

ACTS AMENDMENT  
(ABOLITION OF CAPITAL  
PUNISHMENT).

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No. 52 of 1984.

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AN ACT to abolish capital punishment and for that purpose and related purposes to amend The Criminal Code, the Prisons Act 1981-1982, the Bail Act 1982, the Offenders Probation and Parole Act 1963-1982, the Child Welfare Act 1947-1982, the Juries Act 1957-1981, the Justices Act 1902-1982 and the District Court of Western Australia Act 1969-1982.

[Assented to 5 September 1984.]

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Acts Amendment (Abolition of Capital Punishment) Act 1984*. Short title.

PART I—THE CRIMINAL CODE.

Interpreta-  
tion.

2. In this Part, “the Code” means The Criminal Code set out in the Schedule to the Criminal Code Act 1913 appearing in Appendix B to the Criminal Code Act Compilation Act 1913, as amended from time to time.

Section 18  
amended.

3. Section 18 of the Code is amended by deleting “Death;”.

Section 19  
amended.

4. Section 19 of the Code is amended—

(a) in paragraph (6), by deleting “death” and substituting the following—

“ strict security life imprisonment ”;  
and

(b) in paragraph (8), by deleting “death” and substituting the following—

“ strict security life imprisonment ”.

Section 21  
amended.

5. Section 21 of the Code is amended by deleting “(other than sentence of death)”.

Section 21A  
inserted.

6. After section 21 of the Code, the following section is inserted—

Mandatory  
Punishment.

“ 21A. Subject to section 655 of this Code, where a punishment expressed to be a mandatory punishment is provided in this Code for an offence (whether by the use of the expression “mandatory punishment” or by other like expression), that punishment shall be imposed on a person convicted of the offence notwithstanding any other provision of this Code or any provision of the Offenders Probation and Parole Act 1963. ”.

7. Section 31 of the Code is amended by deleting “punishable with death” in paragraph (4) and substituting the following—

Section 31 amended.

“ punishable with strict security life imprisonment ”.

8. Section 32 of the Code is amended by deleting “death” and substituting the following—

Section 32 amended.

“ strict security life imprisonment ”.

9. Section 37 of the Code is amended by deleting “the punishment of death.” and substituting the following—

Section 37 amended.

“ a mandatory punishment of—

(a) strict security life imprisonment; or

(b) life imprisonment; or

(c) in the case of a child or young person under the age of 18 years, an order that the child or young person be detained in strict custody until the Governor’s pleasure is known and, thereafter, in safe custody in such place or places as the Governor may, from time to time, direct. ”.

10. Section 47 of the Code is amended in paragraph (1) by deleting “death” and substituting the following—

Section 47 amended.

“ strict security life imprisonment ”.

11. Section 48 of the Code is amended in subparagraph (b) of paragraph (1) by deleting “death” and substituting the following—

Section 48 amended.

“ strict security life imprisonment ”.

Section 78  
amended.

12. Section 78 of the Code is amended by deleting “the punishment of death.” and substituting the following—

“ a mandatory punishment of—

- (a) strict security life imprisonment; or
- (b) life imprisonment; or
- (c) in the case of a child or young person under the age of 18 years, an order that the child or young person be detained in strict custody until the Governor’s pleasure is known and, thereafter, in safe custody in such place or places as the Governor may, from time to time, direct. ”.

Section 79  
amended.

13. Section 79 of the Code is amended by deleting “the punishment of death.” and substituting the following—

“ a mandatory punishment of—

- (a) strict security life imprisonment; or
- (b) life imprisonment; or
- (c) in the case of a child or young person under the age of 18 years, an order that the child or young person be detained in strict custody until the Governor’s pleasure is known and, thereafter, in safe custody in such place or places as the Governor may, from time to time, direct. ”.

Section 125  
amended.

14. Section 125 of the Code is amended by deleting “death” and substituting the following—

“ strict security life imprisonment ”.

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15. Section 134 of the Code is amended by deleting “death” and substituting the following—

Section 134  
amended.

“ strict security life imprisonment ”.

16. Section 136 of the Code is amended by deleting “death” and substituting the following—

Section 136  
amended.

“ strict security life imprisonment ”.

17. Section 144 of the Code is amended—

Section 144  
amended.

(a) by deleting “under sentence of death” and substituting the following—

“ who is undergoing a sentence of strict security life imprisonment ”; and

(b) by deleting “punishable with death” and substituting the following—

“ punishable with strict security life imprisonment ”.

18. Section 168 of the Code is repealed.

Section 168  
repealed.

19. Section 233 of the Code is amended by deleting “death or” in the second place where it appears.

Section 233  
amended.

20. Section 282 of the Code is amended—

Section 282  
amended.

