

TASMANIA

**CRIMINAL CODE AMENDMENT (APPEALS)
BILL 2003**

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**CRIMINAL CODE AMENDMENT (APPEALS)
BILL 2003**

*(Brought in by the Minister for Justice and Industrial
Relations, the Honourable Judith Louise Jackson)*

A BILL FOR

**An Act to amend the *Criminal Code Act 1924*, the
Justices Act 1959 and the *Sentencing Act 1997***

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:

Short title

1. This Act may be cited as the *Criminal Code
Amendment (Appeals) Act 2003*.

Commencement

2. This Act commences on the day on which this Act
receives the Royal Assent.

Principal Act

3. In this Act, the *Criminal Code Act 1924** is referred to
as the Principal Act.

*No. 69 of 1924

Schedule 1 amended (*Criminal Code*)

4. Schedule 1 to the Principal Act is amended as follows:

- (a) by inserting the following subsection after subsection (6) in section 402:

(7) The Court may dismiss an appeal at any time, either on its own motion or on the application of either party to the appeal, if it is satisfied that –

- (a) the appellant has failed to take all reasonable steps to prosecute the appeal; and
- (b) it is necessary or expedient in the interests of justice to do so.

- (b) by omitting subsection (3) from section 407 and substituting the following subsections:

(3) An appeal by the Attorney-General under section 401(2)(a), (b), (d) or (e) is to be brought by the Attorney-General –

- (a) notifying his or her intention to appeal at any time during the trial or immediately after the verdict in the presence of the accused or his or her counsel and, within 7 days after the conclusion of the trial, giving notice of appeal or of application for leave to appeal in the manner prescribed; or
- (b) giving notice of appeal or of application for leave to appeal in the manner prescribed within 7

days after the conclusion of the trial.

(3A) An appeal by the Attorney-General under section 401(2)(c) is to be brought by the Attorney-General giving notice of appeal in the manner prescribed at any time within 14 days after sentence.

- (c) by omitting from section 407(4) “as mentioned in subsection (3) hereof” and substituting “or notice as mentioned in subsection (3) or (3A)”;
- (d) by inserting the following subsections after subsection (4) in section 407:

(4A) If the Attorney-General has not notified his or her intention to appeal or given a notice of appeal or a notice of application for leave to appeal under subsection (3), then, if the relevant time has not expired, the Attorney-General may apply to the Court for an order requiring the accused to enter into a recognisance, with or without sureties, to appear before the Court at a specified time and place.

(4B) The Court must not make an order under subsection (4A) unless the Attorney-General gives an undertaking to give a notice of appeal or a notice of application for leave to appeal within the time specified in subsection (3).

(4C) An order under subsection (4A) is to lapse and the accused is to be discharged from the recognisance if the Attorney-General has not given the relevant notice under subsection (3) within the time specified in that subsection.

- (e) by omitting subsections (1) and (1A) from section 415;
- (f) by omitting from section 415(2) “the appellant,” and substituting “an appellant who has been sentenced to a term of imprisonment by the court of trial,”;
- (g) by omitting from section 418(1)(c) “and”;
- (h) by omitting from section 418(1)(d) “appeal –” and substituting “appeal;”;
- (i) by inserting the following paragraphs after paragraph (d) in section 418(1):
 - (e) The power to dismiss an appeal under section 402(7);
 - (f) The power to give directions –

***Justices Act 1959* amended**

5. Section 121A of the *Justices Act 1959* is repealed.

***Sentencing Act 1997* amended**

6. Section 16(2) of the *Sentencing Act 1997* is amended as follows:

- (a) by omitting from paragraph (c) “imprisonment; or” and substituting “imprisonment.”;
- (b) by omitting paragraph (d).