

CRIMINAL CODE.

No. 1 of 1969.

AN ACT to amend the Criminal Code.

[Assented to 21st April, 1969.]

BE 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, 1969.* 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 Act Compilation Act, 1913, as reprinted, with amendments to and including Act No. 73 of 1954 incorporated,

pursuant to the Amendments Incorporation Act, 1938, and further amended by Acts Nos. 11, 43 and 74 of 1956, 50 of 1957, 25 and 50 of 1960, 28 of 1961, 35 of 1962, 21, 55, 63 and 74 of 1963, 53 of 1964, 91 of 1965 and 89 of 1966.

S. 378
amended.

2. Section three hundred and seventy-eight of the Code is amended by substituting for paragraph (3) the following paragraph—

(3) If the thing stolen is an animal (not being a cat or dog) valued at more than three hundred dollars or if a number of animals (excluding cats and dogs) valued, in the aggregate, at more than three hundred dollars is stolen, the offender is liable to imprisonment with hard labour for seven years. .

S. 397
repealed and
re-enacted.

3. Section three hundred and ninety-seven of the Code is repealed and re-enacted, as follows—

Demanding
property by
threats.

397. Any person who, with intent to extort or gain anything from any person,—

- (1) Knowing the contents of the writing, causes any person to receive any writing demanding anything from, or that anything be procured to be done or omitted to be done by, any person, without reasonable cause, and containing threats of any injury or detriment of any kind to be caused to any person, either by the offender or any other person, if the demand is not complied with; or
- (2) Orally demands anything from, or that anything be procured to be done or omitted to be done by, any person, without reasonable cause, with threats of any injury or detriment of any kind

to be caused to any person, either by the offender or any other person, if the demand is not complied with,

is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years.

The term "writing" includes any gramophone record, wire, tape, or other thing by which words or sounds are recorded and from which they are capable of being reproduced. .

4. The Code is amended by adding, after section three hundred and ninety-nine, the following section—

S. 399A
added.

399A. Any person who, except by leave of the Supreme Court or a Judge, prints or publishes or causes to be printed or published any particulars or account of proceedings under sections three hundred and ninety-six, three hundred and ninety-seven, three hundred and ninety-eight or three hundred and ninety-nine of this Code, other than—

Restriction
on
publication
of certain
proceedings.

- (a) the name, address and occupation of the person charged;
- (b) the nature (but not the particulars) of the charge;
- (c) the name or names of a member or members of a court, at any stage of the proceedings, and of counsel and solicitors;
- (d) submissions made on any point of law, at any stage of the proceedings, and the decision of the court on any such submission; and
- (e) the result of a hearing and the final outcome of the proceedings,

is guilty of an offence and the offender may be punished in like manner as for contempt of the Supreme Court.

S. 403
repealed and
re-enacted.

5. Section four hundred and three of the Code is repealed and re-enacted, as follows—

Breaking
into
buildings and
committing
crime.

403. Any person who breaks and enters any building whatever and commits a crime therein or, having committed a crime in any building whatever, breaks out of it is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years. .

S. 404
repealed
and
re-enacted.

6. Section four hundred and four of the Code is repealed and re-enacted, as follows—

Breaking
into
buildings
with intent
to commit
crime.

404. Any person who breaks and enters any building whatever with intent to commit a crime therein, is guilty of a crime, and is liable to imprisonment with hard labour for seven years. .

Ss. 405 and
406 repealed.

7. Sections four hundred and five and four hundred and six of the Code are repealed.

S. 408
amended.

8. Section four hundred and eight of the Code is amended by adding a second paragraph, as follows—

A promise made by words or otherwise to do or omit to do anything, by a person who, at the time of making the promise, does not intend to perform it or does not believe he will be able to perform it, is a wilfully false promise. .

S. 409
repealed and
re-enacted.

9. Section four hundred and nine of the Code is repealed and re-enacted, as follows—

Obtaining
goods or
credit by
false
pretence or
wilfully false
promise.

409. (1) Any person who by any false pretence or by any wilfully false promise or partly by a false pretence and partly by a wilfully false promise, and with intent to defraud, obtains from any other person anything capable of being stolen, or induces any other person to deliver to any person anything capable of being stolen, is guilty of a crime, and is liable to imprisonment with hard labour for three years.

