” and insert:

(e) causes

(f) delete “(6) puts” and insert:

(f) puts

(g) delete “(7) unlawfully” and insert:

(g) unlawfully

(h) delete “(8) does” and insert:

(h) does

(3) At the end of section 294 insert:

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- (2) If the offence is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender must, notwithstanding any other written law, impose a term of imprisonment of at least 75% of the term specified in subsection (1).
- (3) If the offence is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender —
 - (a) must, notwithstanding the *Young Offenders Act 1994* section 46(5a), impose either —
 - (i) a term of imprisonment of at least 3 years; or
 - (ii) a term of detention under the *Young Offenders Act 1994* of at least 3 years, as the court thinks fit; and
 - (b) must not suspend any term of imprisonment imposed; and
 - (c) must record a conviction against the offender.
- (4) Subsection (3) does not prevent a court from —
 - (a) making a direction under the *Young Offenders Act 1994* section 118(4); or
 - (b) making a special order under Part 7 Division 9 of that Act.

10. Section 297 amended

- (1) Delete section 297(5), (6) and (7) and insert:

- (5) If the offence is committed by an adult offender, then the court sentencing the offender —
- (a) if the offence is committed in the course of conduct that constitutes an aggravated home burglary, must, notwithstanding any other written law, impose a term of imprisonment of —
 - (i) at least 75% of the term specified in subsection (3), where the offence is committed in circumstances of aggravation; or
 - (ii) at least 75% of the term specified in subsection (1), in any other case;and
 - (b) if the offence is committed in prescribed circumstances, must, notwithstanding any other written law, impose a term of imprisonment of at least 12 months, and must not suspend the term of imprisonment imposed.
- (6) If the offence is committed by a juvenile offender, then the court sentencing the offender —
- (a) if the offence is committed in the course of conduct that constitutes an aggravated home burglary, must, notwithstanding the *Young Offenders Act 1994* section 46(5a), impose either —
 - (i) a term of imprisonment of at least 3 years; or
 - (ii) a term of detention under the *Young Offenders Act 1994* of at least 3 years,as the court thinks fit; and

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- (b) if the offence is committed in prescribed circumstances, must, notwithstanding the *Young Offenders Act 1994*, impose either —
 - (i) a term of imprisonment of at least 3 months, notwithstanding the *Sentencing Act 1995* section 86; or
 - (ii) a term of detention under the *Young Offenders Act 1994* of at least 3 months, as the court thinks fit,

and in either case must not suspend any term of imprisonment imposed and must record a conviction.

- (7) Subsection (6) does not prevent a court from —
 - (a) making a direction under the *Young Offenders Act 1994* section 118(4); or
 - (b) making a special order under Part 7 Division 9 of that Act.

- (2) In section 297(8) delete “subsections (5) and (7)” and insert:

subsections (5) and (6)

11. Section 320 amended

After section 320(6) insert:

- (7) If an offence under this section is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender must, notwithstanding any other written law, impose a term of imprisonment of at least 75% of the term specified in whichever of subsection (2), (3), (4), (5) or (6) constitutes the offence.

- (8) If an offence under this section is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender —
- (a) must, notwithstanding the *Young Offenders Act 1994* section 46(5a), impose either —
 - (i) a term of imprisonment of at least 3 years; or
 - (ii) a term of detention under the *Young Offenders Act 1994* of at least 3 years, as the court thinks fit; and
 - (b) must not suspend any term of imprisonment imposed; and
 - (c) must record a conviction against the offender.
- (9) Subsection (8) does not prevent a court from making a direction under the *Young Offenders Act 1994* section 118(4).

