



New South Wales

Crimes Legislation Further Amendment Act 1997 No 135

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Crimes Legislation Further Amendment Act 1997 No 135

Act No 135, 1997

An Act to amend the *Crimes Act 1900* in relation to the offences of driving a vehicle and navigating a vessel under the influence of a drug, and to insert a general regulation-making power; to amend the *Criminal Procedure Act 1986* in relation to victim impact statements and in relation to indictable offences that may be dealt with summarily; and for other purposes. [Assented to 17 December 1997]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Crimes Legislation Further Amendment Act 1997*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Crimes Act 1900 No 40

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

4 Amendment of Criminal Procedure Act 1986 No 209

The *Criminal Procedure Act 1986* is amended as set out in Schedule 2.

5 Amendment of Criminal Procedure Regulation 1995

The *Criminal Procedure Regulation 1995* is amended as set out in Schedule 3.

Schedule 1 Amendment of Crimes Act 1900

(Section 3)

[1] Section 52A Dangerous driving: substantive matters

Insert at the end of section 52A (7) (c):

, or

- (d) the accused's ability to drive was very substantially impaired by the fact that the accused was under the influence of a drug (other than intoxicating liquor) or a combination of drugs (whether or not intoxicating liquor was part of that combination).

[2] Section 52A (8) (a)

Insert "or a combination of drugs" after "a drug".

[3] Section 52B Dangerous navigation: substantive matters

Insert at the end of section 52B (7) (c):

, or

- (d) the accused's ability to navigate was very substantially impaired by the fact that the accused was under the influence of a drug (other than intoxicating liquor) or a combination of drugs (whether or not intoxicating liquor was part of that combination).

[4] Section 52B (8) (a)

Insert "or a Combination of drugs" after "a drug".

[5] Sections 353A (8), 357G (14), 405D (8), 405DA (6) and 407AA (9)

Omit the subsections.

[6] Section 357G (7), (12) and (13) (a), (c) and (d)

Omit "regulations made under subsection (14)" wherever occurring.
Insert instead "the regulations".

[7] Section 407AA (5)

Omit “regulations made under subsection (9)”.
Insert instead “the regulations”.

[8] Section 562Q Regulations

Omit the section.

[9] Section 582

Insert after section 581:

582 Regulations

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Schedule 2 Amendment of Criminal Procedure Act 1986

(Section 4)

[1] Section 23A Definitions

Omit the definitions of *court* and *offence*.

[2] Section 23A, definition of “primary victim”

Insert “, the death or the infliction of the physical bodily harm concerned” after “violence” in paragraph (b).

[3] Section 23AA

Insert after section 23A:

23AA Application of Part

- (1) This Part applies only in relation to an offence that is being dealt with in the Supreme Court, the District Court, the Children’s Court or a Local Court, and only as provided by this section.
- (2) This Part applies in relation to an offence that is being dealt with in the Supreme Court or the District Court only if the offence is being dealt with on indictment and is:
 - (a) an offence that involves:
 - (i) an act of actual or threatened violence (including sexual assault), or
 - (ii) the death of, or actual physical bodily harm to, any person, or
 - (b) an offence in respect of which any law provides, if the offence results in the death of, or actual physical bodily harm to, any person, for a higher maximum penalty than the maximum penalty that could be imposed if the offence did not have that result.
- (3) This Part applies in relation to an offence that is being dealt with in the Children’s Court or a Local Court only if the offence is:

- (a) an offence that involves the death of any person, or
 - (b) an offence in respect of which any law provides, if the offence results in the death of any person, for a higher maximum penalty than the maximum penalty that could be imposed if the offence did not have that result.
- (4) Nothing in this Part limits any other law by or under which a court may receive and consider a victim impact statement in relation to any offence to which this Part does not apply.

[4] Section 23C When victim impact statements may be received and considered by court

Omit “A court” from section 23C (1).
Insert instead “The Supreme Court or the District Court”.

[5] Section 23C (3)

Omit “The court”.
Insert instead “The Supreme Court or the District Court”.

[6] Section 23C (4)

Insert after section 23C (3):

- (4) This section applies, in relation to a victim impact statement given by a family victim, to the Children’s Court and a Local Court in the same way as it applies to the Supreme Court and the District Court.

[7] Section 33K Maximum penalties for Table 2 offences

Insert “60 (1),” after “59,” in section 33K (2) (a).

[8] Part 9A, Table 1

Insert “60 (2),” after “57,” in clause 2 of Part 1.

[9] Part 9A, Table 2

Insert “60 (1),” after “59,” in clause 1 of Part 1.

**Schedule 3 Amendment of Criminal Procedure
Regulation 1995**

(Section 5)

Clause 11B Purpose of Part 3A

Insert “, and victim impact statements given by a family victim in the Children’s Court and a Local Court,” after “District Court”.

[Minister’s second reading speech made in—
Legislative Assembly on 19 November 1997
Legislative Council on 2 December 1997]