(a) in paragraph (a) by deleting “the punishment of death;” and substituting the following—

“ a mandatory punishment of—

(i) strict security life imprisonment; or

(ii) life imprisonment; or

(iii) in the case of a child or young person under the age of 18 years, an order that the child

or young person be detained in strict custody until the Governor's pleasure is known and, thereafter, in safe custody in such place or places as the Governor may, from time to time, direct; ”; and

(b) by deleting paragraph (b) and substituting the following paragraph—

“ (b) of murder is liable to a mandatory punishment of—

(i) life imprisonment; or

(ii) in the case of a child or young person under the age of 18 years, an order that the child or young person be detained in strict custody until the Governor's pleasure is known and, thereafter, in safe custody in such place or places as the Governor may, from time to time, direct. ”.

Section 398  
amended.

21. Section 398 of the Code is amended in paragraph (a) by deleting “death or”.

Section 553  
amended.

22. Section 553 of the Code is amended by deleting “of death or of imprisonment with hard labour for a term of fourteen years or upwards, with or without any other punishment, is liable, if no other punishment is provided, to imprisonment with hard labour for seven years.” and substituting the following—

“ of imprisonment for a term of fourteen years or upwards, with or without any other punishment, is liable, if no other punishment is provided, to imprisonment for seven years. ”.

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23. Sections 657 and 658 of the Code are repealed. Section 657 and 658 repealed.
24. Section 661 of the Code is amended by deleting “, not punishable by death,”. Section 661 amended.
25. Section 662 of the Code is amended by deleting “not punishable by death”. Section 662 amended.
26. Section 678 of the Code is repealed. Section 678 repealed.
27. Section 679 of the Code is repealed and the following section substituted— Section 679 repealed and substituted.
- “ 679. If in any case the Governor extends the Royal Mercy to an offender who is undergoing a sentence of strict security life imprisonment, the Attorney General shall cause the order signifying the extension of mercy, together with an explanatory note as to the circumstances, to be tabled in each House of Parliament within 15 sitting days of that House after the making of the order. ”. Commutation of sentence of strict security life imprisonment.
28. Section 695 of the Code is amended— Section 695 amended
- (a) in subsection (1), by deleting “Except in the case of a conviction involving sentence of death, the” and substituting the following—
- “ The ”; and
- (b) in subsection (2), by deleting “death or”.
29. Section 720 of the Code is amended by deleting “death” and substituting the following— Section 720 amended.
- “ strict security life imprisonment ”.

PART II—PRISONS ACT 1981-1982.

Citation.  
(Act No. 115  
of 1981 as  
amended by  
Act No. 66  
of 1982.)

30. (1) In this Part, the Prisons Act 1981-1982 is referred to as the principal Act.

(2) The principal Act as amended by this Act may be cited as the Prisons Act 1981-1984.

Section 26  
amended.

31. Section 26 of the principal Act is amended in subsection (2) by deleting “whose sentence of death has been commuted under section 679 of The Criminal Code to” and substituting—

“ who is undergoing a sentence of ”.

Section 27  
amended.

32. Section 27 of the principal Act is amended by deleting paragraph (c) of subsection (6) and substituting the following paragraph—

“ (c) undergoing a sentence of strict security life imprisonment, ”.

Section 34  
amended.

33. Section 34 of the principal Act is amended by repealing subsection (3).

PART III—BAIL ACT 1982.

Citation.  
(Act No. 86  
of 1982.)

34. The Bail Act 1982 as amended by this Act may be cited as the Bail Act 1982-1984.

Section 15  
amended.

35. Section 15 of the Bail Act 1982 is amended in subsection (1) by deleting “death or”.

PART IV—OFFENDERS PROBATION AND  
PAROLE ACT 1963-1982.

Citation.  
(Reprinted  
as approved  
11 November  
1977 and  
amended by  
Acts Nos. 96  
of 1980,  
52 and 116  
of 1981 and  
89 of 1982.)

36. (1) In this Part, the Offenders Probation and Parole Act 1963-1982 is referred to as the principal Act.

(2) The principal Act as amended by this Act may be cited as the Offenders Probation and Parole Act 1963-1984.

37. Section 34 of the principal Act is amended— Section 34 amended.

(a) in paragraph (ba) of subsection (2) by deleting the comma at the end of subparagraph (iii), substituting a semicolon and inserting the following subparagraph—

“ (iv) undergoing a sentence of strict security life imprisonment, other than a sentence commuted from a sentence of death, furnish to the Minister, as soon as practicable after and not before a period of twenty years has elapsed since the prisoner was sentenced to strict security life imprisonment and thereafter as soon as practicable after each period of three years, ”; and

(b) in subsection (3), by deleting “subparagraph (iii)” and substituting the following—

“ subparagraphs (iii) and (iv) ”.

