



CRIMINAL CODE

No. 74 of 1975

ANALYSIS

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AN ACT to amend the Criminal Code and the Evidence Act 1910.
[11 December 1975]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

- 1**—(1) This Act may be cited as the *Criminal Code Act 1975*.
- (2) The *Criminal Code* is in this Act referred to as the Code.

Short title and
citation.

2 After section 167 of the Code the following section is inserted in Chapter XVII:—

Causing death by dangerous driving.

“ 167A Any person who causes the death of another person by the driving of a motor vehicle at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including in the case of the driving of a motor vehicle on a public street, the nature, condition and use of the street, and the amount of traffic which is actually at the time, or which might reasonably be expected to be, on the street, is guilty of a crime.

Charge: Causing death by dangerous driving.”

Acts intended to cause grievous bodily harm or prevent apprehension.

3 Section 170 of the Code is amended by omitting from subsection (1) paragraphs (e), (f), and (g) and substituting the following paragraphs:—

“(e) ignites any inflammable substance;

“(f) causes any substance or thing referred to in the preceding paragraphs to be taken or received by any person;

“(g) puts any corrosive fluid or any destructive, explosive, or inflammable substance in any place; or

“(b) casts or throws at or upon any person, or applies to any person, any fluid or substance referred to in paragraph (g).”

Ill-treatment of children.

4 Section 178 of the Code is amended by adding at the end thereof the following subsection:—

“(2) In any proceedings under this section, the spouse of the accused shall be a competent, but not a compellable, witness.”

Interpretation.

5 Section 226 of the Code is amended by omitting from subsection (1) “ fraudulently and without claim of right ” and substituting “ dishonestly ”.

Robbery.

6 Section 240 of the Code is amended by omitting subsections (2) and (3).

7 Section 241 of the Code is repealed and the following section substituted:—

Blackmail.

“ 241—(1) Any person who, with a view to temporary or permanent gain for himself or for any other person or with intent to cause temporary or permanent loss to any other person, makes any unwarranted demand with menaces, is guilty of a crime.

Charge: Blackmail.

“(2) For the purposes of subsection (1)—

(a) a demand with menaces is unwarranted unless the person making it does so in the belief that—

(i) he has reasonable grounds for making the demand; and

(ii) the use of the menaces is a proper means of reinforcing the demand; and

(b) the nature of the act or omission that constitutes a demand is immaterial, and it is also immaterial whether the menaces relate to action to be taken by the person making the demand.”.

8 After section 252 of the Code the following section is inserted:—

“252A—(1) Any person who by any deception dishonestly obtains for himself or for any other person any financial advantage is guilty of a crime. Obtaining a financial advantage.

Charge: Dishonestly obtaining a financial advantage.

“(2) For the purposes of subsection (1) ‘deception’ means any deception (whether deliberate or reckless) by words or conduct as to fact or as to law, including a deception as to the present intentions of the person using the deception or of any other person.”.

9 Section 311 of the Code is amended by omitting from subsection (2) the words “are founded on the same facts” and substituting “arise substantially out of the same facts or closely related facts”. Form and contents of indictments.

10 Section 361 of the Code is amended by adding at the end thereof the words “, but if the plea is that the accused person has already been acquitted or convicted, or that he has received the Royal pardon, of the crime charged in the indictment the judge shall determine the plea in such manner and upon such evidence as he thinks fit, and may, in his discretion, order a jury to be empanelled and sworn to try any question of fact necessary for such determination”. Trial by jury.

11 Section 378 of the Code is amended by omitting from subsection (5) the words “becomes in the opinion of the judge incapable of continuing” and substituting the words “the judge is of the opinion that a juror ought not be required to continue”. Discharge of jury.

Right of appeal.

12 Section 401 of the Code is amended—

(a) by omitting the word “ or ” at the end of paragraph (b) of subsection (2); and

(b) by adding at the end of that subsection the following paragraphs:—

“(d) by leave of the Court or the trial judge, against an order quashing an indictment; or

“(e) by leave of the Court or the trial judge, against an order upholding a demurrer.”.

Consequential amendments.

13—(1) Sections 228, 229, 230, 231, and 233 of the Code are amended by omitting the word “ fraudulently ” (wherever occurring) and substituting “ dishonestly ”, in each case.

(2) The *Evidence Act* 1910 is amended by inserting after section 113 the following section in Division V of Part IV:—

Admission of exhibits, &c., without formal proof.

“ 113A In any criminal proceeding the judge may—

(a) if he sees fit; and

(b) if the parties to the proceeding consent thereto, receive as evidence without formal proof thereof—

(c) exhibits; and

(d) affidavits and statutory declarations.”.