



New South Wales

Courts and Crimes Legislation Amendment Bill 2008

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

The following Bills are cognate with this Bill:

- *Children (Criminal Proceedings) Amendment Bill 2008*
- *Children (Detention Centres) Amendment Bill 2008*

Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Births, Deaths and Marriages Registration Act 1995*:
 - (i) to provide for the legal recognition of persons who have undergone sex affirmation procedures and whose birth is not registered in New South Wales, and
 - (ii) to remove redundant offences concerning the use of birth certificates by persons who have undergone sex affirmation procedures, and
 - (iii) to amend terminology in the Act,
- (b) to amend the *Children and Young Persons (Care and Protection) Act 1998* to allow the removal of a child or young person under the Act, the execution of a search warrant or an authorised entry to, and inspection of, premises to be

- filmed (section 8 of the *Surveillance Devices Act 2007* would otherwise prohibit the installation, use and maintenance of such an optical surveillance device in these circumstances),
- (c) to amend the *Civil Procedure Act 2005* to provide for the appointment of deputies for ex-officio members of the Uniform Rules Committee,
 - (d) to amend the *Community Land Management Act 1989*, the *Consumer, Trader and Tenancy Tribunal Act 2001*, the *Legal Profession Act 2004*, the *Local Courts Act 1982*, the *Local Court Act 2007* and the *Strata Schemes Management Act 1996* to provide that certain appeals are to be made to the District Court rather than the Supreme Court,
 - (e) to amend the *Crimes Act 1900* and the *Terrorism (Police Powers) Act 2002* to provide that membership of a terrorist organisation is to remain an offence until 13 September 2010,
 - (f) to amend the *Crimes (Administration of Sentences) Act 1999*:
 - (i) to update provisions regarding the conveyance and detention of offenders received from the Australian Capital Territory as a consequence of the replacement of the *Removal of Prisoners Act 1968* of the Australian Capital Territory by the *Crimes (Sentence Administration) Act 2005*, and
 - (ii) to enable disclosure of information in connection with the administration or execution of interstate laws in their application to inmates who have been transferred interstate,
 - (g) to amend the *Crimes (Domestic and Personal Violence) Act 2007* to provide for a right of appeal against the dismissal of an application for an apprehended violence order by the Local Court or Children's Court,
 - (h) to amend the *Crimes (Serious Sex Offenders) Act 2006*:
 - (i) to extend the definition of **serious sex offence** to include offences under section 61K (Assault with intent to have sexual intercourse) or 66EA (Persistent sexual abuse of a child) of the *Crimes Act 1900*, and
 - (ii) to enable the Supreme Court to appoint registered psychologists to conduct examinations of offenders during pre-trial procedures,
 - (i) to amend the *Criminal Appeal Act 1912* to enable the Chief Judge of the Land and Environment Court and the Chief Judge of the District Court to act as Judges of the Court of Criminal Appeal in proceedings of that Court,
 - (j) to amend the *Director of Public Prosecutions Act 1986* to enable matters taken over by the Office of the Director of Public Prosecutions and subsequently remitted to the Local Court to be handed back to the original prosecutor,
 - (k) to amend the *District Court Act 1973* to provide that an appeal from a jury trial in the District Court lies as of right to the Supreme Court,

- (l) to amend the *Land and Environment Court Act 1979*:
 - (i) to provide that parties must participate, in good faith, in conciliation conferences, and
 - (ii) to make further provision with respect to on-site hearing matters, and
 - (iii) to enable the Land and Environment Court to, in certain circumstances, exercise the jurisdiction of the Supreme Court to grant easements over land,
- (m) to amend the *Medical Practice Act 1992* to enable the Governor to appoint a Judge of the Supreme Court, or a Judge having the same status as a Judge of the Supreme Court, as Chairperson or a Deputy Chairperson of the Medical Tribunal,
- (n) to amend the *Supreme Court Act 1970* to enable the Chief Judge of the Land and Environment Court and the Chief Judge of the District Court to sit as additional Judges of Appeal,
- (o) to amend the *Surveillance Devices Act 2007* to allow a law enforcement officer to film the execution of search warrants and crime scene warrants (section 8 would otherwise prohibit the installation, use and maintenance of such an optical surveillance device in these circumstances),
- (p) to make consequential amendments to other Acts and instruments and amendments of a savings or transitional nature.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent, subject to specified exceptions.

