

**CRIMES (AMENDMENT) ACT, 1979, No. 95**

**New South Wales**



ANNO VICESIMO OCTAVO

**ELIZABETHÆ II REGINÆ**

\*\*\*\*\*

**Act No. 95, 1979.**

An Act to confer jurisdiction on the Supreme Court in its summary jurisdiction to hear and determine proceedings for certain offences under the Crimes Act, 1900, the Companies Act, 1961, the Securities Industry Act, 1970, and the Securities Industry Act, 1975, for attempts or conspiracies to commit

---

See also Supreme Court (Summary Jurisdiction) Crimes (Amendment) Act, 1979; Criminal Appeal (Crimes) Amendment Act, 1979; Bail (Crimes) Amendment Act, 1979; Companies (Crimes) Amendment Act, 1979; Securities Industry (Crimes) Amendment Act, 1979.

*Crimes (Amendment).*

any of those offences and for the common law offence of conspiracy to cheat and defraud; to create additional offences under the Crimes Act, 1900; to reduce the penalty for certain offences under the Crimes Act, 1900; and for other purposes. [Assented to, 17th May, 1979.]

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

- Short title.**           **1.** This Act may be cited as the "Crimes (Amendment) Act, 1979".
- Commencement.**       **2.** (1) This section and sections 1, 3 and 6 shall commence on the date of assent to this Act.
- (2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.
- Principal Act.**           **3.** The Crimes Act 1900 is referred to in this Act as the Principal Act.
- Schedules.**           **4.** This Act contains the following Schedules :—
- SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.
- SCHEDULE 2.—SECTIONS OF PRINCIPAL ACT IN WHICH PENALTY OF PENAL SERVITUDE REDUCED.
- Amendment of Act No. 40, 1900.**       **5.** (1) The Principal Act is amended in the manner set forth in Schedule 1.
- (2) The Principal Act is further amended by omitting from each section specified in Schedule 2 the word "fourteen" wherever occurring and by inserting instead the matter "10".

*Crimes (Amendment).*

6. The Crimes (Bail) Amendment Act, 1978, is amended—
- |   |                                       |
|---|---------------------------------------|
|   | Amendment<br>of Act No.<br>166, 1978. |
| (a) by omitting Schedule 1 (1);         | Sch. 1.                               |
| (b) by omitting clause 6 of Schedule 2. | Sch. 2.                               |

7. A reference in any other Act, or in any regulation, by-law or other statutory instrument or in any other document whether of the same or of a different kind, to the "Crimes Act 1900" or the "Crimes Act of 1900" shall be read and construed as a reference to the "Crimes Act, 1900," or, if that reference is not appropriate, to the "Crimes Act, 1900". Savings.

## SCHEDULE 1.

Sec. 5 (1).

## AMENDMENTS TO THE PRINCIPAL ACT.

(1) (a) Section 1—

Omit "Crimes Act 1900," insert instead "Crimes Act, 1900".

(b) Section 1, matter relating to Part IV—

After "s. 178B.", insert :—

(f2a) OBTAINING MONEY, ETC., BY DECEPTION—s. 178BA.

(f2b) OBTAINING MONEY, ETC., BY FALSE OR MISLEADING STATEMENTS—s. 178BB.

(c) Section 1—

After the matter relating to Part XIII, insert :—

PART XIII A.—OFFENCES PUNISHABLE BY THE SUPREME COURT IN ITS SUMMARY JURISDICTION.—ss. 475A, 475B.

*Crimes (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*(2) Section 4 (1), definition of “*Officer*”—

After the definition of “*Offensive weapon*” and “*Offensive weapon, or instrument*”, insert :—

“*Officer*”, in relation to a body corporate or public company, includes a person who has been appointed, or acts, as an auditor of the body corporate or public company.

## (3) Section 176A—

After section 176, insert :—

Directors,  
etc.,  
cheating or  
defrauding.

176A. Whosoever, being a director, officer, or member, of any body corporate or public company, cheats or defrauds, or does or omits to do any act with intent to cheat or defraud, the body corporate or company or any person in his dealings with the body corporate or company shall be liable to imprisonment for 10 years.

