

## CRIMINAL CODE (No. 2).

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No. 62 of 1976.

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**AN ACT to amend section 688 of The Criminal Code  
and for purposes connected therewith.**

*[Assented to 16th September, 1976.]*

**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. (1) This Act may be cited as the *Criminal Code Amendment Act (No. 2), 1976.* Short title.

(2) In this Act "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 Compilation Act, 1913 as reprinted with amendments up to and including Act No. 19 of 1973, and amended by Acts Nos. 58 of 1974, 49 of 1975 and 35 of 1976.

Section 688  
amended.

2. Section 688 of the Code is amended—

(a) by deleting the passage “appeal; and” in lines thirteen and fourteen of subsection (1) and substituting the passage “appeal.” ;

(b) by deleting paragraphs (c) and (d) of subsection (1);

(c) by adding after subsection (1) the following subsection—

(1a) A person convicted on indictment or convicted by a court of summary jurisdiction and committed for sentence may appeal to the Court of Criminal Appeal—

(a) against any sentence of detention in a reformatory prison passed upon him; and

(b) with the leave of the Court of Criminal Appeal, against any other sentence passed upon him, unless the sentence is one fixed by law. ; and

(d) by deleting paragraph (d) of subsection (2) and substituting the following paragraph—

(d) against any punishment imposed or order made in respect of a person convicted on indictment or convicted by a court of summary jurisdiction and committed for sentence. .

## 3. It is hereby declared that—

Validation.

- (a) the Court of Criminal Appeal shall be deemed always to have had jurisdiction to hear and determine appeals brought by persons convicted by a court of summary jurisdiction and committed for sentence against any sentence of detention or other sentence passed upon such persons;
  - (b) any decision of the Court of Criminal Appeal which may have been in excess of the jurisdiction of the Court of Criminal Appeal at the time it was made, but would have been within the jurisdiction of the Court of Criminal Appeal if the amendments to section 688 of the Code effected by the Criminal Code Amendment Act (No. 2), 1976 had been in force at the time that the decision was made, shall be and be always deemed to have been as valid, final and effective as it would have been if the Court had had such jurisdiction at the time that its decision was made; and
  - (c) where, prior to the coming into operation of the Criminal Code Amendment Act (No. 2), 1976 the Court of Criminal Appeal heard and determined an appeal by a person convicted by a court of summary jurisdiction and committed for sentence against the sentence passed upon him, that person shall have no further right of appeal against his sentence to the Court of Criminal Appeal, notwithstanding that the Court of Criminal Appeal may not have had jurisdiction to hear and determine the appeal at that time.
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