Clause 3 is a formal provision that gives effect to the amendments to the Acts set out in Schedules 1–21.

Clause 4 is a formal provision that gives effect to the amendments to the Regulation set out in Schedule 22.

Clause 5 repeals the *Terrorism Legislation Amendment (Warrants) Act 2005*.

Clause 6 provides for the repeal of the proposed Act on the day following the day on which all of the provisions of the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendment of Births, Deaths and Marriages Registration Act 1995 No 62

Schedule 1 [1] amends the definition of *registrable event* in section 4 of the *Births, Deaths and Marriages Registration Act 1995* so as to enable a change of sex to be recorded in the Register for a person whose birth is not registered in New South Wales.

Schedule 1 [2] inserts the definition of *recognised details certificate* into section 32A. **Schedule 1 [3]** replaces the definition of *sexual reassignment surgery* with *sex affirmation procedure* and **Schedule 1 [4]** makes consequential amendments as a result of the amendment in Schedule 1 [3].

Schedule 1 [5] inserts proposed sections 32DA–32DD. Proposed section 32DA provides that certain persons (or parents or guardians of certain children) whose birth is not registered in New South Wales may apply to have their change of sex registered. Proposed section 32DB prescribes the documents that must accompany an application to register a change of sex. Proposed section 32DC outlines how the Registrar is to determine an application to register change of sex and proposed section 32DD provides that where the Registrar registers a person’s change of sex, the Registrar must, on application, issue a recognised details certificate certifying the details contained in the Register.

Schedule 1 [8] inserts proposed section 32J to provide that the legal effect of registering a person’s change of sex (whether in New South Wales or interstate) is that the person is a person of the sex as so registered.

Schedule 1 [6] and [7] remove redundant offences from the *Births, Deaths and Marriages Registration Act 1995*.

Schedule 2 Amendment of Children and Young Persons (Care and Protection) Act 1998 No 157

Section 8 of the *Surveillance Devices Act 2007* makes it an offence for a person to knowingly install, use or maintain an optical surveillance device if it involves entry to premises or a vehicle without the consent of the owner or occupier of the premises or vehicle. **Schedule 2** amends the *Children and Young Persons (Care and Protection) Act 1998* to provide an exemption from section 8 of the *Surveillance Devices Act 2007* so that the following may be filmed:

- (a) the removal of a child or young person from a place or premises under the *Children and Young Persons (Care and Protection) Act 1998*,
- (b) the execution of a search warrant (including any activity in connection with the execution of the warrant),
- (c) the entry into, and inspection of, premises authorised under the *Children and Young Persons (Care and Protection) Act 1998* or the regulations.

Schedule 3 Amendment of Civil Procedure Act 2005 No 28

Schedule 3 [1]–[3] amend Schedule 2 to the *Civil Procedure Act 2005* to provide that certain members of the Uniform Rules Committee may nominate a deputy to attend meetings on their behalf. **Schedule 3 [4]** makes it clear that a deputy is not entitled to exercise any of the functions of a presiding member of the Uniform Rules Committee.

Schedule 4 Amendment of Community Land Management Act 1989 No 202

Schedule 4 [1] makes various amendments to the *Community Land Management Act 1989* to provide that appeals arising from decisions of the Consumer, Trader and Tenancy Tribunal in relation to certain matters are to be heard in the District Court instead of the Supreme Court. **Schedule 4 [3]** provides that only those pending appeals that have been allocated a hearing date by the Supreme Court are to continue to be heard in that court. **Schedule 4 [2]** enables regulations to be made of a savings and transitional nature.