## (4) Sections 178BA, 178BB, and short headings—

After section 178B, insert :—

## OBTAINING MONEY, ETC., BY DECEPTION.

Obtaining  
money, etc.,  
by decep-  
tion.  
cf. Vic.  
No. 6231,  
ss. 81 (4),  
82; U.K.  
1968, c. 60,  
ss. 15 (4),  
16 (1) (3).

178BA. (1) Whosoever by any deception dishonestly obtains for himself or another person any money or valuable thing or any financial advantage of any kind whatsoever shall be liable to imprisonment for 5 years.

(2) For the purposes of subsection (1), “deception” means any deception (whether deliberate or reckless) by words or conduct as to fact or as to law, including a deception as to the present intentions of the person using the deception or any other person.

---

*Crimes (Amendment).*

---

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

OBTAINING MONEY, ETC., BY FALSE OR MISLEADING STATEMENTS.

178BB. Whosoever, with intent to obtain for himself or another person any money or valuable thing or any financial advantage of any kind whatsoever, makes or publishes, or concurs in making or publishing, any statement (whether or not in writing) which he knows to be false or misleading in a material particular or which is false or misleading in a material particular and is made with reckless disregard as to whether it is true or is false or misleading in a material particular shall be liable to imprisonment for 5 years.

Obtaining money, etc., by false or misleading statements.

(5) Part XIII—

After Part XIII, insert :—

PART XIII.

OFFENCES PUNISHABLE BY THE SUPREME COURT IN ITS SUMMARY JURISDICTION.

475A. (1) Subject to subsection (2) and section 475B but notwithstanding any other law, proceedings for any offence mentioned in the Tenth Schedule may, pursuant to an application made under section 4 (1) of the Supreme Court (Summary Jurisdiction) Act, 1967, by the Attorney-General, be taken before the Supreme Court in its summary jurisdiction.

Offences punishable summarily.

(2) Proceedings for an offence mentioned in paragraph (f) of the Tenth Schedule may not be taken under subsection (1) unless, in the application made under section 4 (1) of the Supreme Court (Summary Jurisdiction) Act, 1967, in respect of the offence, the person against whom the offence is charged is also charged with an offence mentioned in paragraph (a), (b), (c), (d) or (e) of that Schedule.

---

*Crimes (Amendment).*

---

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(3) A person may be convicted of an offence mentioned in paragraph (f) of the Tenth Schedule notwithstanding that he is not convicted of the offence mentioned in paragraph (a), (b), (c), (d) or (e) of that Schedule that was also charged in the application made under section 4 (1) of the Supreme Court (Summary Jurisdiction) Act, 1967, in respect of the offence mentioned in paragraph (e) of that Schedule.

(4) The penalty that may be imposed by the Supreme Court in its summary jurisdiction on a person convicted of an offence mentioned in the Tenth Schedule is the penalty provided by law (other than this subsection), except that any fine imposed shall not exceed \$10,000 and any term of penal servitude or imprisonment imposed shall not exceed 10 years, whether the penalty imposed is either a fine or a term of penal servitude or imprisonment only or is both a fine and a term of penal servitude or imprisonment.

(5) Subsection (1) does not prevent proceedings for any offence referred to in that subsection from being taken otherwise than before the Supreme Court in its summary jurisdiction.

(6) The reference in subsection (1) to the Attorney-General includes, in relation to any proceedings, a reference to any person who is authorised in writing by the Governor to act, for the purposes of that subsection, on behalf of the Attorney-General in relation to those proceedings or in relation to proceedings for all offences mentioned in the Tenth Schedule.

---

*Crimes (Amendment).*

---

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(7) A document purporting to be signed—

- (a) by the Governor and to authorise a person specified in the document to act as referred to in subsection (6) is, in any proceedings referred to in subsection (1), admissible in evidence as prima facie evidence that the person is authorised so to act; or
- (b) by the Attorney-General for the purpose of any proceedings referred to in subsection (1) is admissible in evidence as prima facie evidence that the Attorney-General signed the document.

475B. (1) Section 475A (1) applies only if, upon the completion of the pre-trial procedures in any proceedings in respect of an offence to which an application under section 4 (1) of the Supreme Court (Summary Jurisdiction) Act, 1967, relates, being procedures prescribed by rules made under that Act, the defendant makes an election to be tried for that offence in the Supreme Court in its summary jurisdiction. Election for summary trial.

