

Queensland



ANNO VICESIMO QUARTO

ELIZABETHAE SECUNDAE REGINAE

No. 27 of 1975

**An Act to amend The Criminal Code and the Justices Act
1886-1974 each in certain particulars**

[ASSENTED TO 15TH MAY, 1975]

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:—

1. Short title, citation and commencement. (1) This Act may be cited as *The Criminal Code and the Justices Act Amendment Act 1975*.

(2) The provisions of this Act that amend *The Criminal Code* shall be read as one with *The Criminal Code*.

(3) The *Justices Act 1886-1974* as amended by this Act may be cited as the *Justices Act 1886-1975*.

(4) This Act shall commence on 1st July 1975.

2. Amendment of s. 1. Section 1 of *The Criminal Code* is amended by—

(a) inserting after the definition of the terms “clerk” and “servant” the following definition:—

“The term “committal for trial” includes committal for sentence;”;

(b) inserting before the definition of the term “uncorroborated testimony” the following definition:—

“The term “trial” includes a proceeding wherein a person is to be sentenced;”.

3. Amendment of s. 19. Section 19 of *The Criminal Code* is amended by inserting after subsection (9) the following subsection:—

“(9A) When a person is convicted upon indictment or summarily of an offence relating to property and the Court thinks or the justices think the case to be one appropriate for taking action under this subsection, the Court or justices—

- (a) may adjourn the matter of sentence of the offender to a place, date and time, being a date not more than six months after the date on which the offender is convicted; and
- (b) may discharge the offender upon his entering into his own recognizance, with or without sureties, in such sum as the Court thinks or the justices think fit conditioned that he shall appear and receive sentence at the place, date and time to which the matter of sentence has been adjourned, or when called upon prior to that date, with a view to the offender taking such steps as may be necessary—
 - (i) to restore the property to which the offence relates to the person aggrieved by the offence;
 - (ii) to reinstate that property to the satisfaction of the Court or justices or the person aggrieved by the offence;
 - (iii) to compensate the person aggrieved by the offence for the injury caused to his property; or
 - (iv) to comply in all respects with any other order the Court or justices may make,as the case may require.

If it is made to appear to the Court before which or the justices before whom the offender was convicted, or to a Court or justices of like jurisdiction, that the offender discharged pursuant to provision (b) should be called upon to appear and receive sentence in respect of the relevant offence before the date fixed pursuant to provision (a), such Court or justices may direct that the offender be called upon to appear at a nominated place, date and time and to receive sentence.

When the offender is before the Court or justices to receive sentence, the Court or justices may have regard to whether the offender has taken or has caused to be taken the necessary steps referred to in provision (b) that are appropriate to the case.

If the offender—

- (c) fails to appear at the place, date and time to which the matter of sentence was adjourned; or
- (d) where he has been called upon to appear at a date prior to the date to which the matter of sentence was adjourned, fails to appear at the place, date and time as called upon,

the Court or justices or a Court or justices of like jurisdiction may forfeit the recognizance and issue a warrant directed to all police officers to arrest the offender and bring him before such Court or justices.”.

4. Amendment of s. 69. Section 69 of *The Criminal Code* is amended by omitting the word “terror” and substituting the word “fear”.

5. Amendment of s. 75. Section 75 of *The Criminal Code* is amended by, in subparagraph (2), omitting the words "in a dwelling-house".

6. Amendment of s. 210. Section 210 of *The Criminal Code* is amended by—

(a) in the note appearing in and at the beginning of the section, omitting the word "Fourteen" and substituting the word "Seventeen";

(b) omitting the word "fourteen" and substituting the word "seventeen";

(c) omitting the word "seven" and substituting the word "five";

(d) adding after the first paragraph the following paragraph:—

"If the boy is under the age of fourteen years, he is liable to imprisonment with hard labour for seven years."

7. New section 229A. *The Criminal Code* is amended by inserting after section 229 the following section:—

"229A. Indictable offences against morality that may be dealt with summarily. (1) Where a person is charged before two justices with any of the following indictable offences:—

(a) having or attempting to have unlawful carnal knowledge of a girl under the age of seventeen years;

(b) unlawfully and indecently dealing with a girl under the age of seventeen years,

then, if the girl at the time of the alleged offence was of or above the age of fourteen years and the age of the accused person at the time of the alleged commission of the offence was in the opinion of the justices greater than twelve years, and if—

(i) the age of the accused person at the time of the alleged commission of the offence did not in the opinion of the justices exceed seventeen years; or

(ii) the accused person admits that he is guilty of the offence and it appears to the justices that the nature of the offence is such that the offender may be adequately punished upon summary conviction,

the justices may deal with the charge summarily.