Schedule 5 Amendment of Consumer, Trader and Tenancy Tribunal Act 2001 No 82

Schedule 5 [1] makes various amendments to the *Consumer, Trader and Tenancy Tribunal Act 2001* to provide that appeals on questions of law arising from decisions of the Consumer, Trader and Tenancy Tribunal are to be heard in the District Court instead of the Supreme Court. **Schedule 5 [4]** provides that only those pending appeals that have been allocated a hearing date by the Supreme Court are to continue to be heard in that court. **Schedule 5 [3]** enables regulations to be made of a savings and transitional nature. **Schedule 5 [2]** makes a consequential amendment.

Schedule 6 Amendment of Crimes Act 1900 No 40

Schedule 6 [2] provides for the repeal of Part 6B of the *Crimes Act 1900*. The effect of this amendment is to extend the sunset clause for the offence of being a member of a terrorist organisation. This offence was inserted into the *Crimes Act 1900* by Schedule 4 to the *Terrorism Legislation Amendment (Warrants) Act 2005* for the purpose of enabling legislation providing for the issue of covert search warrants. The offence was to be repealed on 13 September 2008 by which time it was anticipated that the Commonwealth Parliament would have enacted a national covert search warrant scheme. The additional 2 years before the repeal of the offence is to ensure that covert search warrants can continue to be granted until a national scheme is adopted. **Schedule 6 [1]** omits the introductory note to Part 6B of the *Crimes Act 1900*.

Schedule 7 Amendment of Crimes (Administration of Sentences) Act 1999 No 93

Schedule 7 [1] substitutes Division 4 of Part 2 of the *Crimes (Administration of Sentences) Act 1999*. The proposed Division merely replicates the existing Division with such changes as are necessary as a consequence of the replacement of the *Removal of Prisoners Act 1968* of the Australian Capital Territory by the *Crimes (Sentence Administration) Act 2005*.

Schedule 7 [2] and [3] amend section 257 of that Act so as to enable information to be disclosed in connection with the administration or execution of interstate laws in their application to inmates who have been transferred interstate, and so as to provide that information may be disclosed despite anything to the contrary in the *Privacy and Personal Information Protection Act 1998* or the *Health Records and Information Privacy Act 2002*.

Schedule 8 Amendment of Crimes (Domestic and Personal Violence) Act 2007 No 80

Schedule 8 [3] amends section 84 of the *Crimes (Domestic and Personal Violence) Act 2007* to provide that an applicant whose application for an apprehended violence order has been dismissed by the Local Court or Children's Court may appeal that decision in the District Court. **Schedule 8 [1], [2] and [4]–[6]** make consequential amendments.

Schedule 9 Amendment of Crimes (Serious Sex Offenders) Act 2006 No 7

Schedule 9 [1] amends the definition of *serious sex offence* to enable the extended supervision and continuing detention, under the *Crimes (Serious Sex Offenders) Act 2006*, of a person who is convicted of an offence under section 61K (Assault with intent to have sexual intercourse) or 66EA (Persistent sexual abuse of a child) of the *Crimes Act 1900*. **Schedule 9 [6]** provides that this amendment extends to offences committed before the commencement of the amendment.

Schedule 9 [2] and [4] enable the Supreme Court to appoint the following to conduct examinations of offenders during pre-trial procedures (as an alternative to 2 qualified psychiatrists only):

- (a) 2 registered psychologists, or
- (b) 1 registered psychologist and 1 qualified psychiatrist, or
- (c) 2 registered psychologists and 2 qualified psychiatrists.

Schedule 9 [3] and [5] make consequential amendments.

Schedule 10 Amendment of Criminal Appeal Act 1912 No 16

Schedule 10 enables the Chief Judge of the Land and Environment Court and the Chief Judge of the District Court to act as Judges of the Court of Criminal Appeal in proceedings of that Court if the Chief Justice of the Supreme Court so directs.