(2) Notwithstanding subsection (1) where the defendant in any proceedings is the subject of an application (not being an application referred to in subsection (3)), under section 4 (1) of the Supreme Court (Summary Jurisdiction) Act, 1967, relating to 2 or more offences, he is not entitled to make an election under subsection (1) unless he makes it in respect of every offence to which the application relates.

---

*Crimes (Amendment).*

---

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(3) Where 2 or more defendants are the subject of an application under section 4 (1) of the Supreme Court (Summary Jurisdiction) Act, 1967, an election under subsection (1) made by one of the defendants in respect of any offence to which the application relates and alleged to have been committed by him has no effect for the purposes of this section unless such an election is made by that defendant in respect of every other offence to which the application relates and which is alleged to have been committed by him and by each of the other defendants in respect of every offence to which the application relates and which is alleged to have been committed by each of them.

(4) A reference in subsection (1), (2) or (3) to an offence to which an application under section 4 (1) of the Supreme Court (Summary Jurisdiction) Act, 1967, relates does not include a reference to such an offence to which the person charged with the offence has, upon such an application, pleaded guilty.

(5) Where the defendant does not make an election under subsection (1)—

- (a) the Supreme Court shall order that the proceedings for the offence to which the election relates shall be tried in the Supreme Court otherwise than in its summary jurisdiction; and
- (b) the provisions of section 475A (1) shall cease to apply to or in respect of the proceedings for that offence.



---

*Crimes (Amendment).*

---

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(6) A person tried pursuant to an order under subsection (5) (a) shall for all purposes, be deemed to be tried on indictment and if convicted to have been convicted on indictment.

(7) A reference in this section to a plea of guilty does not include a reference to such a plea if the plea has been withdrawn or has not been accepted.

(6) Section 567A—

After section 567, insert :—

567A. An indictment may contain counts for felonies or misdemeanours or both.

Counts for felonies and misdemeanours in one indictment.

(7) Tenth Schedule—

After the Ninth Schedule, insert :—

TENTH SCHEDULE.

Sec. 475A.

*Offences Punishable by the Supreme Court in its Summary Jurisdiction.*

- (a) Any offence arising under, or the common law offence of attempting, or of conspiracy, to commit any offence arising under, section 173, 174, 175, 176, 176A or 179 of this Act; any offence arising under section 185A (1) or (2) of this Act; the common law offence of attempting to commit any offence arising under section 185A (1) of this Act.

---

*Crimes (Amendment).*

---

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) Any offence arising under, or the common law offence of attempting, or of conspiracy, to commit any offence arising under, section 124, 374A (1) or (3), 374B, 374C (2), 374G, 375 (2), 375A or 376 (2) of the Companies Act, 1961.
  - (c) Any offence arising under, or the common law offence of attempting, or of conspiracy, to commit any offence arising under, section 14 (1), 27, 59 (7), 109 (1) or (2), 110, 111, 112 (1), (2), (3), (4), (5) or (6) or 121 (1) of the Securities Industry Act, 1975.
  - (d) Any offence arising under, or the common law offence of attempting, or of conspiracy, to commit any offence arising under, section 70, 71 (1) or (3), 72 (1) or 73 of the Securities Industry Act, 1970.
  - (e) The common law offence of conspiracy to cheat and defraud.
  - (f) Subject to section 475A (2) of this Act, any offence arising under, or the common law offence of attempting, or of conspiracy, to commit any offence arising under, section 165, 166, 168, 169, 170, 172, 178A, 178BA, 178BB, 178C, 185, 252, 256, 257, 258, 259, 272, 273, 274, 275, 276, 292, 327, 330 or 339 of this Act, section 47 (1), 51 (3), 64 (10), 86 (1), 163 (1) (being an offence committed as referred to in section 163 (3)), 179A (1), 180J (1) or (1A), 180W or 374F (1) or (2) of the Companies Act, 1961, or section 12 (6), 25 (1), 54 (1) or 58 (1), (2), (3) or (4) of the Securities Industry Act, 1975.
-

---

*Crimes (Amendment).*

---

SCHEDULE 2.

Sec. 5 (2).

SECTIONS OF PRINCIPAL ACT IN WHICH PENALTY OF PENAL SERVITUDE  
REDUCED.

Sections 173, 174, 175, 176, 256, 257, 258 and 272.

---