



Queensland

# **Criminal Law Amendment Act 2012**

**Act No. 19 of 2012**





Queensland

# Criminal Law Amendment Act 2012

## Contents

---

		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	4
<b>Part 2</b>	<b>Amendment of Criminal Code</b>	
2	Act amended . . . . .	4
3	Amendment of s 305 (Punishment of murder) . . . . .	4
4	Amendment of s 340 (Serious assaults) . . . . .	5
5	Insertion of new ch 90 . . . . .	6
	Chapter 90 Transitional provision for Criminal Law Amendment Act 2012	
	729 Application of amendment Act . . . . .	6
<b>Part 3</b>	<b>Amendment of Corrective Services Act 2006</b>	
6	Act amended . . . . .	7
7	Amendment of s 181 (Parole eligibility date for prisoner serving term of imprisonment for life) . . . . .	7
8	Insertion of new ch 7A, pt 5 . . . . .	8
	Part 5 Transitional provision for Criminal Law Amendment Act 2012	
	490A Application of amendment Act . . . . .	8
<b>Part 4</b>	<b>Amendment of Criminal Law Amendment Act 1945</b>	
9	Act amended . . . . .	9
10	Amendment of s 18B (Parole orders under Corrective Services Act 2006) . . . . .	9
<b>Part 5</b>	<b>Amendment of Penalties and Sentences Act 1992</b>	
11	Act amended . . . . .	10
12	Amendment of s 4 (Definitions) . . . . .	10
13	Replacement of s 15AH (Relevant considerations before giving or reviewing guideline judgment) . . . . .	10
	15AH Relevant considerations before giving or reviewing guideline judgment . . . . .	10





Queensland

## **Criminal Law Amendment Act 2012**

### **Act No. 19 of 2012**

---

**An Act to amend the Criminal Code, the Corrective Services Act 2006, the Criminal Law Amendment Act 1945, the Penalties and Sentences Act 1992, the Police Powers and Responsibilities Act 2000 and the Youth Justice Act 1992 for particular purposes**

**[Assented to 29 August 2012]**

[s 1]

---

**The Parliament of Queensland enacts—**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Criminal Law Amendment Act 2012*.

## **Part 2 Amendment of Criminal Code**

### **2 Act amended**

This part amends the Criminal Code.

### **3 Amendment of s 305 (Punishment of murder)**

(1) Section 305(2), ‘20’—

*omit, insert—*

‘30’.

(2) Section 305—

*insert—*

‘(4) If—

(a) the person killed was a police officer at the time the act or omission that caused the person’s death was done or made; and

(b) the person being sentenced did the act or made the omission that caused the police officer’s death—

(i) when—

- 
- (A) the police officer was performing the officer's duty; and
  - (B) the person knew or ought reasonably to have known that he or she was a police officer; or
  - (ii) because the police officer was a police officer; or
  - (iii) because of, or in retaliation for, the actions of the police officer or another police officer in the performance of the officer's duty;

the court sentencing the person must make an order that the person must not be released from imprisonment until the person has served a minimum of 25 or more specified years of imprisonment, unless released sooner under exceptional circumstances parole under the *Corrective Services Act 2006*.

#### 4 Amendment of s 340 (Serious assaults)

- (1) Section 340(1), 'crime, and is liable to imprisonment for 7 years.'—

*omit, insert—*

'crime.

'Maximum penalty—

- (a) for subsection (1)(b), if the offender assaults a police officer in any of the following circumstances—
  - (i) the offender bites or spits on the police officer or throws at, or in any way applies to, the police officer a bodily fluid or faeces;
  - (ii) the offender causes bodily harm to the police officer;
  - (iii) the offender is, or pretends to be, armed with a dangerous or offensive weapon or instrument—14 years imprisonment; or
- (b) otherwise—7 years imprisonment.'