Schedule 11 Amendment of Director of Public Prosecutions Act 1986 No 207

Schedule 11 [1] inserts proposed section 9A into the *Director of Public Prosecutions Act 1986* to provide that when certain proceedings are remitted to a Local Court the Director of Public Prosecutions may hand the matter back to the original prosecutor. **Schedule 11 [2]** inserts proposed section 10 (1A) to provide that the Director of Public Prosecutions must inform the original prosecutor (or the original prosecutor's successor) and the relevant Local Court that the proceedings have been handed back to the original prosecutor (or the original prosecutor's successor).

Schedule 12 Amendment of District Court Act 1973 No 9

Schedule 12 [2] inserts proposed section 127A into the *District Court Act 1973* to provide that an appeal lies as of right to the Supreme Court from a jury decision in the District Court. **Schedule 12 [1]** makes a consequential amendment.

Schedule 13 Amendment of Land and Environment Court Act 1979 No 204

Schedule 13 [1] provides for the senior Judge of the Land and Environment Court to be Acting Chief Judge if the Chief Judge is absent from Australia and an Acting Chief Judge has not been appointed by the Governor, by commission under the public seal, under section 10 (1) of the *Land and Environment Court Act 1979*.

Schedule 13 [3] amends the *Land and Environment Court Act 1979* to provide that parties to proceedings must participate in good faith in conciliation conferences.

Section 34B of the *Land and Environment Court Act 1979* provides that on-site hearing matters must be dealt with by a single Commissioner. **Schedule 13 [4]–[6]** amend section 34B to provide that more than one Commissioner may hear and determine on-site hearing matters.

Schedule 13 [7] substitutes section 34D of the *Land and Environment Court Act 1979* to enable the Court to dispense with an inspection of the site of a proposed development if a matter can be properly determined without the need for an inspection (in addition to an agreement between the parties to dispense with an inspection).

Schedule 13 [9] substitutes section 40 to enable the Land and Environment Court to, in certain circumstances, exercise the jurisdiction of the Supreme Court under section 88K of the *Conveyancing Act 1919* to impose an easement over land. **Schedule 13 [2] and [8]** make consequential amendments.

Schedule 14 Amendment of Legal Profession Act 2004 No 112

Schedule 14 [1]–[3] amend the *Legal Profession Act 2004* to provide that appeals arising from the decisions of costs assessors are to be heard in the District Court instead of the Supreme Court. **Schedule 14 [5]** provides that only those pending appeals that have been allocated a hearing date by the Supreme Court are to continue to be heard in that court. **Schedule 14 [4]** enables regulations to be made of a savings and transitional nature.

Schedule 15 Amendment of Local Court Act 2007 No 93

Schedule 15 [1] amends the *Local Court Act 2007* to provide that a deputy registrar may exercise the functions of a registrar.

Schedule 15 [2] provides that certain appeals arising from the decisions of the Local Court are to be heard in the District Court instead of the Supreme Court. **Schedule 15 [6]** provides that only those pending appeals that have been allocated a hearing date by the Supreme Court are to continue to be heard in that court. **Schedule 15 [5]** enables regulations to be made of a savings and transitional nature and **Schedule 15 [3] and [4]** make consequential amendments.

Schedule 16 Amendment of Local Courts Act 1982 No 164

Schedule 16 [1] amends the *Local Courts Act 1982* to provide that certain appeals arising from the decisions of the Local Court are to be heard in the District Court instead of the Supreme Court. **Schedule 16 [5]** provides that only those pending appeals that have been allocated a hearing date by the Supreme Court are to continue to be heard in that court. **Schedule 16 [4]** enables regulations to be made of a savings and transitional nature and **Schedule 16 [2] and [3]** make consequential amendments.

Schedule 17 Amendment of Medical Practice Act 1992 No 94

Schedule 17 [1] and [3] amend section 148 of the *Medical Practice Act 1992* to enable the Governor to appoint a Judge of the Supreme Court, or a Judge having the same status as a Judge of the Supreme Court, as Chairperson or a Deputy Chairperson

of the Medical Tribunal. At present, only a Judge of the District Court may be appointed as Chairperson or a Deputy Chairperson. **Schedule 17 [3]** also makes it clear that this amendment does not affect the validity of any existing appointments. **Schedule 17 [2]** makes a consequential amendment.

