

CRIMINAL LAW—

CRIMINAL CODE AMENDMENT (NEW GUINEA) ORDINANCE 1951.⁽¹⁾

No. 42 of 1951.

An Ordinance to amend the Criminal Code of Queensland in its application to the Territory of New Guinea.

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:—

1. This Ordinance may be cited as the *Criminal Code Amendment (New Guinea) Ordinance 1951.*⁽¹⁾ Short title.

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

(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)

PART C : CRIMINAL LAW—

Definitions.

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

Amendments of Code.

4. The Code, in its application to the Territory of New Guinea, is amended in the manner set forth in the Schedule to this Ordinance.

THE SCHEDULE.

Section 4.

Section of Code Amended.	Extent of Amendment.
208	Omit " , with or without whipping " .
209	Omit " , with or without whipping " .
210	Omit " , with or without whipping " .
211	Omit " , with or without whipping " .
305	Omit " , and with or without whipping " .
306	Omit " , and with or without whipping " .
310	Omit " , with or without whipping " .
315	Omit " , which may be inflicted once, twice, or thrice " .
316	Omit " , with or without whipping " .
317	Omit " , and with or without whipping " .
319	Omit " , which may be inflicted once, twice, or thrice " .
320	Omit " , with or without whipping " .
321	Omit " , and with or without whipping " .
322	Omit " , with or without whipping " .
323	Omit " , with or without whipping " .
336	Omit " , with or without whipping " .
337	Omit " , with or without whipping " .
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 208, 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.

(2) Printed in *The Laws of the Territory of New Guinea 1921-1945 (Annotated)*, Vol. II., on pp. 1211-1466; as to subsequent amendments see the Supplementary Table printed in this Volume on p. 1755.

THE SCHEDULE—*continued.*

Section of Code Amended.	Extent of Amendment.
655— <i>contd.</i>	(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."
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 (1.)	<p>Omit " either in addition to or "</p> <p>Omit " six " and insert " five " in its stead.</p> <p>Omit " birch rod ".</p>