The offender is liable upon summary conviction to a fine of one thousand dollars or imprisonment with hard labour for six months.

(2) (a) A prosecution for an offence defined in subparagraph (a) of subsection (1) in order to the summary conviction of the accused person shall be commenced within six months after the offence is committed.

(b) A prosecution for an offence defined in subparagraph (b) of subsection (1) in order to the summary conviction of the accused person may be brought notwithstanding that more than one year has elapsed since the offence was committed.

(3) A complaint for an offence defined in subsection (1) in order to the summary conviction of the accused person may with the consent of the accused person also be heard and determined at a place appointed for holding Magistrates Courts within the Magistrates Courts District in which the accused person was arrested or served with the summons.

(4) The summary jurisdiction conferred by this section shall be exercised in the manner and be subject to the conditions prescribed by section 444 with respect to the summary trial and punishment of offenders who may be summarily convicted of indictable offences under the provisions of that section.”.

8. New section 343A. *The Criminal Code* is amended by inserting after section 343 the following section:—

“**343A. Assaults occasioning bodily harm.** Any person who unlawfully assaults another and thereby does him bodily harm is liable on summary conviction to a fine of one thousand dollars inclusive of costs and in default of payment thereof to imprisonment with hard labour for six months, or to imprisonment with hard labour for six months in the first instance.

This section does not authorize justices to deal summarily with a charge of assault occasioning bodily harm on which a question arises as to the title to land, or an estate in land, or to any interest in or accruing from land, or as to any insolvency, or as to the execution of the process of any court of justice.

This section shall be read as subject to the provisions of section 342.”.

9. Amendment of s. 344. Section 344 of *The Criminal Code* is amended by—

(a) omitting the words “ the last preceding section ” and substituting the words “ section 343 or 343A ”;

(b) omitting the words “ one hundred pounds ” and substituting the words “ one thousand dollars ”.

10. Amendment of s. 345. Section 345 of *The Criminal Code* is amended by omitting the words “ either of the two last preceding sections ” and substituting the words “ section 343, 343A or 344 ”.

11. Repeal of and new s. 408A. *The Criminal Code* is amended by repealing section 408A and substituting the following section:—

“**408A. Unlawful user or possession of motor vehicles, aircraft or vessels.** (1) A person who—

(a) unlawfully uses any motor vehicle, aircraft or vessel without the consent of the person in lawful possession thereof; or

(b) has in his possession any motor vehicle, aircraft or vessel without the consent of the person in lawful possession thereof with intent to deprive the owner or person in lawful possession thereof of the use and possession thereof either temporarily or permanently,

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

If the offender uses or intends to use the motor vehicle, aircraft or vessel for the purpose of facilitating the commission of an indictable offence, he is liable to imprisonment with hard labour for ten years.

If the offender—

- (c) wilfully destroys, damages, removes or otherwise interferes with the mechanism (or part thereof) or other part of or equipment attached to the motor vehicle, aircraft or vessel;
- (d) intends to destroy, damage, remove or otherwise interfere with the mechanism (or part thereof) or other part of or equipment attached to the motor vehicle, aircraft or vessel,

he is liable to imprisonment with hard labour for twelve years.

It is a defence to a charge of an offence defined in this subsection to prove that the accused person had the lawful consent of the owner of the motor vehicle, aircraft or vessel to its use or possession by the accused person.

(2) This section applies without prejudice to any provision of any other Act relating to the unlawful use or possession of motor vehicles, aircraft or vessels save that an offender shall not be liable to be convicted under both this section and such other provision in respect of any one and the same unlawful use or possession of any motor vehicle, aircraft or vessel.

(3) In this section the term “vessel” means every kind of vessel designed for use on or in water, not propelled exclusively by oars.”.

