



New South Wales

Crimes Amendment (Review of Convictions and Sentences) Act 1996 No 65

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Crimes Amendment (Review of Convictions and Sentences) Act 1996 No 65

Act No 65, 1996

An Act to amend Part 13A of the *Crimes Act 1900* with respect to reviews and inquiries under that Part, and for other purposes. [Assented to 27 September 1996]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Crimes Amendment (Review of Convictions and Sentences) Act 1996*.

2 Commencement

This Act commences on the date of assent.

3 Amendment of Crimes Act 1900 No 40

The *Crimes Act 1900* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 1 Short title and contents of Act

Insert “AND SENTENCES” after “CONVICTIONS” in the matter relating to Part 13A.

[2] Part 13A, heading

Insert “AND SENTENCES” after “CONVICTIONS”.

[3] Section 474A Definitions

Insert after section 474A (2):

- (3) In this Part, a reference to a review of, or an inquiry into, a conviction or sentence includes a reference to a review of, or an inquiry into, any aspect of the proceedings giving rise to the conviction or sentence.

[4] Sections 474B, 474C (1) (a) and (5), 474D (1), 474G (4), 474L

Insert “or sentence” after “conviction” wherever occurring.

[5] Section 474C Consideration of petitions

Omit section 474C (3) (a). Insert instead:

- (a) it appears that the matter:
- (i) has been fully dealt with in the proceedings giving rise to the conviction or sentence (or in any proceedings on appeal from the conviction or sentence), or
 - (ii) has previously been dealt with under this Part or under the repealed provisions, and

[6] Section 474C (3A)

Insert after section 474C (3):

- (3A) The Governor or the Minister may defer consideration of a petition if:

- (a) the time within which an appeal may be made against the conviction or sentence (including an application for leave to appeal) is yet to expire, or
- (b) the conviction or sentence is the subject of appeal proceedings (including proceedings on an application for leave to appeal) that are yet to be finally determined, or
- (c) the petition fails to disclose sufficient information to enable the conviction or sentence to be properly considered.

[7] Section 474E Consideration of applications

Omit section 474E (1). Insert instead:

- (1) After considering an application under section 474D or on its own motion:
 - (a) the Supreme Court may direct that an inquiry be conducted by a prescribed person into the conviction or sentence, or
 - (b) the Supreme Court may refer the whole case to the Court of Criminal Appeal, to be dealt with as an appeal under the *Criminal Appeal Act 1912*.

[8] Section 474E (3)

Omit section 474E (3) (a). Insert instead:

- (a) it appears that the matter:
 - (i) has been fully dealt with in the proceedings giving rise to the conviction or sentence (or in any proceedings on appeal from the conviction or sentence), or
 - (ii) has previously been dealt with under this Part or under the repealed provisions, and

[9] Section 474E (3A)

Insert after section 474E (3):

- (3A) The Supreme Court may defer consideration of an application under section 474D if:

- (a) the time within which an appeal may be made against the conviction or sentence (including an application for leave to appeal) is yet to expire, or
- (b) the conviction or sentence is the subject of appeal proceedings (including proceedings on an application for leave to appeal) that are yet to be finally determined, or
- (c) the application fails to disclose sufficient information to enable the conviction or sentence to be properly considered.

[10] Section 474H Action to be taken on completion of inquiry

Omit section 474H (2). Insert instead:

- (2) The prescribed person may also refer the matter (together with a copy of the report) to the Court of Criminal Appeal:
 - (a) for consideration of the question of whether the conviction should be quashed (in any case in which the prescribed person is of the opinion that there is a reasonable doubt as to the guilt of the convicted person), or
 - (b) for review of the sentence imposed on the convicted person (in any case in which the prescribed person is of the opinion that there is a reasonable doubt as to any matter that may have affected the nature or severity of the sentence).

[11] Section 474L Reference to Court under sec 474C (1) (b) or 474E (1) (b) following petition to Governor or application to Supreme Court

Insert “or 474E (1) (b)” after “474C (1) (b)”.

[12] Section 474N Reference to Court under sec 474H (2) following inquiry

Omit “474H (2)”. Insert instead “474H (2) (a)”.

[13] Section 474N (2)

Insert at the end of section 474N:

- (2) On receiving a reference under section 474H (2) (b), the Court is to deal with the matter so referred in the same way as it is required to deal with matter the subject of an application under section 474J (3), and section 474K applies to proceedings on the matter so referred as if the references in that section to an application under section 474J were references to a reference under section 474H (2) (b).

[14] Eleventh Schedule Savings and transitional provisions

Insert after clause 12:

12A Application of further amendments made by Crimes Amendment (Review of Convictions and Sentences) Act 1996

Part 13A, as amended by the *Crimes Amendment (Review of Convictions and Sentences) Act 1996*, extends to convictions recorded and sentences imposed before the commencement of that Act.

[Minister's second reading speech made in—
Legislative Assembly on 13 June 1996
Legislative Council on 12 September 1996]