



## CRIMINAL CODE AMENDMENT ACT 1983

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**No. 77 of 1983**  
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**AN ACT to amend the Criminal Code.**

**[Royal Assent 11 January 1984]**

**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**—This Act may be cited as the *Criminal Code Amendment Act 1983*. Short title.

**2**—In this Act, the *Criminal Code*\* is referred to as the Code. Criminal Code.

\* 14 Geo. V No. 69. For the Criminal Code, as amended to 1st October 1977, see the continuing Reprint of Statutes. Subsequently amended by No. 124 of 1977 and No. 33 of 1982.

Substitution of  
Chapter XI  
of Code.

3—Chapter XI of the Code is repealed and the following Chapter is substituted:—

## CHAPTER XI

### ESCAPE

Interpretation.

106—In this Chapter, “lawful custody” includes custody or detention pursuant to—

- (a) lawful arrest;
- (b) a person surrendering to his bail;
- (c) an order for remand, a conviction, or a sentence of imprisonment;
- (d) a hospital order made under section 48 (1), or a restriction order made under section 48 (2), of the *Mental Health Act 1963*; and
- (e) an order made under section 382 or section 392.

Escape.

107—A person who escapes from lawful custody is guilty of a crime.

Charge: Escape from lawful custody.

Aiding escape:  
harbouring  
of persons  
unlawfully  
at large.

108—(1) A person who—

- (a) conveys anything, or causes anything to be conveyed—
  - (i) into a place where a person is in lawful custody; or
  - (ii) to a person who is in lawful custody at any place,
 with intent to aid the escape of that person;
- (b) intentionally or recklessly aids or allows a person to escape from lawful custody; or
- (c) harbours, maintains, or employs a person who, having escaped from lawful custody, is unlawfully at large,

is guilty of a crime.

## Charge:

Under subsection (1) (a) or (b): Aiding escape from lawful custody.

Under subsection (1) (c): Harboursing.

(2) In any proceedings in respect of a charge under subsection (1), it shall be presumed, until the contrary is proved, that the custody of the person charged was lawful.

(3) It is a defence to a charge of harboursing to prove that the person charged did not know that the person harboured, maintained, or employed had escaped from lawful custody and was unlawfully at large.

**4—Section 415 of the Code is amended as follows:—**

(a) by omitting from subsection (1) “ An ” and substituting “ Subject to subsection (1A), an ”;

(b) by inserting the following subsections after subsection (1):—

Amendment of section 415 of Code (Admission of appellant to bail, and custody when attending court).

(1A) A person who is sentenced to a term of imprisonment by the court of trial and who is required to be treated in the same manner as a person awaiting trial may, except in respect of a period in which he is otherwise liable to undergo imprisonment for a crime or simple offence, elect (subject to an admission to bail under subsection (2)) between continuing to undergo his sentence or being treated in the same manner as a person awaiting trial.

(1B) The time during which a person is treated as a person awaiting trial shall not count as part of that person's imprisonment under the sentence in respect of which he is so treated.