Schedule 18 Amendment of Strata Schemes Management Act 1996 No 138

Schedule 18 [2] makes various amendments to the *Strata Schemes Management Act 1996* to provide that appeals arising from decisions of the Consumer, Trader and Tenancy Tribunal in relation to certain matters are to be heard in the District Court instead of the Supreme Court. **Schedule 18 [4]** provides that only those pending appeals that have been allocated a hearing date by the Supreme Court are to continue to be heard in that court. **Schedule 18 [3]** enables regulations to be made of a savings and transitional nature and **Schedule 18 [1] and [5]** make consequential amendments.

Schedule 19 Amendment of Supreme Court Act 1970 No 52

Schedule 19 enables the Chief Judge of the Land and Environment Court and the Chief Judge of the District Court to act as additional Judges of Appeal in proceedings on the Court of Appeal if the Chief Justice of the Supreme Court certifies that it is expedient for them to do so.

Schedule 20 Amendment of Surveillance Devices Act 2007 No 64

Section 8 of the *Surveillance Devices Act 2007* makes it an offence for a person to knowingly install, use or maintain an optical surveillance device if it involves entry to premises or a vehicle without the consent of the owner or occupier of the premises or vehicle. **Schedule 20** amends the *Surveillance Devices Act 2007* to provide an exemption from section 8 so that a law enforcement officer may film the execution of a search warrant or crime scene warrant (including any activity in connection with the execution of the warrant).

Schedule 21 Amendment of Terrorism (Police Powers) Act 2002 No 115

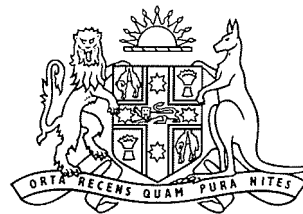
Schedule 21 amends the *Terrorism (Police Powers) Act 2002* to remove a redundant provision as a consequence of the amendments proposed by Schedule 6.

Schedule 22 Amendment of Births, Deaths and Marriages Registration Regulation 2006

Schedule 22 [1] amends the *Births, Deaths and Marriages Registration Regulation 2006* by inserting proposed clause 9A. Proposed clause 9A prescribes various documents that must accompany an application to register a change of sex.

Schedule 22 [3] amends clause 11 by prescribing, for the purposes of proposed section 32J of the *Births, Deaths and Marriages Registration Act 1995*, the *Gender Reassignment Act 2000* of Western Australia.

Schedule 22 [2] makes a consequential amendment as a result of the amendment proposed by Schedule 1 [3].



New South Wales

Courts and Crimes Legislation Amendment Bill 2008

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Principal amendments	2
4 Consequential amendments	2
5 Repeal of Terrorism Legislation Amendment (Warrants) Act 2005 No 54	2
6 Repeal of Act	2
Schedule 1 Amendment of Births, Deaths and Marriages Registration Act 1995 No 62	3
Schedule 2 Amendment of Children and Young Persons (Care and Protection) Act 1998 No 157	6
Schedule 3 Amendment of Civil Procedure Act 2005 No 28	7
Schedule 4 Amendment of Community Land Management Act 1989 No 202	8
Schedule 5 Amendment of Consumer, Trader and Tenancy Tribunal Act 2001 No 82	9

Courts and Crimes Legislation Amendment Bill 2008

Contents

	Page
Schedule 6	10
Schedule 7	11
Schedule 8	14
Schedule 9	15
Schedule 10	17
Schedule 11	18
Schedule 12	19
Schedule 13	20
Schedule 14	23
Schedule 15	24
Schedule 16	26
Schedule 17	27
Schedule 18	28
Schedule 19	29
Schedule 20	31
Schedule 21	32
Schedule 22	33



New South Wales

Courts and Crimes Legislation Amendment Bill 2008

No. , 2008

A Bill for

An Act to amend certain Acts with respect to courts, court procedure, jurisdiction, rights and avenues of appeal and various criminal offences; and for other purposes.