12. Section 321 amended

After section 321(13) insert:

- (14) If an offence under this section is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender must, notwithstanding any other written law, impose a term of imprisonment of at least 75% of the term specified in whichever of subsection (7) or (8) applies to the offence.
- (15) If an offence under this section is committed by a juvenile offender in the course of conduct that

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constitutes an aggravated home burglary, the court sentencing the offender —

- (a) must, notwithstanding the *Young Offenders Act 1994* section 46(5a), impose either —
 - (i) a term of imprisonment of at least 3 years; or
 - (ii) a term of detention under the *Young Offenders Act 1994* of at least 3 years, as the court thinks fit; and
 - (b) must not suspend any term of imprisonment imposed; and
 - (c) must record a conviction against the offender.
- (16) Subsection (15) does not prevent a court from making a direction under the *Young Offenders Act 1994* section 118(4).

13. Section 324 amended

- (1) In section 324 delete “A person” and insert:
 - (1) A person
- (2) At the end of section 324 insert:
 - (2) If the offence is committed in the course of conduct that constituted an aggravated home burglary it is not to be dealt with summarily.
 - (3) If the offence is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender must, notwithstanding any other written law, impose a term

of imprisonment of at least 75% of the term specified in subsection (1) (not being the term specified in the summary conviction penalty in that subsection).

- (4) If the offence is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender —
- (a) must, notwithstanding the *Young Offenders Act 1994* section 46(5a), impose either —
 - (i) a term of imprisonment of at least 3 years; or
 - (ii) a term of detention under the *Young Offenders Act 1994* of at least 3 years, as the court thinks fit; and
 - (b) must not suspend any term of imprisonment imposed; and
 - (c) must record a conviction against the offender.
- (5) Subsection (4) does not prevent a court from —
- (a) making a direction under the *Young Offenders Act 1994* section 118(4); or
 - (b) making a special order under Part 7 Division 9 of that Act.

14. Section 325 amended

- (1) In section 325 delete “A person” and insert:
- (1) A person
- (2) At the end of section 325 insert:
- (2) If the offence is committed by an adult offender in the course of conduct that constitutes an aggravated home

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burglary, the court sentencing the offender must, notwithstanding any other written law, impose a term of imprisonment of at least 75% of the term specified in subsection (1).

- (3) If the offence is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender —
 - (a) must, notwithstanding the *Young Offenders Act 1994* section 46(5a), impose either —
 - (i) a term of imprisonment of at least 3 years; or
 - (ii) a term of detention under the *Young Offenders Act 1994* of at least 3 years, as the court thinks fit; and
 - (b) must not suspend any term of imprisonment imposed; and
 - (c) must record a conviction against the offender.
- (4) Subsection (3) does not prevent a court from —
 - (a) making a direction under the *Young Offenders Act 1994* section 118(4); or
 - (b) making a special order under Part 7 Division 9 of that Act.

15. Section 326 amended

(1) In section 326 delete “A person” and insert:

(1) A person

(2) At the end of section 326 insert:

- (2) If the offence is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender must, notwithstanding any other written law, impose a term of imprisonment of at least 75% of the term specified in subsection (1).
- (3) If the offence is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender —
 - (a) must, notwithstanding the *Young Offenders Act 1994* section 46(5a), impose either —
 - (i) a term of imprisonment of at least 3 years; or
 - (ii) a term of detention under the *Young Offenders Act 1994* of at least 3 years, as the court thinks fit; and
 - (b) must not suspend any term of imprisonment imposed; and
 - (c) must record a conviction against the offender.
- (4) Subsection (3) does not prevent a court from —
 - (a) making a direction under the *Young Offenders Act 1994* section 118(4); or
 - (b) making a special order under Part 7 Division 9 of that Act.

16. Section 327 amended

- (1) In section 327 delete “A person” and insert:
 - (1) A person

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- (2) At the end of section 327 insert:
- (2) If the offence is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender must, notwithstanding any other written law, impose a term of imprisonment of at least 75% of the term specified in subsection (1).
- (3) If the offence is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender —
- (a) must, notwithstanding the *Young Offenders Act 1994* section 46(5a), impose either —
- (i) a term of imprisonment of at least 3 years; or
- (ii) a term of detention under the *Young Offenders Act 1994* of at least 3 years, as the court thinks fit; and
- (b) must not suspend any term of imprisonment imposed; and
- (c) must record a conviction against the offender.
- (4) Subsection (3) does not prevent a court from making a direction under the *Young Offenders Act 1994* section 118(4).

