

New Zealand



ANALYSIS.

Vol. 1920, p. 34.
For Regulations, see Gazette,
1922, p. 1952.

- | | |
|--|---|
| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Right of appeal from sentences passed on criminals by Supreme Court. Jurisdiction of Court of Appeal in such cases. 3. Section 443 of principal Act amended. 4. Section 448 of principal Act amended. 5. Applicant may be ordered to pay costs if motion for leave to appeal dismissed. 6. Extension of functions of Prisons Board. 7. Probationary license may be for extended term. | <ol style="list-style-type: none"> 8. Consequential amendment of section 17 of Crimes Amendment Act, 1910. 9. Section 18 of Crimes Amendment Act, 1910, amended. 10. Consequential amendments of sections 19 and 20 of Crimes Amendment Act, 1910. 11. Repeal. 12. Section 26 of Crimes Amendment Act, 1910 (relating to wages paid to prisoners), amended. 13. Repeal. 14. Quorum of Prisons Board. Repeal. |
|--|---|

1920, No. 15.

Title.

AN ACT to amend the Crimes Act, 1908.

[3rd September, 1920.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Crimes Amendment Act, 1920, and shall be read together with and deemed part of the Crimes Act, 1908 (hereinafter referred to as the principal Act).

2. (1) Any person convicted on indictment of a crime, or sentenced for any crime on a plea of "Guilty" in pursuance of section one hundred and seventy-six of the Justices of the Peace Act, 1908, may, with the leave of the Court of Appeal, appeal to that Court against his sentence on the ground that it is excessive, unless the sentence is one fixed by law.

(2.) On any such appeal the Court of Appeal may, if it thinks that a different sentence should have been passed, quash the sentence so passed and pass any other sentence warranted by law, whether more or less severe, in substitution therefor, and in any other case shall dismiss the appeal.

(3.) The order of the Court of Appeal shall be certified under the hand of the presiding Judge to the proper officer of the Supreme Court, and shall be carried into effect as if the sentence so passed by the Court of Appeal had been passed by the Supreme Court.

Vol. 1920, p. 34, sec. 2.
Crim. Law—Practice — Appl
fr sentence—Reformative de-
tention—Leave to appl: Rex
v. Righ. (1922) N.Z.L.R. 816;
(1922) G.L.R. 247.

Vol. 1920, p. 34, sec. 2 (1)
Crim law—Appl—Appl agst
sentence—Whr this sec. is re-
trospective: Rex v. Kelly.
(1922) G.L.R. 396.

Vol. 1920, p. 34, Sec. 2
Crim Law—Theft and Forgery
—Whr sentences excessive—
This Sec. of this Act: Rex v
Jeffery [1921] N.Z.L.R.C.A
940. [1921] G.L.R. 536.

3. (1.) Section four hundred and forty-three of the principal Act is hereby amended by omitting from subsection one thereof all words after the word "may," and substituting the words "move the Court of Appeal for leave to appeal as hereinafter provided."

Section 443 of principal Act amended.

(2.) Section four hundred and forty-three of the principal Act is hereby further amended by repealing subsections two and three thereof, and by omitting from subsection six the words "with the leave in writing of the Attorney-General."

4. Section four hundred and forty-eight of the principal Act is hereby amended by omitting from subsection two thereof the words "that he has given leave to move the Court of Appeal," and substituting the words "that an appeal or a motion for leave to appeal is pending in the Court of Appeal."

Section 448 of principal Act amended.

5. (1.) When a motion for leave to appeal against a sentence or conviction has been dismissed the Court of Appeal may, if it thinks fit, order the applicant to pay to the other party to the prosecution the costs of the motion.

Applicant may be ordered to pay costs if motion for leave to appeal dismissed.

(2.) Any such order shall be certified under the hand of the presiding Judge, and the certificate shall be filed in the Supreme Court, and shall thereupon have the effect of a judgment in an action, and execution may issue thereon accordingly.

6. Section twelve of the Crimes Amendment Act, 1910, is hereby amended as follows:—

Extension of functions of Prisons Board.

(a.) By omitting from paragraph (a) the words "person undergoing a sentence of," and substituting the words "other person under sentence of imprisonment or":

(b.) By omitting from paragraph (b) the words "person under sentence of," and substituting the words "other person under sentence of imprisonment or":

(c.) By omitting from paragraph (c) the words "person under sentence of," and substituting the words "other person under sentence of imprisonment or":

(d.) By omitting from paragraph (e) the words "person serving a sentence of," and substituting the words "other person under sentence of imprisonment or":

(e.) By adding to paragraph (e) the following proviso:—

"Provided also that no such application shall be made to the Board by or on behalf of any prisoner (not being an habitual criminal, habitual offender, or person under sentence of reformatory detention) except on compliance with such conditions and until after the expiration of such time or times from the date of the sentence as may be prescribed in that behalf by the Governor-General in Council":

(f.) By omitting from subparagraph (ii) of paragraph (h) the words "persons under sentence of," and substituting the words "other persons under sentence of imprisonment or":

(g.) By omitting from subparagraph (iii) of paragraph (h) the words "persons sentenced to," and substituting the words "other persons under sentence of imprisonment or."

Probationary license may be for extended term.

7. A probationary license issued to any person under sentence of imprisonment (not being an habitual criminal or an habitual offender) may be for such term as the Governor-General thinks fit, not exceeding twice the period of the unexpired term of imprisonment.

Consequential amendment of section 17 of Crimes Amendment Act, 1910.

8. Section seventeen of the Crimes Amendment Act, 1910, is hereby amended as follows:—

- (a.) By inserting, after the words "No person," the words "(not being an habitual criminal or habitual offender)";
- (b.) By inserting, after the words "on probation from," the words "imprisonment or"; and
- (c.) By adding at the end of the section the words "or the term for which his probationary license was issued, as the case may be."

Section 18 of Crimes Amendment Act, 1910, amended.

9. Section eighteen of the Crimes Amendment Act, 1910, is hereby amended by adding thereto the words "and in the case of a person under sentence of imprisonment (not being an habitual criminal or habitual offender) he shall not be so detained after the expiry of the term for which his probationary license was issued."

Consequential amendments of sections 19 and 20 of Crimes Amendment Act, 1910.

10. (1.) Section nineteen of the Crimes Amendment Act, 1910, is hereby amended by inserting, after the words "sentence of," the words "imprisonment or."

(2.) Section twenty of the Crimes Amendment Act, 1910, is hereby amended by inserting, after the words "sentence of" wherever those words occur in that section, the words "imprisonment or."

Repeal.

11. Section twenty-one of the Crimes Amendment Act, 1910, is hereby repealed.

Section 26 of Crimes Amendment Act, 1910 (relating to wages paid to prisoners), amended.

12. (1.) Section twenty-six of the Crimes Amendment Act, 1910, is hereby amended by inserting, after the word "children" in subsection two, the words "or other dependants."

(2.) Any moneys standing to the credit of any prisoner in the account kept pursuant to the said section twenty-six, and not for the time being required for any of the purposes specified in that section, may be paid into the Post Office Savings-bank to the credit of an account in the name of the Gaoler or other authorized person, and shall, subject to the provisions of the said section, be held in trust for the prisoner.

Repeal.

13. Section fourteen of the Statute Law Amendment Act, 1917, is hereby repealed.

Quorum of Prisons Board.

14. (1.) Three members of the Prisons Board shall constitute a quorum of that Board.

Repeal.

(2.) Section fifteen of the Statute Law Amendment Act, 1917, is hereby repealed.