12. Repeal of and new s. 421. *The Criminal Code* is amended by repealing section 421 and the heading immediately preceding that section and substituting the following heading and section:—

“ *Breaking into Places and Committing Indictable Offences*

421. Any person who—

- (1) breaks and enters a place and commits an indictable offence therein; or
- (2) having committed an indictable offence in any place breaks out of that place,

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

13. Repeal of and new s. 422. *The Criminal Code* is amended by repealing section 422 and the heading immediately preceding that section and substituting the following heading and section:—

“ *Breaking into Places with Intent to Commit Indictable Offences*

422. Any person who—

- (1) breaks and enters a place with intent to commit an indictable offence therein; or
- (2) having entered any place with intent to commit an indictable offence therein breaks out of that place,

is guilty of a crime and is liable to imprisonment with hard labour for seven years.”.

14. Repeal of s. 423. *The Criminal Code* is amended by repealing section 423 and the heading immediately preceding that section.

15. Repeal of s. 424. *The Criminal Code* is amended by repealing section 424 and the heading immediately preceding that section.

16. Repeal of and new s. 425A. *The Criminal Code* is amended by repealing section 425A and the heading immediately preceding that section and substituting the following heading and section:—

“ *Definitions for Purposes of Chapter*

425A. For the purposes of this Chapter the term “ building ” includes a tent, caravan, railway vehicle, ship, aircraft or vessel and any part of a building.

For the purposes of sections 421 and 422 the term “ place ” means—

- (a) a building or structure and any part thereof other than a dwelling-house;
- (b) a tent, caravan, railway vehicle, ship, aircraft or vessel; and
- (c) any place declared by the Governor in Council by Order in Council to be a place for the purposes of those sections.

17. New s. 427A. *The Criminal Code* is amended by inserting after section 427 the following section:—

“ **427A. Obtaining property by passing valueless cheques.** (1) Any person who obtains from any other person any chattel, money or valuable security by passing a cheque that is not paid on presentation for payment is guilty of a misdemeanour and is liable to imprisonment with hard labour for two years.

(2) It is a defence to a charge of an offence defined in this section to prove that the accused person—

- (a) had reasonable grounds for believing that the cheque would be paid in full on presentation for payment; and
- (b) had no intent to defraud.

(3) The fact that at the time when the cheque was passed there were some funds to the credit of the account on which the cheque was drawn is not of itself a defence to a charge of an offence defined in this section.

(4) A prosecution for an offence defined in this section shall not be commenced without the consent of a Crown Law Officer.”.

18. Amendment of s. 443. Section 443 of *The Criminal Code* is amended by—

(a) inserting after subparagraph (c) the following subparagraph:—

“ (ca) Stealing by a person employed in the Public Service of anything that is the property of Her Majesty or that came into his possession by virtue of his employment; ”;

(b) inserting after subparagraph (e) the following subparagraph:—

“ (ea) Any offence defined in section 406; ” ;

(c) inserting after subparagraph (f) the following subparagraph:—

“(fa) Obtaining from any other person any chattel, money or valuable security by passing a cheque that is not paid on presentation for payment;”;

(d) omitting the words “twenty pounds” and substituting the words “five hundred dollars”;

(e) omitting the words “one hundred pounds” and substituting the words “one thousand dollars”.

19. Amendment of s. 480. Section 480 of *The Criminal Code* is amended by—

(a) omitting the words “twenty pounds” and substituting the words “five hundred dollars”;

(b) omitting the words “one hundred pounds” and substituting the words “one thousand dollars”.

20. New s. 555A. *The Criminal Code* is amended by inserting after section 555 the following section:—

“**555A. Forfeiture of recognizance before appointed day.** (1)

Where a recognizance is conditioned for the appearance of a person on a day certain to take his trial before the Supreme Court or a District Court any surety bound by that recognizance or the Crown Law Officer may make application to a Judge of the Supreme Court or of a District Court before the day so appointed for an order that the recognizance be forfeited.

(2) Upon the application, the Judge may if he is satisfied by evidence, given orally or on affidavit, that there are good reasons why the recognizance should be forfeited, forfeit the recognizance and issue a warrant directed to all police officers to arrest such person and commit him to gaol pending the trial or until he is otherwise delivered thence by due course of law.”.

21. Repeal of and new s. 590. *The Criminal Code* is amended by repealing section 590 and substituting the following section:—

“**590. Right to be tried.** (1) A person committed for trial before any Court for an indictable offence may, orally or in writing at any time during any Sittings of the Court held after his committal, make application to the Court to be brought to his trial.

