



New South Wales

# **Criminal Procedure Amendment (Summary Proceedings for Indictable Offences) Act 2016 No 44**

## **Contents**

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	Page
1 Name of Act	2
2 Commencement	2
<b>Schedule 1</b> <b>Amendment of Criminal Procedure Act 1986 No 209</b>	<b>3</b>

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New South Wales

# **Criminal Procedure Amendment (Summary Proceedings for Indictable Offences) Act 2016 No 44**

Act No 44, 2016

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An Act to amend the *Criminal Procedure Act 1986* to provide for certain additional indictable offences to be tried summarily. [Assented to 28 September 2016]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Criminal Procedure Amendment (Summary Proceedings for Indictable Offences) Act 2016*.

**2 Commencement**

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

## Schedule 1 Amendment of Criminal Procedure Act 1986 No 209

**[1] Section 348 Offences in respect of which an intervention program may be conducted**

Omit section 348 (2) (a). Insert instead:

- (a) an offence under section 35 (Reckless grievous bodily harm or wounding) or 35A (1) (Cause dog to inflict grievous bodily harm) of the *Crimes Act 1900*,

**[2] Schedule 1 Indictable offences triable summarily**

Omit “maliciously” wherever occurring in clauses 6, 7 and 8 of Table 1.

Insert instead “intentionally or recklessly”.

**[3] Schedule 1, Table 1**

Insert after clause 8:

**8A Breaking and entering in company**

An offence under section 109 (2), 111 (2), 112 (2) or 113 (2) of the *Crimes Act 1900* where:

- (a) the serious indictable offence alleged is stealing or intentionally or recklessly destroying or damaging property, and
- (b) the value of the property stolen or destroyed, or the value of the damage to the property, does not exceed \$60,000, and
- (c) the only circumstance of aggravation is that the alleged offender is in the company of another person or persons.

**[4] Schedule 2 Savings, transitional and other provisions**

Insert at the end of the Schedule, with appropriate Part and clause numbering:

### **Part Provisions consequent on enactment of Criminal Procedure Amendment (Summary Proceedings for Indictable Offences) Act 2016**

#### **Definitions**

In this Part:

**amending Act** means the *Criminal Procedure Amendment (Summary Proceedings for Indictable Offences) Act 2016*.

**former provisions** means clauses 6, 7 and 8 of Table 1 of Schedule 1 to this Act as in force before the commencement of Schedule 1 [2] to the amending Act.

#### **Application of amendments**

- (1) Each of the former provisions continues to apply in relation to proceedings for offences alleged to have been committed before the repeal of section 5 of the *Crimes Act 1900*.

**Note.** Section 5 of the *Crimes Act 1900* defined the term **maliciously** for the purposes of that Act and was repealed by the *Crimes Amendment Act 2007*.

- (2) A reference in any of the former provisions to maliciously is taken to have always included a reference to intentionally or recklessly for offences alleged

to have been committed on or after the repeal of section 5 of the *Crimes Act 1900*.

- (3) Clause 8A of Table 1 of Schedule 1 to this Act does not apply to proceedings for offences for which alleged offenders were charged before the commencement of that clause.

[Second reading speech made in—  
Legislative Assembly on 25 August 2016  
Legislative Council on 20 September 2016]