17. Section 328 amended

- (1) In section 328 delete “A person” and insert:

(1) A person

- (2) At the end of section 328 insert:

- (2) If the offence is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender must, notwithstanding any other written law, impose a term of imprisonment of at least 75% of the term specified in subsection (1).
- (3) If the offence is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender —
 - (a) must, notwithstanding the *Young Offenders Act 1994* section 46(5a), impose either —
 - (i) a term of imprisonment of at least 3 years; or
 - (ii) a term of detention under the *Young Offenders Act 1994* of at least 3 years, as the court thinks fit; and
 - (b) must not suspend any term of imprisonment imposed; and
 - (c) must record a conviction against the offender.
- (4) Subsection (3) does not prevent a court from making a direction under the *Young Offenders Act 1994* section 118(4).

18. Section 330 amended

After section 330(9) insert:

- (10) If an offence under this section is committed by an adult offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender must, notwithstanding any other written law,

impose a term of imprisonment of at least 75% of the term specified in whichever of subsection (7) or (8) applies to the offence.

- (11) If an offence under this section is committed by a juvenile offender in the course of conduct that constitutes an aggravated home burglary, the court sentencing the offender —
- (a) must, notwithstanding the *Young Offenders Act 1994* section 46(5a), impose either —
 - (i) a term of imprisonment of at least 3 years; or
 - (ii) a term of detention under the *Young Offenders Act 1994* of at least 3 years, as the court thinks fit; and
 - (b) must not suspend any term of imprisonment imposed; and
 - (c) must record a conviction against the offender.
- (12) Subsection (11) does not prevent a court from making a direction under the *Young Offenders Act 1994* section 118(4).

Division 3 — Amendments relating to home burglary repeat offenders

19. Section 400 amended

- (1) In section 400(1) insert in alphabetical order:

commencement day means the day on which the *Criminal Law Amendment (Home Burglary and Other Offences) Act 2015* section 19 comes into operation;

- (2) Delete section 400(3) and (4).

20. Sections 401A and 401B inserted

After section 400 insert:

401A. Term used: relevant conviction

- (1) For the purposes of this Chapter, subject to subsections (2), (3) and (4), a person's conviction for a home burglary is a **relevant conviction** for that person if—
- (a) the home burglary was committed before the commencement day and either —
 - (i) it is the person's first conviction for a home burglary (the person's **first relevant conviction**); or
 - (ii) it is the person's first conviction for a home burglary committed after the date on which the person's first relevant conviction was recorded (the person's **second relevant conviction**); or
 - (iii) it is a conviction for a home burglary committed after the date on which the person's second relevant conviction was recorded;

or

 - (b) the home burglary was committed on or after the commencement day and —
 - (i) the person is an adult offender with respect to the home burglary; or
 - (ii) the person is a juvenile offender with respect to the home burglary and either —

- (I) it is the person's first conviction for a home burglary; or
 - (II) at the time of the home burglary, the person already had a conviction for a previous home burglary;
- or
- (iii) at the time of the home burglary the person had not reached 16 years of age, and either —
 - (I) it is the person's first conviction for a home burglary (the person's *first relevant conviction*); or
 - (II) it is the person's first conviction for a home burglary committed after the date on which the person's first relevant conviction was recorded (the person's *second relevant conviction*); or
 - (III) it is a conviction for a home burglary committed after the date on which the person's second relevant conviction was recorded.
- (2) In this section —
- (a) a conviction includes a finding or admission of guilt that leads to a punishment being imposed on, or an order being made in respect of, the person, whether or not a conviction was recorded; and