An application pursuant to this section shall be dealt with in open court and where the application is in writing may be dealt with in the absence of the applicant.

(2) If an indictment is not presented against the person committed for trial at some time during the first Sittings of the Court held after his committal, the Court shall, upon motion made on his behalf on the last day of those Sittings, admit him to bail unless it appears from evidence upon oath that some material evidence for the Crown could not be produced at those Sittings.

(3) Where a person committed for trial who has made application pursuant to subsection (1) is not brought to trial by the last day of the Sittings of the Court next following the Sittings during which the application was made, he is entitled to be discharged.”

22. New s. 590A. *The Criminal Code* is amended by inserting after section 590 the following section:—

“**590A. Notice of alibi.** (1) An accused person shall not upon his trial on indictment, without the leave of the Court, adduce evidence in support of an alibi unless, before the expiration of the prescribed period, he gives notice of particulars of the alibi.

(2) An accused person shall not upon his trial on indictment, without the leave of the Court, call any other person to give evidence in support of an alibi unless—

- (a) the notice under subsection (1) includes the name and address of the person or, if the name or address is not known to the accused person at the time he gives the notice, any information in his possession that may be of material assistance in locating the person;
- (b) where the name or address is not included in the notice, the Court is satisfied that the accused person, before giving the notice, took and thereafter continued to take all reasonable steps to secure that the name or address would be ascertained;
- (c) where the name or address is not included in the notice and the accused person subsequently discovers the name or address or receives other information that may be of material assistance in locating the person, he gives notice forthwith of the name, address or, as the case may be, other information; or
- (d) where the accused person is notified by or on behalf of the Crown Solicitor that the person has not been traced by the name or located at the address given, he gives notice forthwith of any information then in his possession or subsequently received by him that may be of material assistance in locating the person.

(3) The Court shall not refuse leave under this section if it appears to the Court that the accused person was not, upon his committal for trial, informed by the justices of the requirements of this section.

(4) Evidence tendered to disprove an alibi may, subject to a direction by the Court, be given before or after evidence is given in support of the alibi.

(5) A notice purporting to be given under this section on behalf of the accused person by his solicitor shall, until the contrary is proved, be deemed to be given with the authority of the accused person.

(6) A notice under this section—

- (a) shall be in writing;
- (b) shall be given to the Crown Solicitor;
- (c) shall be duly given if it is delivered to or left at the office of the Crown Solicitor or sent by certified mail addressed to him at his office.

(7) In this section—

“evidence in support of an alibi” means evidence tending to show that by reason of the presence of the accused person at a particular place or in a particular area at a particular time he was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission;

“the prescribed period” means the period of fourteen days after the date of the committal for trial of the accused person.”.

23. Repeal of and new s. 592. *The Criminal Code* is amended by repealing section 592 and substituting the following section:—

“**592. Adjournment of trial.** (1) The Court to which a person has been committed or remanded for trial on indictment or before which an indictment is presented may, if it thinks fit, adjourn the trial and may remand the accused person accordingly.

A trial may be adjourned whether or not—

- (a) the accused person is present;
- (b) the accused person has been called upon to plead to the indictment;
- (c) a jury has been sworn;
- (d) evidence has been given.

(2) The Crown shall, where it is proposed to make application for an adjournment in the absence of an accused person who is detained in a place of legal detention, notify in writing that accused person—

- (a) that the application is to be made and the nature, date, time and place thereof;
- (b) that he may furnish to the Court a statement in writing in relation to the application; and
- (c) that he may be represented by his counsel on the hearing of the application.

(3) For the purposes of this section the term “adjourn the trial” includes postpone the trial in a case where the accused person has not been called upon to plead to the indictment.”.

24. Repeal of and new s. 593. *The Criminal Code* is amended by repealing section 593 and substituting the following section:—

“ **593. Directions as to trial upon adjournment.** (1) Where the trial of a person charged or to be charged with an offence on indictment is adjourned, the Court in open court may direct the trial to be held at a later Sittings of the same Court or before some other Court of competent jurisdiction.