See also the *Children (Criminal Proceedings) Amendment Bill 2008* and the *Children (Detention Centres) Amendment Bill 2008*.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Courts and Crimes Legislation Amendment Act 2008</i> .	3
2 Commencement	4
(1) This Act commences on the date of assent to this Act, except as provided by subsections (2)–(6).	5 6
(2) Schedules 1 and 22 commence on a day or days to be appointed by proclamation.	7 8
(3) Schedules 2 and 20 commence on the date of commencement of section 8 of the <i>Surveillance Devices Act 2007</i> .	9 10
(4) Schedules 4, 5, 14, 15 [2]–[6], 16 and 18 commence on 1 September 2008.	11 12
(5) Schedule 8 commences on 1 July 2008.	13
(6) Schedule 21 commences on 13 September 2010.	14
3 Principal amendments	15
The Acts specified in Schedules 1–21 are amended as set out in those Schedules.	16 17
4 Consequential amendments	18
The <i>Births, Deaths and Marriages Registration Regulation 2006</i> is amended as set out in Schedule 22.	19 20
5 Repeal of Terrorism Legislation Amendment (Warrants) Act 2005 No 54	21
The <i>Terrorism Legislation Amendment (Warrants) Act 2005</i> is repealed.	22 23
6 Repeal of Act	24
(1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.	25 26
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	27 28

Schedule 1	Amendment of Births, Deaths and Marriages Registration Act 1995 No 62	1
		2
	(Section 3)	3
[1] Section 4 Definitions		4
	Insert “, change of sex” after “change of name” in the definition of <i>registrable event</i> in section 4 (1).	5
		6
[2] Section 32A Definitions		7
	Insert in appropriate order:	8
	<i>recognised details certificate</i> means a certificate issued under section 32DD certifying the sex of a person who has undergone a sex affirmation procedure.	9
		10
		11
[3] Section 32A		12
	Omit the definition of <i>sexual reassignment surgery</i> . Insert instead:	13
	<i>sex affirmation procedure</i> means a surgical procedure involving the alteration of a person’s reproductive organs carried out:	14
		15
	(a) for the purpose of assisting a person to be considered to be a member of the opposite sex, or	16
		17
	(b) to correct or eliminate ambiguities relating to the sex of the person.	18
		19
[4] Sections 32B (1) and (2) and 32C		20
	Omit “sexual reassignment surgery” wherever occurring.	21
	Insert instead “a sex affirmation procedure”.	22
[5] Sections 32DA–32DD		23
	Insert after section 32D:	24
32DA Application to register change of sex		25
(1) A person who is 18 or above:		26
(a) who is an Australian citizen or permanent resident of Australia, and		27
		28
(b) who lives, and has lived for at least one year, in New South Wales, and		29
		30
(c) who has undergone a sex affirmation procedure, and		31
(d) who is not married, and		32

(e) whose birth is not registered under this Act or a corresponding law,	1 2
may apply to the Registrar, in a form approved by the Registrar, for the registration of the person's sex in the Register.	3 4
(2) The parents of a child (or a parent if the applicant is the sole parent), or the guardian of a child:	5 6
(a) who is an Australian citizen or permanent resident of Australia, and	7 8
(b) who lives, and has lived for at least one year, in New South Wales, and	9 10
(c) who has undergone a sex affirmation procedure, and	11
(d) who is not married, and	12
(e) whose birth is not registered under this Act or a corresponding law,	13 14
may apply to the Registrar, in a form approved by the Registrar, for the registration of the child's sex in the Register.	15 16
32DB Documents to accompany application to register change of sex	17
An application under section 32DA must be accompanied by:	18
(a) statutory declarations by 2 doctors, or by 2 medical practitioners registered under the law of another State, verifying that the person the subject of the application has undergone a sex affirmation procedure, and	19 20 21 22
(b) such other documents and information as may be prescribed by the regulations.	23 24
32DC Decision to register change of sex	25
(1) The Registrar is to determine an application under section 32DA by registering the person's change of sex or refusing to register the person's change of sex.	26 27 28
(2) Before registering a person's change of sex, the Registrar may require the applicant to provide such particulars relating to the change of sex as may be prescribed by the regulations.	29 30 31
(3) A registration of a person's change of sex must not be made if the person is married.	32 33
32DD Issue of recognised details certificate	34
(1) This section applies if the Registrar registers a person's change of sex under section 32DC.	35 36