- (b) a conviction does not include a conviction that has been set aside or quashed.
- (3) For the purposes of this section, convictions for 2 or more home burglaries committed on the same day on or after the commencement day are to be treated as a single conviction.
- (4) Where —
- (a) a person has 2 or more relevant convictions (the **prior relevant convictions**); and
 - (b) after the sentence completion date for the latest of the prior relevant convictions, the person is convicted for another home burglary (the **new conviction**); and
 - (c) the new conviction relates to a home burglary which was committed before the date on which the home burglary to which the latest of the prior relevant convictions relates was committed; and
 - (d) the court sentencing the offender for the home burglary to which the new conviction relates (the **sentencing court**) considers that exceptional circumstances exist which justify imposing a lesser sentence than would be required by section 401(4),
- the sentencing court may decide to impose a lesser sentence than would be required by section 401(4).
- (5) In subsection (4) —
- sentence completion date** for a conviction means —
- (a) where no sentence or other punishment is imposed in respect of the conviction, the date of the conviction; and

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- (b) where a conditional release order is imposed under the *Sentencing Act 1995* Part 7 in respect of the conviction, the date on which the conditional release order ceases to be in force under section 48(2) of that Act; and
- (c) where a fine is imposed under the *Sentencing Act 1995* Part 8 in respect of the conviction, the earlier of—
 - (i) the date on which the fine is paid; or
 - (ii) the date on which the offender's liability to pay the fine is discharged under section 58(6) or 59(1) of that Act;and
- (d) where a community based order is imposed under the *Sentencing Act 1995* Part 9 in respect of the conviction, the date on which the community based order ceases to be in force under section 62(4) of that Act; and
- (e) where an intensive supervision order is imposed under the *Sentencing Act 1995* Part 10 in respect of the conviction, the date on which the intensive supervision order ceases to be in force under section 69(5) of that Act; and
- (f) where suspended imprisonment is imposed under the *Sentencing Act 1995* Part 11 in respect of the conviction, the date on which the offender is taken to be discharged under section 77(4) of that Act; and
- (g) where conditional suspended imprisonment is imposed under the *Sentencing Act 1995* Part 12 in respect of the conviction, the date on which the offender is taken to be discharged under section 82(4) of that Act; and

- (h) where a term of imprisonment is imposed under the *Sentencing Act 1995* Part 13 in respect of the conviction, the date on which the offender is discharged under section 93(3) or 95 of that Act or the *Sentence Administration Act 2003* section 66(2); and
 - (i) where a youth community based order is imposed under the *Young Offenders Act 1994* Part 7 Division 6 in respect of the conviction, the date on which the order ceases to be in force under section 76(2) of that Act; and
 - (j) where an intensive youth supervision order is imposed under the *Young Offenders Act 1994* Part 7 Division 7 in respect of the conviction without a sentence of detention, the date on which the order ceases to be in force under section 76(2) of that Act; and
 - (k) where a term of detention is imposed under the *Young Offenders Act 1994* section 118(1)(b) in respect of the conviction, whether or not an intensive youth supervision order is also imposed under Part 7 Division 7 of that Act, the last day of that term.
- (6) A court making the decision referred to in subsection (4) must give written reasons why the decision was made.

401B. Term used: repeat offender

- (1) For the purposes of this Chapter, a person who is being sentenced for a home burglary (the *current offence*) is a *repeat offender* if the person has at least 3 relevant convictions.
- (2) For the purposes of subsection (1) —

- (a) the person's conviction for the current offence, if it is a relevant conviction, is to be counted; and
- (b) each of the person's relevant convictions is to be counted, regardless of whether the home burglary to which it relates was committed before or after the date of any previous relevant conviction; and
- (c) each of the person's relevant convictions is to be counted, regardless of whether it has been counted on the occasion of sentencing for a previous home burglary to determine whether the person was, on that occasion, a repeat offender.