Upon a direction in the latter case, the indictment and other proceedings shall be transmitted by the proper officer of the Court giving the direction to the proper officer of the Court to which the accused person is remanded and the latter Court has the same jurisdiction to try him as if he had been committed originally to be tried before it.

(2) Where the Court directs a trial to be held at a later Sittings of the same Court, it shall at the same time pronounce the time and place for the commencement of the Sittings to which the trial is adjourned ”.

25. New ss. 593A, 593B. *The Criminal Code* is amended by inserting after section 593 as inserted by this Act the following sections:—

“ **593A. Bail and recognizances upon adjournment of trial.**

(1) Where the trial of a person charged or to be charged with an offence on indictment is adjourned, the Court—

(a) may admit the accused person to bail or, where he has already been admitted to bail, enlarge any recognizance of bail and, with the consent of a surety, the recognizance of that surety;

(b) may enlarge the recognizance of any witness.

(2) A recognizance may be enlarged pursuant to this section if any part of the condition remains to be fulfilled notwithstanding that the accused person has surrendered himself into custody in compliance with that condition.

(3) Notwithstanding subsection (1) (a), the Court may enlarge any recognizance of the accused person and any surety without the consent of the surety in any case where the recognizance of that surety contains a provision in that behalf.

593B. Effect of enlargement of recognizance. Where upon the adjournment of a trial a recognizance of the accused person and his surety or sureties, if any, or of a witness is enlarged, the accused person is bound to attend to be tried and the witness is bound to attend to give evidence at the time and place to which the trial is adjourned and any surety is bound to secure the attendance of the accused person at the time and place to which the trial is adjourned without entering into fresh recognizances in the same manner as if they had been bound originally by their recognizances to attend to be tried or, as the case may be, to give evidence at the time and place to which the trial is adjourned or as a surety to secure the attendance of the accused person at that time and place.”.

26. Amendment of s. 594. Section 594 of *The Criminal Code* is amended by inserting after the word "begin" the words "and the accused person is deemed to be brought to his trial".

27. Repeal of and new s. 618. *The Criminal Code* is amended by repealing section 618 and substituting the following section:—

" 618. Evidence in defence. At the close of the evidence for the prosecution the proper officer of the Court shall ask the accused person whether he intends to adduce evidence in his defence."

28. Amendment of s. 619. Section 619 of *The Criminal Code* is amended by omitting the paragraph commencing with the words "When an" and ending with the words "accused person".

29. New s. 657A. *The Criminal Code* is amended by inserting after section 657 the following section:—

" 657A. Power to permit release of certain persons charged. (1)

Where a person charged before a Court or justices has been found guilty of or has pleaded that he is guilty of an offence punishable by that Court or those justices and the Court thinks or the justices think that having regard to—

- (a) his character, antecedents, age, health and mental condition;
- (b) the trivial nature of the offence;
- (c) the extenuating circumstances under which the offence was committed; and
- (d) any other matter that the Court or justices think it proper to consider,

it is not expedient to inflict any punishment or any punishment other than a nominal punishment the Court or justices may, without recording a conviction, make an order—

- (e) discharging the offender absolutely; or
- (f) discharging the offender conditionally upon his entering into a recognizance, with or without sureties, in such sum as the Court thinks or the justices think fit to be of good behaviour and to appear for conviction and sentence when called upon at any time during such period not exceeding three years as is specified in the order.

(2) A recognizance specified in subsection (1) may be made conditional upon and subject to such further terms and conditions as the Court thinks or the justices think fit in any particular case.

(3) Where an order is made pursuant to this section, the Court or justices may nevertheless make any other order (not being an order that imposes a penalty) that the Court or justices could lawfully make had the offender been convicted.

(4) Where pursuant to this section an offender is discharged absolutely or conditionally—

- (a) the offender shall have the same right of appeal on the ground that he was not guilty of the offence charged as he would have had if he had been convicted of the offence;

(b) the Attorney-General or, as the case may be, complainant shall have the same right of appeal as he would have had if the offender had been convicted and the order made in respect of him were a sentence.

(5) If the Court before which or the justices before whom a person is bound by recognizance entered into pursuant to this section to appear for conviction and sentence or a Court or justices of like jurisdiction is or are satisfied that he has failed to observe any condition of his recognizance, the Court or justices may forfeit the recognizance and issue a warrant directed to all police officers to arrest that person and bring him before the Court or justices and, upon his appearance, the Court or justices or a Court or justices of like jurisdiction may enter a conviction and sentence him for the offence with which he was charged originally or make any other order that the Court or justices could lawfully have made, as if he had not been discharged on recognizance.”.