(2)	The Registrar must, on application by or on behalf of the person, issue a certificate certifying the particulars contained in the entry in the Register.	1 2 3
[6]	Section 32G Use of new birth certificate	4
	Omit the section.	5
[7]	Section 32H Use of old birth certificate	6
	Omit the section.	7
[8]	Section 32J	8
	Insert after section 32I:	9
32J	Effect of registration of change of sex and interstate recognised details certificates	10 11
(1)	A person the record of whose sex is registered under this Part is, for the purposes of, but subject to, any law of New South Wales, a person of the sex so registered.	12 13 14
(2)	A person to whom an interstate recognised details certificate relates is, for the purposes of, but subject to, any law of New South Wales, a person of the sex stated in the certificate.	15 16 17
(3)	An <i>interstate recognised details certificate</i> is a certificate issued under the law of another State that is prescribed by the regulations for the purposes of this section.	18 19 20

Schedule 2	Amendment of Children and Young Persons (Care and Protection) Act 1998 No 157	1 2 3
	(Section 3)	4
Section 255		5
Insert after section 254:		6
255 Use of optical surveillance devices		7
	Section 8 (1) of the <i>Surveillance Devices Act 2007</i> does not apply to the installation, use or maintenance of an optical surveillance device:	8 9 10
	(a) in connection with the removal of a child or young person from a place or premises under section 43 or 48, or	11 12
	(b) in the execution of a search warrant issued under section 233 (including the use of an optical surveillance device to record any activity in connection with the execution of the warrant), or	13 14 15 16
	(c) in exercising a function under section 241 (1) (d).	17

Schedule 3	Amendment of Civil Procedure Act 2005	1
	No 28	2
	(Section 3)	3
[1]	Schedule 2 Constitution and procedure of Uniform Rules Committee	4
	Omit clause 3A (1). Insert instead:	5
	(1) An ex-officio member of the Uniform Rules Committee may nominate his or her own deputy.	6 7
	(1A) Each person referred to in section 8 (1) who is authorised to nominate or appoint some other person as a member of the Uniform Rules Committee may nominate or appoint a deputy for that member.	8 9 10 11
[2]	Schedule 2, clause 3A (2)	12
	Insert “an ex-officio member or” after “In the absence of”.	13
[3]	Schedule 2, clause 3A (3)	14
	Insert after clause 3A (2):	15
	(3) In this clause, <i>ex-officio member</i> means the Chief Justice of the Supreme Court, the President of the Court of Appeal, the Chief Judge of the Land and Environment Court, the Chief Judge of the District Court or the Chief Magistrate, but does not include any of their nominees under section 8 (1).	16 17 18 19 20
[4]	Schedule 2, clause 6 (6)	21
	Omit “for the member of the Uniform Rules Committee referred to in section 8 (1) (a)”.	22 23

Schedule 4	Amendment of Community Land Management Act 1989 No 202	1
		2
	(Section 3)	3
[1] Sections 87 (6), 100 (5), 105 (4) and 108 (1)		4
	Omit “Supreme Court” wherever occurring. Insert instead “District Court”.	5
[2] Schedule 7 Savings, transitional and other provisions		6
	Insert at the end of clause 1 (1):	7
	<i>Courts and Crimes Legislation Amendment Act 2008</i>	8
[3] Schedule 7, clause 6		9
	Insert after clause 5:	10
6 Pending appeals		11
	An appeal to the Supreme Court for which a hearing date had been allocated before the commencement of Schedule 4 to the <i>Courts and Crimes Legislation Amendment Act 2008</i> is to be determined as if that Act had not been enacted.	12
		13
		14
		15

