



CRIMINAL CODE

No. 67 of 1976

ANALYSIS

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AN ACT to amend the Criminal Code, the Coroners Act 1957, and the Road Safety (Alcohol and Drugs) Act 1970.

[11 November 1976]

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 1976*. Short title and citation.
- (2) The Criminal Code is in this Act referred to as the Code.

Escaping from
custody:
Rescue.

2 Section 106 of the Code is amended by omitting from subsection (3) the words “ this section ” and substituting the words “ this Code ”.

Manslaughter.

3 Section 334 of the Code is amended—

(a) by omitting the word “ or ” from the end of paragraph (c); and

(b) by inserting, after that paragraph, the following paragraph:—
“(ca) causing death by dangerous driving; or”.

Treatment of
accused person
found insane,
&c.

4—(1) Section 382 of the Code is amended by inserting, after subsection (7), the following subsections:—

“(7A) Where an order is made under subsection (1) (a) or subsection (1) (b), section 68 of *Mental Health Act 1963* shall not be applicable in the case of the person the subject of the order.

“(7B) Where an order is made under subsection (1) (a) or subsection (1) (b), the responsible medical officer shall report on the progress of the person, the subject of the order, to the Attorney-General at periods of 3 months during the first year after the order is made and thereafter annually.

“(7C) Where a report under subsection (7B) is made to the Attorney-General and the Attorney-General considers that the person the subject of the order is not likely to recover sufficiently to properly be tried, the Attorney-General shall refer the matter to the Mental Health Review Tribunal.

“(7D) As soon as practicable after referral of a matter under subsection (7C), the Mental Health Review Tribunal shall report its opinion on that matter to the Attorney-General.

“(7E) Where, in a report under subsection (7D), the Mental Health Review Tribunal makes a recommendation as to the treatment or otherwise of the person the subject of the order but that recommendation is not acted on by the Attorney-General, the Attorney-General shall again seek the opinion of the Mental Health Review Tribunal within the period of one year from the date of the last report to the Attorney-General in relation to the same person.

“(7F) Where, as a result of a report to the Attorney-General under subsection (7D) or subsection (7E), a *nolle prosequi* is entered by the Crown in respect of the charge that led to the accused person being made the subject of the order, that person shall be

admitted to and held in, or, if already admitted, held in, a hospital specified by the Attorney-General and he shall be held in the hospital in all respects as if he were admitted on an application for admission made under the *Mental Health Act* 1963 except that he may be released on leave or permanently discharged only by the Mental Health Review Tribunal constituted under that Act.”.

5 Section 390 of the Code is amended—

- (a) by inserting in subsection (1), after the word “law)”, the words “or before whom a person has been committed for sentence”;
- (b) by inserting in that subsection, after the word “convicted” (last occurring) the words “or in respect of which he has been committed for sentence”;
- (c) by inserting in subsection (2), after the word “convicted” (first occurring), the words “or committed”;
- (d) by omitting from that subsection, after the word “which” (second occurring), the words “the convicted” and substituting the word “that”; and
- (e) by inserting in subsection (6), after the word “offence” (second occurring), the words “or committed for sentence”.

Taking previous offences into account.

6 Section 391 of the Code is amended by inserting after subsection (1A) the following subsection:—

Calculation of term of sentence.

“(1B) Notwithstanding anything in subsection (1) or subsection (1A), it shall be lawful for a court to direct that a sentence imposed by it shall commence either concurrently with or cumulatively on any other sentence imposed on the person sentenced (whether or not that other sentence has been put into execution prior to the time of the imposition of the sentence being imposed) and the sentence being imposed shall, subject to any law or anything done under any law, be executed accordingly.”.

7 Section 407 (3) (a) of the Code is amended by omitting the words and letter “or paragraph (b)” and substituting the words and letters “, paragraph (b), paragraph (d), or paragraph (e)”.

Time for appealing.

8 Section 22 of the *Coroners Act* 1957 is amended—

- (a) by inserting in subsection (1), after the word “deceased”, the words “, or with causing the death of the deceased by dangerous driving”; and

Amendment of Coroners Act 1957.

(b) by omitting from subsection (6) the words “ or infanticide ” and substituting the words “ infanticide, or causing death by dangerous driving,”.

Amendment of
Road Safety
(Alcohol and
Drugs) Act
1970.

9 Section 22 (2) of the *Road Safety (Alcohol and Drugs) Act* 1970 is amended by inserting after paragraph (a) the following paragraph:—

“(ab) The crime of causing death by dangerous driving;”.