30. Amendment of s. 663A. Section 663A of *The Criminal Code* is amended by inserting after the definition “Minister” the following definition:—

“; ”
“prescribed amount”—

(a) where the offence in connexion with which the case arises is committed before the commencement of *The Criminal Code and the Justices Act Amendment Act 1975*, two thousand dollars;

(b) in all other cases, five thousand dollars.”.

31. Amendment of s. 663B. Section 663B of *The Criminal Code* is amended by, in subsection (1),

(a) omitting the words “two thousand dollars” and substituting the words “the prescribed amount”;

(b) adding at the end thereof the following paragraph:—

“An order made under this subsection shall not, for any purpose, be taken to be part of a sentence.”.

32. Amendment of s. 663C. Section 663C of *The Criminal Code* is amended by, in subsection (4), omitting all words from and including the words “an amount” to the end of the subsection and substituting the words “an amount not exceeding the prescribed amount, fixed by the Governor in Council having regard to the amount ordered by the Court to be paid to the applicant and those amounts referred to in paragraph (c) of subsection (2) of this section.”.

33. Amendment of s. 663D. Section 663D of *The Criminal Code* is amended by—

(a) in subsection (1), omitting the words “two thousand dollars” and substituting the words “the prescribed amount”;

(b) in subsection (4),

(i) omitting the words “two thousand dollars” and substituting the words “the prescribed amount”;

(ii) omitting the word “less” and substituting the words “having regard to”;

(c) in subsection (5), omitting the words “of two thousand dollars” and substituting the words “as to amount”.

34. Repeal of and new s. 669A. *The Criminal Code* is amended by repealing section 669A and substituting the following section:—

“**669A. Appeal by Attorney-General.** (1) The Attorney-General may appeal to the Court against any sentence pronounced by—

- (a) the court of trial;
- (b) a court of summary jurisdiction in a case where an indictable offence is dealt with summarily by that court,

and the Court may in its unfettered discretion vary the sentence and impose such sentence as to the Court seems proper.

(2) The Attorney-General may, in a case where a person has been acquitted after his trial upon indictment, refer any point of law that has arisen at the trial to the Court for its consideration and opinion thereon.

Notice of the reference shall be given to the acquitted person.

Upon the reference the Court shall hear argument—

- (a) by the Attorney-General or by counsel on his behalf; and
- (b) if he so desires, by the acquitted person or by counsel on his behalf,

and thereupon shall consider the point referred and furnish to the Attorney-General its opinion thereon.

A reference pursuant to this section shall not affect the trial in respect of which the reference is made nor any acquittal in that trial.”.

35. Amendment of s. 671F. Section 671F of *The Criminal Code* is amended by, in subsection (2), omitting the words “of any solicitor or counsel assigned, and”.

36. Amendment of s. 671H. Section 671H of *The Criminal Code* is amended by omitting subsection (4).

37. Repeal of and new s. 673. *The Criminal Code* is amended by repealing section 673 and the heading immediately preceding that section and substituting the following heading and section:—

“Appeals from Summary Convictions

673. A person convicted summarily of an indictable offence may appeal against his conviction and against the sentence passed on his conviction on the same grounds and on the same conditions as if he had been convicted on indictment.

The rights conferred by this section are conferred to the exclusion of any other right of appeal conferred by the *Justices Act 1886-1974* on persons aggrieved by summary convictions and sentences passed on such convictions.”.

38. Repeal of s. 674. *The Criminal Code* is amended by repealing section 674 and the heading immediately preceding that section.

39. New s. 685A. (1) *The Criminal Code* is amended by inserting after section 685 the following section:—

“685A. Orders for restitution and compensation. (1) Upon the conviction on indictment or summarily of any person of an offence relating to property or against the person of another, the Court or justices may, in addition to any other penalty to which the offender is liable, order that the offender—

- (a) make restitution of property in relation to which the offence was committed;
 - (b) pay compensation for damages, loss or destruction occasioned to property in relation to which the offence was committed or to property of the victim in the course of commission of the offence against his person;
 - (c) pay compensation for injury suffered by any person (whether the victim against whose person the offence was committed or another) by reason of the commission of the offence.
- (2) An order made pursuant to subsection (1) may stipulate—
- (a) the amount to be paid by way of restitution or compensation;
 - (b) the person to whom the restitution is to be made or the compensation is to be paid;
 - (c) a time within which the restitution is to be made or the compensation is to be paid;
 - (d) the manner in which the restitution is to be made or the compensation is to be paid.

