

Queensland



**CRIMINAL JUSTICE
AMENDMENT ACT (No. 2)
1992**

Act No. 18 of 1992

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Criminal Justice Amendment Act (No. 2) 1992

Act No. 18 of 1992

*An Act to amend the **Criminal Justice Act 1989***

[Assented to 22 May 1992]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows.

Short title

1. This Act may be cited as the *Criminal Justice Amendment Act (No. 2) 1992*.

Amended Act

2. The *Criminal Justice Act 1989* is amended as set out in this Act.

Amendment of s.2.38 (Appeal from Tribunal in original jurisdiction)

3.(1) Section 2.38(1)—

omit, insert—

‘(1) A person aggrieved by a decision of a Misconduct Tribunal exercising original jurisdiction may appeal against the decision to the Supreme Court.

‘(1A) The appeal may be made—

(a) on 1 or more of the following grounds—

- (i) denial of natural justice;
- (ii) error of law;
- (iii) manifest excessiveness of penalty; and

(b) with the leave of a Judge, on 1 or both of the following grounds—

- (i) error of fact;
- (ii) that the decision cannot be supported having regard to—
 - (A) the evidence and proceedings before the Misconduct Tribunal; and
 - (B) any evidence that may be adduced in the appeal.

‘(1B) The appeal must be instituted—

- (a) if the decision of the Misconduct Tribunal was announced more than 28 days before the commencement of this subsection—within 28 days after the commencement of this subsection; or
- (b) in any other case—within 28 days after the decision of the Misconduct Tribunal is announced.

‘**(1C)** If the decision of the Misconduct Tribunal is a decision mentioned in subsection (1B)(a), the institution of an appeal before the commencement of this subsection on a ground mentioned in subsection (1A)(a), or a decision made on such an appeal, does not prevent the making of an appeal after the commencement of this subsection on a ground mentioned in subsection (1A)(b).

‘**(1D)** If leave is granted under subsection (1A)(b), the Judge may order that the matter be heard afresh, in whole or part, in the appeal.

‘**(1E)** Subject to any order under subsection (1D), the appeal must be determined on the evidence and proceedings before the Misconduct Tribunal.

‘**(1F)** At any time after the appeal is instituted, the Court may, on application by a party or its own initiative, remit the appeal to a District Court.

‘**(1G)** If an order is made under subsection (1F)—

- (a) the appeal must be continued and disposed of in the District Court; and
- (b) a District Court Judge may exercise any of the powers under this section that would have been exercisable by a Supreme Court Judge if the order had not been made.’

(2) Section 2.38(3)—

omit, insert—

‘**(3)** If an appeal is allowed otherwise than on the ground of manifest excessiveness of penalty, the Court may—

- (a) set aside the decision appealed from and—
 - (i) substitute its own decision; or
 - (ii) remit the matter to a Misconduct Tribunal with any

directions for the disposal of the matter that it considers desirable; or

(b) vary the decision.’.

(3) Section 2.38(4)—

omit ‘(1)(c)’, *insert* ‘(1A)(a)(iii)’.