It is immaterial that the thing is obtained or its delivery is induced through the medium of a contract induced by the false pretence or the wilfully false promise or partly by a false pretence and partly by a wilfully false promise.

(2) Any person incurring any debt or liability who obtains credit by any false pretence or by any wilfully false promise or partly by a false pretence and partly by a wilfully false promise or by any other fraud is guilty of a misdemeanour, and is liable to imprisonment with hard labour for one year.

(3) The offender cannot be arrested without warrant for any offence against this section, unless found committing the offence. .

10. Section four hundred and twenty-six of the Code is amended— S. 426
amended.

- (a) by adding, immediately after the section number, "426.", the subsection designation, "(1)";
- (b) by substituting for paragraph (f) the following paragraph—
 - (f) Obtaining or procuring the delivery of anything, or obtaining credit, by a false pretence or a wilfully false promise or partly by a false pretence and partly by a wilfully false promise, with intent to defraud;
- (c) by deleting paragraph (j);
- (d) by substituting for the words, "Fifty pounds", in paragraph (1), the words, "three hundred dollars";
- (e) by substituting for the words, "Fifty pounds", being the concluding words of the section, the words, "five hundred dollars"; and

(f) by adding the following subsection—

(2) The jurisdiction conferred on justices by this section may be exercised notwithstanding that the proceedings are not commenced within six months after the commission of the offence that is the matter of complaint. .

S. 429
amended.

11. Section four hundred and twenty-nine of the Code is amended by substituting for the words, “a fine of Fifty pounds”, in line ten, the words, “imprisonment with hard labour for six months or to a fine of five hundred dollars”.

S. 430
amended.

12. Section four hundred and thirty of the Code is amended by substituting for the words, “a fine of Fifty pounds”, in lines four and five, the words, “imprisonment with hard labour for six months or to a fine of five hundred dollars”.

S. 431
amended.

13. Section four hundred and thirty-one of the Code is amended by substituting for the words, “a fine of Fifty pounds”, in the last line, the words, “imprisonment with hard labour for six months or to a fine of five hundred dollars”.

S. 432
repealed and
re-enacted.

14. Section four hundred and thirty-two of the Code is repealed and re-enacted, as follows—

Time of
prosecution.
Code s. 432.

432. The offences defined by sections four hundred and twenty-nine, four hundred and thirty and four hundred and thirty-one of this Code may be prosecuted summarily, notwithstanding that the proceedings are not commenced within six months after the commission of the offence. .

15. Section four hundred and sixty-five of the Code is amended— S. 465
amended.

- (a) by adding, immediately after the section number, “465.”, the subsection designation, “(1)”;
- (b) by substituting for the words, “Fifty pounds”, in paragraph (1), the words, “three hundred dollars”;
- (c) by deleting the passage, “, except as hereinafter stated,”, in line twenty-two;
- (d) by substituting for the passage, “an amount equal to the amount of the injury done, to be assessed by the justices, and Twenty-five pounds in addition”, in lines twenty-six to twenty-eight, the words, “five hundred dollars”;
- (e) by deleting the two concluding paragraphs of the section; and
- (f) by adding the following subsection—

(2) The jurisdiction conferred on justices by this section may be exercised notwithstanding that the proceedings are not commenced within six months after the commission of the offence that is the matter of complaint. .

16. Section four hundred and sixty-eight of the Code is repealed. S. 468
repealed.

17. Section five hundred and eighty-six of the Code is amended— S. 586
amended.

- (a) by adding, after the second paragraph of subsection (4), the following paragraph—

If the jury finds specially that the accused person or, where the indictment is preferred against two or more persons, that all or any of the accused persons either stole the property or received it

knowing it to be stolen, but is unable to say which of those offences was committed by the accused person or accused persons, as the case may be, the accused person is not or the accused persons are not, by reason of that finding, entitled to be acquitted, but the Court shall enter a conviction of the offence for which the lesser punishment is provided. ; and

- (b) by substituting for paragraph (a) of subsection (4a), the following paragraph—

(a) In an indictment against a person for breaking and entering and stealing any property, or in an indictment for breaking and entering with intent to commit a crime, where the crime alleged to have been intended is stealing any property, the accused person may also be charged with receiving the same property or any part thereof knowing it to have been stolen; and the accused person may, according to the evidence, be convicted of either of the offences charged. .
