

CRIMINAL CODE AMENDMENT ORDINANCE 1923-1939. ⁽¹⁾

An Ordinance to amend the Criminal Code of Queensland in its application to the Territory and for other purposes.

BE it ordained by the Governor-General of the Commonwealth of Australia with the advice of the Federal Executive Council in pursuance of the powers conferred by the *New Guinea Act 1920* as follows:—

1. This Ordinance may be cited as the *Criminal Code Amendment Ordinance 1923-1939*.⁽¹⁾

Short title.
Amended by
No. 3 of 1934,
s. 50.

2. In this Ordinance, unless the contrary intention appears—
“the code” means the First Schedule of the *Criminal Code*

Definitions:

(1) The *Criminal Code Amendment Ordinance 1923-1939* comprises the *Criminal Code Amendment Ordinance 1923*, as amended by the other Ordinances referred to in the following Table:—

TABLE.

PART I.—ORDINANCES MADE BY THE GOVERNOR-GENERAL IN COUNCIL.

Short title, number and year.	Date on which made by Gov.-Gen. in Council.	Date on which notified in <i>Cwlth. Gaz.</i>	Date on which took effect.
<i>Criminal Code Amendment Ordinance 1923</i> (No. 19 of 1923)	11.4.1923	19.4.1923	19.4.1923 (<i>Cwlth. Gaz.</i> of 19.4.1923)
<i>Criminal Code Amendment Ordinance 1927</i> (No. 16 of 1927)	27.4.1927	30.4.1927	30.4.1927 (<i>Cwlth. Gaz.</i> of 30.4.1927)

PART II.—ORDINANCES OF THE LEGISLATIVE COUNCIL.

Short title, number and year.	Date of assent by Administrator.	Date notified in <i>N.G. Gaz.</i> as not disallowed by Gov.-Gen. in Council.	Date on which came into operation.
<i>Criminal Code Amendment Ordinance 1934</i> (No. 26 of 1934)	8.2.1934	31.8.1934	8.2.1934 (<i>Laws of T.N.G.</i> , Vol. XIII, p. 73)
<i>Criminal Code Amendment Ordinance 1936</i> (No. 21 of 1936)	26.2.1936	15.6.1936	26.2.1936 (<i>Laws of T.N.G.</i> , Vol. XIII, p. 415)
<i>Criminal Code Amendment Ordinance 1937</i> (No. 29 of 1937)	25.8.1937	31.12.1937	25.8.1937 (<i>Laws of T.N.G.</i> , Vol. XIV, p. 98)
<i>Criminal Code Amendment Ordinance 1938</i> (No. 4 of 1938)	10.2.1938	14.5.1938	10.2.1938 (<i>Laws of T.N.G.</i> , Vol. XIV, p. 113)
<i>Criminal Code Amendment Ordinance 1939</i> (No. 10 of 1939)	5.9.1939	31.10.1939	5.9.1939 (<i>Laws of T.N.G.</i> , Vol. XV, p. 16)

CRIMINAL LAW—

Act 1899 of the State of Queensland as in force in the Territory.

Section 3
repealed by
No. 26 of 1934,
s. 2.

* * * * *

Amendments of
the Code.

Substituted by
No. 16 of 1927,
s. 2.

Insulting or
offending female
inmates of
dwelling-
houses.

Added by
No. 16 of 1927,
s. 3;
amended by
No. 26 of 1934,
s. 3.

Averments in
regard to age
of natives, &c.

Added by
No. 16 of 1927,
s. 3.

Court may
determine
question of
age, &c., in
certain cases.

Added by
No. 16 of 1927,
s. 3.

Recording
sentence of
death.

Section 8
added by
No. 16 of 1927,
s. 3.

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

5. Any person who enters or is in or upon any dwelling-house of another or the curtilage of the dwelling-house with intent indecently to insult or offend any female inmate of that house, shall be guilty of an indictable offence.

Penalty: Imprisonment with hard labour for one year, with or without whipping.

6. In any prosecution under section two hundred and twelve, two hundred and thirteen, two hundred and fourteen, two hundred and fifteen or two hundred and sixteen of the Code, where the offence is alleged to have been committed against a native girl, the averment that the girl is of or under any specified age need not be proved, and it shall be a defence to the charge to prove that the girl had developed a state of puberty, and such proof shall be an absolute rebuttal and avoidance of any averment as to her age.

7. In any prosecution under section two hundred and twelve, two hundred and thirteen, two hundred and fourteen, two hundred and fifteen or two hundred and sixteen of the Code, if the Court, Judge, Magistrate, Justice or Justices do not consider that there is sufficient evidence to determine the question whether any girl concerned in or in any way connected with the proceedings is or is not a native or is or is not of or under any specified age the Court, Judge, Magistrate, Justice or Justices, having seen the girl, may determine the question.

8.—(1.) When a person is convicted of any crime punishable with death, if the Court is of opinion that under the circumstances of the case it is proper that the offender should be recommended for the Royal mercy, the Court may, if it thinks fit, direct the proper officer, instead of asking the offender whether he has anything to say why the sentence of death should not be passed upon him, to ask the offender whether he has anything to say why judgment of death should not be recorded against him.

(2.) In any such case the Court may abstain from pronouncing sentence of death and may instead thereof order judgment of death to be entered on record, and thereupon the proper officer shall enter

(2) The amendments made by Section 4 and the Schedule are incorporated in *The Criminal Code* (Queensland, adopted).

judgment of death on record against the offender in the usual form as if sentence of death had actually been pronounced by the Court against the offender in open Court.

(3.) A record of a judgment of death entered in pursuance of this section shall have the same effect in all respects as if sentence of death had been pronounced in open Court.

9. Any European woman who voluntarily permits any native (other than a native to whom she is married) to have carnal knowledge of her shall be guilty of an indictable offence.

Penalty: Imprisonment for one year.

Consent by European women to defilement by native. Added by No. 26 of 1934, s. 4.

10. Any native having or attempting to have carnal knowledge of a European woman (other than a European woman to whom he is married) with her consent shall be guilty of an indictable offence.

Penalty: Imprisonment for one year.

Defilement of European woman by native with consent. Added by No. 26 of 1934, s 4.

THE SCHEDULE.⁽²⁾

* * * * *

(2) The amendments made by Section 4 and the Schedule are incorporated in *The Criminal Code* (Queensland, adopted).

CRIMINAL LAW—