(3) At the time when an order is made pursuant to subsection (1) the Court or justices may further order that, upon his failure to comply in all respects with the order, the offender be imprisoned with hard labour—

- (a) in the case of an order made upon conviction on indictment, for a term not exceeding twelve months;
- (b) in the case of an order made upon conviction summarily, for a term not exceeding six months.

(4) Upon application made by or on behalf of the offender, the Court or justices who made an order pursuant to subsection (1) or a Court or justices of like jurisdiction may extend the time stipulated in the order within which the restitution was to be made or the compensation paid and thereupon the order shall be construed as if the time as so extended were the time stipulated in the order.

(5) In an order made pursuant to subsection (3) the Court or justices may give such directions as it or they may think fit as to enforcement of the sentence of imprisonment therein ordered including a direction that the offender shall appear—

- (a) at some future Sittings of the Court or justices or of a Court or justices of like jurisdiction; or
- (b) when called upon by notice in the prescribed form, to show cause why the sentence of imprisonment should not be executed on account of his failure to comply with the order.

Where time stipulated in an order is extended upon application made by or on behalf of an offender who by the order is required to appear at a Sittings of a Court or justices on a date certain or at a Sittings of a Court or justices commencing on a date certain the Court that extends or justices who extend the time may vary the date certain, if the case requires it, and thereupon the order shall be construed as if the date certain as so varied were the date certain specified in the order.

(6) If the offender fails to appear as required by the order a Judge of the Court or justice may issue a warrant directed to all police officers to arrest the offender and to bring him before the Court or justices or a Court or justices of like jurisdiction to show cause in accordance with the order.

(7) Where pursuant to this section compensation is ordered to be paid by instalments and default is made in the payment of any one instalment, the same proceedings may be taken as if the original order had directed the payment in one sum of all the instalments then remaining unpaid and default had been made therein.

(8) Restitution and payments by way of compensation ordered to be made pursuant to this section shall, if the Court orders or the justices order, be made in the first instance to the sheriff or an under sheriff or, as the case requires, a clerk of the court.

(9) This section is in addition to and not in derogation of or substitution for any other provision of this Code relating to the making of restitution or the payment of compensation.”.

40. Transitional provision. Proceedings commenced by way of indictment against any person prior to the commencement of this Act in respect of a charge of an offence shall be continued and completed as if this Act had not been passed.

41. Amendments re penalties and ages. Each provision of *The Criminal Code* referred to in the first column of the Schedule is amended by omitting from that provision the word or words set forth in the second column of that Schedule opposite the reference to that provision and by substituting the word or words set forth in the third column of that Schedule opposite the word or words so omitted from that provision.

42. Amendment of the Justices Act 1886-1974. The *Justices Act 1886-1974* is amended by, in section 104, adding at the end thereof the following subsection:—

“(5) Where upon the examination the defendant is committed for trial, the justices shall warn him that he may not be permitted at that trial to give evidence of an alibi or to call witnesses in support of an alibi unless he gives to the Crown Solicitor written notice in the prescribed form of that alibi and of those witnesses within the time prescribed by section 590A of *The Criminal Code*.”.

SCHEDULE			[s. 41]
First Column	Second Column	Third Column	
Number of provision	Word or words to be omitted	Word or words to be substituted	
Section 216	two	five	
Section 216	twelve	fourteen	
Section 216	five	seven	
Section 320	seven	fourteen	
Section 323	three	seven	
Section 328A	five hundred pounds ..	two thousand dollars	
Section 328A	one hundred pounds ..	five hundred dollars	
Section 328A	two hundred pounds ..	one thousand dollars	
Section 337	three	seven	
Section 343	fifty pounds	five hundred dollars	
Section 350	two	seven	
Section 436	seven	ten	
Section 437	seven	ten	
Section 438	seven	ten	
Section 441	seven	ten	