- (2) Section 340(2A)—

[s 5]

---

*omit.*

## **5 Insertion of new ch 90**

After section 728—

*insert—*

# **‘Chapter 90 Transitional provision for Criminal Law Amendment Act 2012**

## **‘729 Application of amendment Act**

- ‘(1) Section 305, as amended by the amendment Act, section 3, to the extent the amendment Act increases the minimum number of years of imprisonment to be served, applies only if—
- (a) for section 305(2)(a), at least 1 conviction of murder is for an offence committed after the commencement, even if the other offence or offences were committed before the commencement; or
  - (b) for section 305(2)(b), either the conviction of murder is for, or the other offence of murder taken into account is for, an offence committed after the commencement, even if one of those offences was committed before the commencement; or
  - (c) for section 305(2)(c), either the conviction of murder is for, or the other offence of murder for which the person has previously been sentenced is for, an offence committed after the commencement, even if one of those offences was committed before the commencement; or
  - (d) for section 305(4), the conviction of murder is for an offence committed after the commencement.
- ‘(2) For an offence mentioned in subsection (1) as having been committed before the commencement, for which there was a





[s 8]

---

- (b) if the Criminal Code, section 305(4) applied on sentence—25 years or the longer time ordered under that section;
  - (c) if the prisoner is serving a term of imprisonment for life for an offence of murder and paragraphs (a) and (b) do not apply—20 years;
  - (d) otherwise—15 years.’.
- (2) Section 181(4), ‘subsections (2) and (3)’—  
*omit, insert—*  
‘subsection (2)’.
- (3) Section 181(4)—  
*renumber* as section 181(3).

## **8 Insertion of new ch 7A, pt 5**

Chapter 7A, after section 490—  
*insert—*

# **‘Part 5 Transitional provision for Criminal Law Amendment Act 2012**

## **‘490A Application of amendment Act**

- ‘(1) For section 181(2)(a) as inserted by the amendment Act, a prisoner’s parole eligibility day continues to be the day after the day on which the prisoner has served 20 years or the longer time ordered under the Criminal Code, section 305(2) if—
- (a) the Criminal Code, section 305(2) as amended by the amendment Act did not apply on sentence; but
  - (b) that section as it existed before the commencement applied on sentence.





*insert—*

‘and (4)’.

- (2) Section 160A(5)(a), ‘181(2) or (3)’—

*omit, insert—*

‘181(2)’.

## **16 Amendment of s 171 (Review—periodic)**

- (1) Section 171(1)(a)—

*omit, insert—*

‘(a) must for the first time review the indefinite sentence within 6 months after an offender has served the period of time stated in subsection (2); and’.

- (2) Section 171—

*insert—*

‘(1A) For subsection (1)(a), the period of time the offender must have served is—

(a) for an offender whose nominal sentence is life imprisonment for an offence of murder—

(i) if the Criminal Code, section 305(2) applies on sentence—30 years; or

(ii) if the Criminal Code, section 305(4) applies on sentence—25 years; or

(iii) otherwise—20 years; or

(b) if the offender’s nominal sentence is life imprisonment and paragraph (a) does not apply—15 years; or

(c) otherwise—50% of the offender’s nominal sentence.’.

- (3) Section 171(3), from ‘Subsection (1)(a)’ to ‘this subsection,’—

*omit, insert—*

[s 17]

---

‘Section 171(1)(a), as in force immediately before the commencement of the *Criminal Law Amendment Act 2002*, section 64.’

- (4) Section 171(3)—  
*relocate* as section 210(3).
- (5) Section 171(1A) and (2)—  
*renumber* as section 171(2) and (3).

**17 Omission of pt 12 (Sentencing Advisory Council)**

Part 12—  
*omit*.

