

CRIMES (LIFE SENTENCES) AMENDMENT BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The following Bills are cognate with this Bill:

Prisons (Serious Offenders Review Board) Amendment Bill 1989;
Sentencing (Life Sentences) Amendment Bill 1989.

The object of this Bill is to provide that the punishment for the crime of murder and for certain offences involving commercial quantities of drugs is a sentence for the term of the offender's natural life. The maximum sentence for other offences which are punishable at present by penal servitude for life will be 25 years. The existing power for prisoners serving life or other sentences to be released on licence is to be removed by amendments contained in the Prisons (Serious Offenders Review Board) Amendment Bill 1989.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act is to commence on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the Schedule amending the Crimes Act 1900.

Clause 4 is a formal provision that gives effect to the Schedule amending the Drug Misuse and Trafficking Act 1985.

SCHEDULE 1 - AMENDMENT OF CRIMES ACT 1900

Schedule 1 (4) provides that the punishment for the crime of murder is penal servitude for the term of the offender's natural life. The amendment applies to proceedings for murder instituted after the commencement of the proposed section. The discretion of a sentencing court under section 442 (which authorises the passing

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of a lesser sentence than penal servitude for life) and the prerogative of mercy are retained. Schedule 1 (2) and (3) make consequential amendments.

Schedule 1 (1) and (5)-(28) provide that the maximum sentence in respect of all offences (except murder and certain offences involving commercial quantities of drugs) in New South Wales that are presently punishable by penal servitude for life is to be 25 years. Those offences include:

- * Compassing etc. deposition of the Sovereign - overawing Parliament etc.
- * Manslaughter
- * Conspiring to commit murder
- * Acts done to the person with intent to murder
- * Acts done to property with intent to murder
- * Certain other attempts to murder
- * Attempts to murder by other means
- * Impeding endeavours to escape shipwreck
- * Wounding etc. with intent to do bodily harm or resist arrest
- * Attempts to choke etc. (garrotting)
- * Using chloroform etc. to commit an offence
- * Causing bodily injury by gunpowder etc.
- * Using etc. explosive substance or corrosive fluid etc.
- * Homosexual intercourse with male under 10
- * Robbery with wounding
- * Robbery with arms etc. and wounding
- * Breaking, entering and assaulting with intent to murder etc.
- * Maliciously destroying or damaging property with the intention of endangering life
- * Destruction of, or damage to, an aircraft or vessel with intent or reckless indifference
- * Threatening to destroy etc. an aircraft, vessel or vehicle
- * Criminal acts relating to railways
- * Punishment of accessories after the fact to murder etc.

SCHEDULE 2 - AMENDMENT OF DRUG MISUSE AND TRAFFICKING ACT 1985

Schedule 2 amends the Drug Misuse and Trafficking Act 1985 to provide that the existing penalty of life imprisonment for certain offences involving commercial quantities of drugs is to be a sentence for the term of the offender's natural life. As in the case of murder, the amendment preserves the discretion of the sentencing court to impose a lesser sentence and the prerogative of mercy.
