

CRIMINAL CODE.

10° Elizabeth II., No. XXVIII.

 No. 28 of 1961.

AN ACT to amend the Criminal Code.

[Reserved 31st October, 1961.]

[Royal Assent Proclaimed 29th June, 1962.]

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, 1961.*

Short title
and citation.

(2) In this Act—

“Code” means the Criminal Code set forth in the schedule to the Criminal Code Act, 1913, set forth in Appendix B to the Criminal Code Act Compilation Act, 1913, Act No. 28 of 1913, as reprinted with amendments to

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and including Act No. 73 of 1954 incorporated pursuant to the provisions of the Amendments Incorporation Act, 1938, and further amended by Acts Nos. 11 of 1956, 43 of 1956, 74 of 1956, 50 of 1957, 25 of 1960 and 50 of 1960.

S. 21
amended.

2. Section twenty-one of the Code is amended by substituting for the word, "Nothing", being the first word in the section, the passage, "Subject to the provisions of section seven hundred and six A of the Code, nothing".

S. 282
repealed and
re-enacted.

3. Section two hundred and eighty-two of the Code is repealed and re-enacted as follows:—

Punishment
of wilful
murder and
murder.

282. A person who commits the crime—

Cf. s. 19 (1).

(a) of wilful murder is liable to the punishment of death;

(b) of murder is liable to imprisonment with hard labour for life and shall not be sentenced to imprisonment for any shorter term.

S. 639
amended.

4. Section six hundred and thirty-nine of the Code is amended by adding after the word, "death" in line three of the proviso, the words, "or the indictable offence of murder".

S. 668A
repealed
and re-
enacted.

5. The Code is amended by repealing section six hundred and sixty-eight A and re-enacting it as follows:—

Suspension
of licenses
and dis-
qualification
for holding
licenses in
certain
cases.

668A. (1) Where a person is convicted of an offence defined in—

(a) sections two hundred and seventy-seven and two hundred and eighty and the offence arose out of the driving by him of a vehicle; or

(b) section two hundred and ninety-one A, the Court may—

(c) if the person holds a license, order that the license be suspended for such period as the Court thinks fit, and may also declare the person disqualified for obtaining any license for such period as the Court thinks fit; or

- (d) if the person does not hold a license, declare him disqualified for obtaining any license for such period as the Court thinks fit.

(2) The Court may exercise any of the powers conferred on it by subsection (1) of this section either in addition to or in lieu of imposing on the person referred to in that subsection any other punishment to which he is liable under this Code.

Power of suspension in addition to or in lieu of other punishment.

(3) The powers conferred on the Court by subsection (1) of this section are in addition to and not in substitution for any powers that are conferred on the Court by section thirty-three of the Traffic Act, 1919.

Powers conferred by this section in addition to those in s. 33 of Traffic Act, 1919.

(4) (a) When the Court suspends a license or disqualifies a person or both pursuant to this section the Court shall cause—

Particulars of suspension, etc., to be supplied to Commissioner of Police.

- (i) particulars of the conviction and of any order or declaration of the Court made pursuant to this section to be endorsed on the license; and

- (ii) a copy of those particulars to be sent to the Commissioner of Police in the State.

(b) When the Court so disqualifies a person who does not hold a license, the Court shall cause particulars of the declaration of disqualification to be sent to the Commissioner.

(5) If the Court makes an order or declaration pursuant to subsection (1) of this section, the person whose license is thereby suspended or who is disqualified for obtaining a license, may at any time not earlier than six months after the making of the order or declaration, apply, in manner prescribed by the rules, to the Court which made the order or declaration for an order that—

Removal of disqualification and suspension and granting of extraordinary license.

- (a) such suspension or disqualification or both be removed; or

- (b) an extraordinary license under section twenty-four A of the Traffic Act, 1919, be granted and issued to him under and in accordance with the provisions of this section.

Application
of certain
provisions
of Traffic
Act, 1919.

(6) (a) The provisions of subsections (2) to (5) inclusive of section thirty-three A of the Traffic Act, 1919, with such modifications as circumstances require, shall be deemed to be incorporated in this section as though they were set out therein and expressly made applicable to the provisions thereof.

(b) The provisions of subsection (2) of section thirty-three of that Act apply to a license suspended and to a person disqualified pursuant to this section.

(c) The provisions of section thirty-three B of that Act apply to an extraordinary license granted and issued pursuant to this section.

Interpreta-
tion.

(7) In this section "license" means any license granted under Part IV. of the Traffic Act, 1919, and "vehicle" has the same meaning as in that Act.

S. 706A
added.

6. The Code is amended by adding after section seven hundred and six a section as follows:—

Pardon not
to be
granted for
certain
period in
certain
cases.

706A. When a person is sentenced to imprisonment with or without hard labour for life pursuant to section two hundred and eighty-two or six hundred and seventy-nine of this Code, the Governor shall not extend the Royal Mercy to that person before he has served in respect of such life sentence a period of fifteen years' imprisonment, whether or not such sentence was imposed before or after the coming

into operation of the Criminal Code Amendment Act, 1961, but if within that period the Governor is satisfied that because—

(a) there has been a miscarriage of justice;

or

(b) of the serious illhealth of the person, he deems it proper for him to do so, and that in the latter case he is satisfied that it is unlikely that the life of any person will be endangered by the release of the person from prison, he may at any time before the period of fifteen years extend the Royal Mercy to that person.
