

AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

CRIMINAL CODE AMENDMENT ACT 2014

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SCHEDULE CONSEQUENTIAL AMENDMENTS

WHEREAS it is expedient to amend the Criminal Code Act 1907:

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the Criminal Code Act 1907 (the "principal Act"), may be cited as the Criminal Code Amendment Act 2014.

Amends section 70JB

2 Section 70JB of the principal Act is amended by –

(a) deleting subsections (2)(a) and (2)(b) and substituting the following–

“(a) a term of imprisonment of at least one year but not more than five years, where the basic sentence includes a term of imprisonment of five years or more; or

(b) a term of imprisonment of not more than one year, where the basic sentence includes a term of imprisonment for less than five years; or”and

(b) inserting next after subsection (2) the following–

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“(2A) Notwithstanding any requirement under subsections (1) and (2), the court may impose an additional penalty of a fine of at least \$1,000, but not more than \$10,000 to any basic sentence.”.

Amends section 82

3 Section 82 of the principal Act is amended by—

- (a) inserting next after the section number “82”, the subsection number “(1)”;
- (b) deleting the words “and is liable to imprisonment for life without eligibility for release on licence until the person has served twenty-five years of the sentence”, and substituting the words “and shall be sentenced to imprisonment for life”; and
- (c) inserting next after subsection (1) the following—

“(2) Where a person is sentenced under this section the court shall, having regard to the circumstances of the commission of the offence and character and circumstances of the offender, order the length of sentence that must be served before any application for release on licence may be granted by the Parole Board established under the Parole Board Act 2001.”.

Amends the Criminal Code Act 1907 to remove the offence of premeditated murder

4 The principal Act is amended—

- (a) in section 49(2) by deleting “premeditated”;
- (b) in section 700 by deleting “is provided” and substituting “has been ordered”;
- (c) in section 70Q by—
 - (i) deleting “sections 286A and” and substitute “section”;
 - (ii) deleting “premeditated murder or”;
 - (iii) deleting paragraph (a); and
 - (iv) amending paragraph (b) by deleting “convicted of murder”;
- (d) in section 286 by deleting “premeditated murder,”;
- (e) by repealing sections 286A and 286B;
- (f) in section 288—
 - (i) by deleting the proviso; and
 - (ii) by inserting after subsection (1) the following—

“(1A) Where a person is sentenced under this section, the court shall, having regard—

- (a) to the circumstances of the commission of the offence; and

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- (b) the character and circumstances of the offender,
order the portion of the sentence that must be served before any application for release on licence may be entertained or granted by the Parole Board (established under the Parole Board Act 2001).”;
- (g) in section 288(2) by deleting from the beginning to “manslaughter” (in the second place where it occurs) and substituting “Where any person is charged upon indictment with the offence of murder, he may be convicted of manslaughter”;
- (h) in section 289 by deleting “twenty years” and substituting “life”;
- (i) in section 297A—
 - (i) in subsection (1), by deleting “premeditated murder or of”;
 - (ii) in subsections (2),(3), and (4), by deleting “premeditated murder or”;
- (j) in section 329D(1), in paragraph (b) of the definition of “serious personal injury offence” by deleting “premeditated murder”;
- (k) in section 288(3) by deleting “premeditated murder or”; and
- (l) in section 305 by deleting “ten years” and substituting “life”.

Consequential amendments

5 The amendments set out in the Schedule shall have effect.

Commencement

6 This Act shall come into operation on a date appointed by the Minister in the Gazette.

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SCHEDULE

(Section 5)

CONSEQUENTIAL AMENDMENTS

Amends the Young Offenders Act 1950

1 The Young Offenders Act 1950 is amended, in section 5, by deleting the words “premeditated murder or”.

Amends the Court of Appeal Act 1964

2 The Court of Appeal Act 1964 is amended—

- (a) in section 17(5) by deleting the words “or premeditated murder”;
- (b) in the headnote to section 17B, by deleting the words “or premeditated murder”; and
- (c) in section 17B(1)(a), by deleting the words “or premeditated murder”.

Amends the Prisons Act 1979

3 Section 13(1) of the Prisons Act 1979 is amended by deleting, where they first appear, the words “may at any time” and substituting the words “and in compliance with any order of the court, or section 700 of the Criminal Code, may”.

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EXPLANATORY MEMORANDUM

This Bill seeks to amend the Criminal Code Act 1907 (the “principal Act”), the Young Offenders Act 1950, the Court of Appeal Act 1964, and the Prison Act 1979.

Clause 1 is the citation.

Clause 2 amends section 70JB of the principal Act to increase the penalty amounts and to create a tiered sentencing regime in relation to unlawful gang activity.

Clause 3 amends section 82 of the principal Act, removing the statutory threshold of twenty-five years (before a person can be deemed eligible for parole), and deferring such determination to the sentencing court.

Clause 4 amends the principal Act by: (a) removing the offence of premeditated murder; and (b) to change (where appropriate) a term of years to a term of life imprisonment.

Clause 5 sets out the consequential amendments in the form of a Schedule.

Clause 6 is the commencement provision.