**18 Insertion of new pt 14, div 1, hdg**

Part 14, before section 206—  
*insert*—

**‘Division 1 Transitional provisions before  
Criminal Law Amendment Act 2012’.**

**19 Insertion of new pt 14, div 2**

After section 220—  
*insert*—

**‘Division 2 Transitional provisions for Criminal  
Law Amendment Act 2012**

**‘221 Transitional provision for s 171**

- ‘(1) For section 171(2)(a)(i) as inserted by the amendment Act, the period of time an offender must have served before the offender’s indefinite sentence must be reviewed for the first time continues to be 20 years if—

- 
- (a) the Criminal Code, section 305(2) as amended by the amendment Act does not apply on sentence; but
- (b) that section as it existed before the commencement applies on sentence.
- ‘(2) Section 171(2)(a)(iii), as inserted by the amendment Act, only applies to an offender who is serving an indefinite sentence for an offence of murder committed after the commencement.
- ‘(3) In this section—
- amendment Act* means the *Criminal Law Amendment Act 2012*.
- commencement* means the commencement of the amendment Act, section 16.

## ‘222 Dissolution of Sentencing Advisory Council

- ‘(1) On the commencement of this section—
- (a) the Sentencing Advisory Council is dissolved; and
- (b) the members of the Sentencing Advisory Council go out of office.
- ‘(2) No compensation is payable to a member because of subsection (1).’.

## Part 6 Amendment of Police Powers and Responsibilities Act 2000

### 20 Act amended

This part amends the *Police Powers and Responsibilities Act 2000*.

[s 21]

---

**21 Amendment of s 754 (Offence for driver of motor vehicle to fail to stop motor vehicle)**

- (1) Section 754(2), before ‘Maximum penalty’—  
*insert—*  
‘Minimum penalty—50 penalty units.’.
- (2) Section 754—  
*insert—*
- (2A) If a court convicts a person of an offence against subsection (2), the court, in addition to imposing a penalty, must disqualify the person from holding or obtaining a Queensland driver licence for 2 years.’.
- (3) Section 754(2A) to (7)—  
*renumber* as section 754(3) to (8).

## **Part 7 Amendment of Youth Justice Act 1992**

**22 Act amended**

This part amends the *Youth Justice Act 1992*.

**23 Amendment of s 176 (Sentence orders—life and other significant offences)**

- (1) Section 176(6), ‘305(2) and (3)’—  
*omit, insert—*  
‘305(2), (3) and (4)’.
- (2) Section 176—  
*insert—*



‘(7A) For the purpose of subsection (6), a reference in the Criminal Code, section 305 to imprisonment is taken to be a reference to detention.’

- (3) Section 176(7A) to (9)—  
*renumber* as section 176(8) to (10).

## **24 Insertion of new pt 11, div 9**

After section 352—

*insert—*

### **‘Division 9 Transitional provision for Criminal Law Amendment Act 2012**

#### **‘353 Application of Criminal Code, s 305**

- ‘(1) This section applies for the purpose of applying the Criminal Code, section 305(2), (3) and (4) to a child under section 176(6) of this Act.
- ‘(2) Section 305, as amended by the amendment Act, section 3, to the extent the amendment Act increases the minimum number of years of imprisonment to be served, applies only if—
- (a) for section 305(2)(a), at least 1 conviction of murder is for an offence committed after the commencement, even if the other offence or offences were committed before the commencement; or
  - (b) for section 305(2)(b), either the conviction of murder is for, or the other offence of murder taken into account is for, an offence committed after the commencement, even if one of those offences was committed before the commencement; or
  - (c) for section 305(2)(c), either the conviction of murder is for, or the other offence of murder for which the person has previously been sentenced is for, an offence committed after the commencement, even if one of

[s 24]

---

those offences was committed before the commencement; or

- (d) for section 305(4), the conviction of murder is for an offence committed after the commencement.
- ‘(3) For an offence mentioned in subsection (2) as having been committed before the commencement, for which there was a conviction, it does not matter whether the conviction was recorded before or after the commencement.
- ‘(4) This section applies despite the *Acts Interpretation Act 1954*, section 20C(3) and the Criminal Code, section 11.
- ‘(5) In this section—

***amendment Act*** means the *Criminal Law Amendment Act 2012*.

***commencement*** means the commencement of the amendment Act, section 3.

***minimum number of years of imprisonment to be served*** means the minimum number of years of imprisonment a person must serve before the person may be released from imprisonment under an order made under the Criminal Code, section 305 by the court sentencing the person.’