

CRIMINAL CODE AMENDMENT.

No. 68 of 1979.

AN ACT to amend section 669 of The Criminal Code.

[Assented to 21st November, 1979.]

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, 1979*. 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 up to and including Act No. 71 of 1977.

Section 669
amended.

2. Section 669 of the Code is amended—

- (a) by deleting lines eleven to sixteen of subsection (1) and substituting the following passage—

any punishment—

- (a) the Court may, in the case of a first offender as defined by subsection (1a) of this section, dismiss the indictment or complaint without proceeding to conviction and make an order to that effect, ;

- (b) by deleting paragraph (b) of subsection (1) and substituting the following paragraph—

- (b) the Court may, in the case of a first offender as defined by subsection (1b) of this section, convict him and discharge him—

(i) unconditionally; or

(ii) conditionally on his entering into one or more of the recognisances provided for in paragraphs (6), (7) and (8) of section nineteen of this Code;

and either without payment of damages and costs as aforesaid, or subject to the payment of such damages and costs, or either of them, as the Court may think reasonable. ;

- (c) by inserting, after subsection (1), the following subsections—

(1a) In paragraph (a) of subsection (1) of this section—

“first offender” means person who has not previously been convicted of an offence otherwise than as a child by a children’s court established under the Child Welfare Act, 1947.

(1b) In paragraph (b) of subsection (1) of this section—

“first offender” means person who has not previously been convicted of an offence—

(a) otherwise than as a child by a children’s court established under the Child Welfare Act, 1947; or

(b) other than an offence—

(i) not punishable by imprisonment; or

(ii) punishable by imprisonment for a period of not more than six months and in respect of which the offender—

(A) in the case of an offence under section fifty-three of the Police Act, 1892, has been sentenced to any penalty which may be imposed on conviction of that offence; or

(B) in the case of an offence which is not an offence under section fifty-three of the Police Act, 1892, has not been sentenced to imprisonment without the option of a fine. ;

(d) in lines two, three and four of subsection (2) by deleting the passage commencing with the words “conditional discharge under the provisions” and ending with the

words "for the same cause" and substituting the words "unconditional or conditional discharge under the provisions of this section is a bar to all further or other criminal proceedings for the same cause"; and

- (e) by repealing paragraph (c) of subsection (3) and substituting the following paragraph—

(c) The offender, when remanded under paragraph (b) of this subsection, may be committed to any prison near the place where he is bound to appear for judgment or to answer as to his conduct since his release and the warrant of remand shall order him to be brought before the Court before which he was bound to appear for judgment or to answer as to his conduct since his release, as the case may be. .