38. After section 34AA of the principal Act, the following section is inserted— Section 34AB inserted.

“ 34AB. (1) The Governor may order that a child or young person to whom this section applies be released from the place in which he is then detained, on parole, for any period not exceeding five years and the child or young person shall thereupon be so released under, and be subject to, this Act as if he were released from prison on parole under this Act, and sections 42 and 44 of this Act shall apply with such adaptations as may be necessary.

Power to release on parole certain children and young persons.

(2) The Board shall, as the Governor may from time to time require, report to him as to the place in which a child or young person to whom this section applies should be detained.

(3) This section applies to a child or young person detained in safe custody—

- (a) pursuant to an order made under section 679 of The Criminal Code; or
- (b) pursuant to an order made under section 37, 78, 79, or 282 of The Criminal Code. ”.

Section 37  
amended.

39. Section 37 of the principal Act is amended in paragraph (b) of subsection (2)—

(a) by deleting the full stop at the end of subparagraph (iii) and substituting the following—

“ ; or ”; and

(b) by inserting after subparagraph (iii) the following subparagraph—

“ (iv) on a person for strict security life imprisonment. ”.

Section 42  
amended.

40. Section 42 of the principal Act is amended in subsection (2) by inserting after “commutation of sentence” the following—

“ or the date when the prisoner was sentenced to strict security life imprisonment, as the case may be, ”.

#### PART V—CHILD WELFARE ACT 1947-1982.

Citation.  
(Reprinted as approved 11 November 1977 and amended by Acts Nos. 77 of 1979, 52 and 57 of 1981 and 20 and 57 of 1982.)

41. The Child Welfare Act 1947-1982 as amended by this Act may be cited as the Child Welfare Act 1947-1984.

Fourth  
Schedule  
amended.

42. The Fourth Schedule to the Child Welfare Act 1947-1982 is amended in Division A of Part I—

- (a) by deleting “capital offences” in the entry, in the column headed “Offence”, relating

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to section 47 of The Criminal Code and substituting the following—

- “ offences punishable with strict security life imprisonment ”;
- (b) by deleting “with death, or” in the entry in the column headed “Offence”, relating to section 125 of The Criminal Code and substituting the following—
- “ with strict security life imprisonment, or ”;
- (c) by deleting “death” in the entry, in the column headed “Offence”, relating to section 134 of The Criminal Code and substituting the following—
- “ strict security life imprisonment ”;
- (d) by deleting “capital offenders” in the entry in the column headed “Offence”, relating to section 144 of The Criminal Code and substituting the following—
- “ offenders sentenced or liable to strict security life imprisonment ”; and
- (e) by deleting “death or” in the entry, in the column headed “Offence”, relating to section 398 of The Criminal Code.

PART VI—JURIES ACT 1957-1981.

43. The Juries Act 1957-1981 as amended by this Act may be cited as the Juries Act 1957-1984.

Citation.  
(Reprinted as approved 26 April 1974 and amended by Acts Nos. 64 of 1975, 34 of 1976 and 6 of 1981.)

44. Section 41 of the Juries Act 1957-1981 is amended by deleting “death” and substituting the following—

Section 41 amended.

“ strict security life imprisonment ”.

PART VII—JUSTICES ACT 1902-1982.

Citation.  
(Reprinted  
as approved  
30 November  
1977 and  
amended by  
Acts Nos. 6  
and 67 of  
1979, 67 of  
1980, 120 of  
1981 and 20,  
124 and 125  
of 1982.)

45. (1) In this Part the Justices Act 1902-1982 is referred to as the principal Act.

(2) The principal Act as amended by this Act may be cited as the Justices Act 1902-1984.

Section 115  
amended.

46. Section 115 of the principal Act is amended by deleting "capital crime" and substituting the following—

" crime punishable with strict security life imprisonment ".

Section 116  
amended.

47. Section 116 of the principal Act is amended by deleting "capital crime" and substituting the following—

" crime punishable with strict security life imprisonment ".

PART VIII—DISTRICT COURT OF WESTERN  
AUSTRALIA ACT 1969-1982.

Citation.  
(Reprinted  
as approved  
5 September  
1980 and  
amended by  
Acts Nos.  
118 of  
1981 and 7  
of 1982.)

48. The District Court of Western Australia Act 1969-1982 as amended by this Act may be cited as the District Court of Western Australia Act 1969-1984.

Section 42  
amended.

49. Section 42 of the District Court of Western Australia Act 1969-1982 is amended in subsection (2) by deleting " , or for which the penalty is death." and substituting the following—

" or strict security life imprisonment. ".