21. Section 401 amended

- (1) In section 401(1) delete paragraphs (a) and (b) and insert:
 - (a) if the offence is an aggravated home burglary, to imprisonment for 20 years; or
 - (ba) if the offence is not a home burglary but is committed in circumstances of aggravation, to imprisonment for 20 years; or
 - (b) if the offence is a home burglary not committed in circumstances of aggravation, to imprisonment for 18 years; or
- (2) In section 401(1) in the summary conviction penalty after paragraph (a) insert:
 - (ba) in a case to which paragraph (ba) applies where the only circumstance of aggravation is that the offender is in company with

another person or other persons —
imprisonment for 3 years and a fine of
\$36 000; or

- (3) In section 401(2) delete paragraphs (a) and (b) and insert:
- (a) if the offence is an aggravated home burglary, to imprisonment for 20 years; or
 - (ba) if the offence is not a home burglary but is committed in circumstances of aggravation, to imprisonment for 20 years; or
 - (b) if the offence is a home burglary not committed in circumstances of aggravation, to imprisonment for 18 years; or
- (4) In section 401(2) in the summary conviction penalty after paragraph (a) insert:
- (ba) in a case to which paragraph (ba) applies where the only circumstance of aggravation is that the offender is in company with another person or other persons — imprisonment for 3 years and a fine of \$36 000; or
- (5) Delete section 401(4) and insert:
- (4) Subject to section 401A(4), where a person convicted under this section of a home burglary (the **current offence**) is a repeat offender, whether or not the conviction for the current offence is a relevant conviction the court sentencing the person for the current offence —

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- (a) if the current offence was committed before the commencement day —
- (i) if the person is an adult offender, notwithstanding any other written law, must impose a term of imprisonment of at least 12 months; or
 - (ii) if the person had not reached 18 years of age when the current offence was committed, notwithstanding the *Young Offenders Act 1994* section 46(5a), must impose either —
 - (I) a term of imprisonment of at least 12 months; or
 - (II) a term of detention under the *Young Offenders Act 1994* of at least 12 months,as the court thinks fit;
- or
- (b) if the current offence was committed on or after the commencement day —
- (i) if the person is an adult offender, notwithstanding any other written law, must impose a term of imprisonment of at least 2 years; or
 - (ii) if the person had not reached 18 years of age when the current offence was committed, notwithstanding the *Young Offenders Act 1994* section 46(5a), must impose either —
 - (I) a term of imprisonment of at least 12 months; or

- (II) a term of detention under the *Young Offenders Act 1994* of at least 12 months,

as the court thinks fit.

- (6) In section 401(5) delete “shall” and insert:

must

- (7) Delete section 401(6) and insert:

- (6) Subsection (4) does not prevent a court from —

- (a) making a direction under the *Young Offenders Act 1994* section 118(4); or
(b) making a special order under Part 7 Division 9 of that Act.

Division 4 — Other amendments

22. Section 740B inserted

After section 740A insert:

740B. Review of certain amendments relating to home burglary

- (1) In this section —

review date means the fifth anniversary of the day on which the *Criminal Law Amendment (Home Burglary and Other Offences) Act 2015* section 4 comes into operation.

Criminal Law Amendment (Home Burglary and Other Offences) Act 2015

Part 2 The Criminal Code amended

Division 4 Other amendments

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- (2) As soon as practicable after the review date the Minister is to review the operation and effectiveness of —
 - (a) the amendments made to this Code by the *Criminal Law Amendment (Home Burglary and Other Offences) Act 2015* Part 2 Divisions 2 and 3; and
 - (b) the amendment made to the *Sentencing Act 1995* by the *Criminal Law Amendment (Home Burglary and Other Offences) Act 2015* Part 3.
- (3) The Minister is to cause a report of the review to be laid before each House of Parliament as soon as practicable after it is done.

Part 3 — *Sentencing Act 1995* amended

23. Act amended

This Part amends the *Sentencing Act 1995*.

24. Section 90 amended

Delete section 90(1)(a) and insert:

- (a) set a minimum period of —
 - (i) at least 15 years, if the offence is committed by an adult offender (within the meaning given in *The Criminal Code* section 1(1)) in the course of conduct that constitutes an aggravated home burglary (within the meaning given in that section); or
 - (ii) at least 10 years, in any other case, that the offender must serve before being eligible for release on parole; or

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