

# CRIMINAL APPEAL (AMENDMENT) ACT 1987 No. 251

NEW SOUTH WALES



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**CRIMINAL APPEAL (AMENDMENT) ACT 1987 No. 251**

NEW SOUTH WALES



**Act No. 251, 1987**

An Act to amend the Criminal Appeal Act 1912 to provide for an appeal to the Court of Criminal Appeal against an interlocutory judgment or order in criminal proceedings in the Supreme Court or District Court; and for other purposes. [Assented to 16 December 1987]

*Criminal Appeal (Amendment) 1987***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Criminal Appeal (Amendment) Act 1987.

**Commencement**

2. This Act shall commence on 18 December 1987.

**Amendment of Act No. 16, 1912**

3. The Criminal Appeal Act 1912 is amended as set out in Schedule 1.

**SCHEDULE 1—AMENDMENTS**

(Sec. 3)

(1) Section 5C (**Appeal against quashing of indictment**)—

Omit “or stayed”.

(2) Section 5F—

After section 5E, insert:

**Appeal against interlocutory judgment or order**

5F. (1) This section applies to—

(a) proceedings (including committal proceedings) for the prosecution of offenders on indictment in the Supreme Court or in the District Court; and

(b) proceedings under section 51A of the Justices Act 1902.

(2) The Attorney General or the Director of Public Prosecutions may appeal to the Court of Criminal Appeal against an interlocutory judgment or order given or made in proceedings to which this section applies and to which the Crown is a party.

(3) Any other party to proceedings to which this section applies may appeal to the Court of Criminal Appeal against an interlocutory judgment or order given or made in the proceedings—

(a) if the Court of Criminal Appeal gives leave to appeal; or

(b) if the judge of the court of trial certifies that the judgment or order is a proper one for determination on appeal.

(4) An appeal under this section shall, unless the Court of Criminal Appeal gives leave to adduce fresh, additional or substituted evidence, be determined on the evidence (if any) given in the Supreme Court or District Court.

(5) The Court of Criminal Appeal may—

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SCHEDULE 1—AMENDMENTS—*continued*

(a) affirm or vacate the judgment or order appealed against;  
or

(b) give or make an interlocutory judgment or order instead  
of the judgment or order appealed against.

(6) If leave to appeal under this section is refused by the Court of Criminal Appeal, the refusal does not preclude any other appeal following a conviction on the matter to which the refused application for leave to appeal related.

(3) Section 12 (**Supplemental powers of the court**)—

At the end of the section, insert:

(2) The Court of Criminal Appeal may remit a matter or issue to a court of trial for determination and may, in doing so, give any directions subject to which the determination is to be made.