

CRIMINAL LAW—

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CRIMINAL CODE AMENDMENT (PAPUA) ORDINANCE 1951.⁽¹⁾

No. 43 of 1951.

An Ordinance to amend the Criminal Code of Queens- land in its Application to the Territory of Papua.

BE it ordained by the Administrator of the Government of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Papua and New Guinea Act 1949-1950*, as follows:—

Short title.

1. This Ordinance may be cited as the *Criminal Code Amendment (Papua) Ordinance 1951*.⁽¹⁾

Commencement.

2. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.⁽¹⁾

(1) Particulars of this Ordinance are as follows:—

Date on which made by Cwlth. Administrator in Council.	Date on which notified in <i>Cwlth. Gaz.</i>	Date on which took effect.
13.11.1951	13.11.1951	22.11.1951 (<i>Papua and N.G. Govt. Gaz.</i> of 22.11.1951)

Criminal Code Amendment (Papua) Ordinance 1951—cont.

3. In this Ordinance, "the Code" means the First Schedule to the *Criminal Code Act*, 1899 of the State of Queensland as in force in the Territory of Papua.⁽²⁾ Definitions.

4. The Code,⁽²⁾ in its application to the Territory of Papua, is amended in the manner set forth in the Schedule to this Ordinance. Amendments of Code.

THE SCHEDULE.

Section 4.

Section of Code Amended.	Extent of Amendment.
18	Omit "The punishment of whipping shall not be inflicted without the consent of the Lieutenant-Governor;"
215	After "for two years" add "with or without whipping".
315	Omit "which may be inflicted once, twice, or thrice".
319	Omit "which may be inflicted once, twice, or thrice".
348	At the end of the section add "with or without whipping".
349	After "for fourteen years" add "with or without whipping".
420A	Omit "Provided that such whipping shall not be inflicted without the consent of the Lieutenant-Governor."
467	Omit "which may be inflicted once, twice, or thrice".
655	Omit the section and insert the following section in its stead:— "655.—(1.) Where an offender may under this Code be sentenced to a whipping, the Court may in the sentence direct that he be once privately whipped. (2.) Where an offender is sentenced to a whipping the number of strokes, which shall not exceed twenty-four, and the instrument with which they are to be given shall be specified in the sentence. (3.) Where an offender who is sentenced to a whipping is sixteen years of age or under the number of strokes shall not exceed ten or where the offender is fourteen years of age or under the number of strokes shall not exceed six. (4.) The instrument with which an offender is to be whipped shall be either a cane or a leather strap. (5.) (i) Subject to paragraph (5.) of section nineteen of this Code, where a person who is sixteen years of age or under is found guilty of an offence under section 203, 209, 210, 211, 336 or 337 of this Code, the Court may sentence him, instead of any other punishment which it may inflict, to a term of imprisonment, substantially less than the term for which he might be sentenced to be imprisoned under the provisions of the section under which he is convicted, together with whipping, or may sentence him to be whipped without imprisonment. (ii) Subject to paragraph (5.) of section nineteen of this Code, where a person who is sixteen years of age or under is found guilty of an offence under section 212, 213, 214, 215, 216, 348, 349 or 350 of this Code, and is sentenced to a term of imprisonment with whipping, the term shall be substantially less than the term for which he might be sentenced to be imprisoned under the provisions of the section under which he is convicted. (iii) Where a person who is sixteen years of age or under is found guilty of an offence under section 212, 213, 214, 215, 216, 348, 349 or 350 of this Code, the Court may sentence him to be whipped without imprisonment."

(2) Printed in *The Laws of the Territory of Papua 1888-1945 (Annotated)*, Vol. II., on pp. 1031-1285; as to subsequent amendments see the Supplementary Table printed in this Volume on p.1376.

PART B : CRIMINAL LAW—

THE SCHEDULE—*continued.*

Section of Code Amended.	Extent of Amendment.
666	<p>Add the following sub-sections :—</p> <p>“(2.) In all cases where whipping is directed under this Code by a Court other than the Supreme Court, the members of the Court who directed it shall be present when the whipping is inflicted.</p> <p>“(3.) In all cases where whipping is directed under this Code, the visiting medical officer of the prison where the offender is confined, or a Government Medical Officer, shall—</p> <p>(a) before the whipping is inflicted, certify that the offender is physically able to undergo the punishment ;</p> <p>(b) be present when the whipping is inflicted ; and</p> <p>(c) if he is of opinion that the whole or part of the whipping is likely to be attended with dangerous results to the offender, order that the whole or part of the whipping be not inflicted, or be postponed to a day to be specified by him.”</p>
678(I.)	<p>Omit “ either in addition to or ”.</p> <p>Omit “ six ” and insert “ five ” in its stead.</p> <p>Omit “ birch rod ”.</p>