Schedule 5	Amendment of Consumer, Trader and Tenancy Tribunal Act 2001 No 82	1
		2
	(Section 3)	3
[1]	Section 67 (1)–(6)	4
	Omit “Supreme Court” wherever occurring. Insert instead “District Court”.	5
[2]	Section 69 Original decision to operate unless otherwise ordered	6
	Omit “Supreme Court” from section 69 (2) (a). Insert instead “District Court”.	7
[3]	Schedule 6 Savings, transitional and other provisions	8
	Insert after clause 1 (1):	9
	(1A) The regulations may also contain provisions of a savings or transitional nature consequent on the enactment of the <i>Courts and Crimes Legislation Amendment Act 2008</i> .	10
		11
		12
[4]	Schedule 6	13
	Insert at the end of the Schedule with appropriate Part and clause numbering:	14
Part	Provision consequent on enactment of Courts and Crimes Legislation Amendment Act 2008	15
		16
		17
	Pending appeals	18
	An appeal to the Supreme Court for which a hearing date had been allocated before the commencement of Schedule 5 to the <i>Courts and Crimes Legislation Amendment Act 2008</i> is to be determined as if that Act had not been enacted.	19
		20
		21
		22

Schedule 6	Amendment of Crimes Act 1900 No 40	1
	(Section 3)	2
[1] Part 6B Terrorism		3
Omit the introductory note to the Part.		4
[2] Section 310L		5
Insert after section 310K:		6
310L Repeal of Part		7
This Part is repealed on 13 September 2010.		8

Schedule 7	Amendment of Crimes (Administration of Sentences) Act 1999 No 93	1
		2
	(Section 3)	3
[1] Part 2, Division 4		4
	Omit the Division. Insert instead:	5
Division 4	Full-time detainees received from Australian Capital Territory	6
		7
42	Definitions	8
	In this Division:	9
	<i>Australian Capital Territory Act</i> means the <i>Crimes (Sentence Administration) Act 2005</i> of the Australian Capital Territory.	10
	<i>Australian Capital Territory direction</i> means a direction issued under section 26 of the Australian Capital Territory Act.	11
	<i>chief executive, escort officer</i> and <i>full-time detainee</i> have the same meanings as they have in the Australian Capital Territory Act.	12
		13
		14
		15
		16
43	Application of Division	17
	This Division does not apply to a full-time detainee who is in custody in a correctional centre in New South Wales pursuant to a transfer effected under the <i>Prisoners (Interstate Transfer) Act 1982</i> .	18
		19
		20
		21
44	Conveyance and detention of full-time detainees from ACT	22
(1)	If an escort officer has a full-time detainee in custody in accordance with the terms of an Australian Capital Territory direction, it is lawful for the escort officer to hold and deal with the detainee in accordance with those terms.	23
		24
		25
		26
(2)	It is the duty of the general manager of a correctional centre or any other officer doing duty at a correctional centre to accept custody of any full-time detainee the subject of an Australian Capital Territory direction.	27
		28
		29
		30
(3)	The full-time detainee is to be held in custody in a correctional centre for so long as is necessary for the detainee's sentence referred to in the Australian Capital Territory direction to be executed in accordance with that direction.	31
		32
		33
		34

(4)	Nothing in this section prevents the early release of a full-time detainee by reason of the operation of any law of the Commonwealth, or of the Australian Capital Territory, relating to the release of full-time detainees.	1 2 3 4
(5)	Until released from custody or delivered into the custody of an escort officer under an Australian Capital Territory direction, a full-time detainee may be dealt with as if the detainee's sentence were a sentence passed under a law of New South Wales.	5 6 7 8
(6)	Subsection (5) is subject to the provisions of the Australian Capital Territory Act.	9 10
45	Return of full-time detainees to ACT	11
(1)	If an escort officer presents to a general manager of a correctional centre an Australian Capital Territory direction in respect of a full-time detainee held in custody in the correctional centre under this Division:	12 13 14 15
(a)	for the delivery of the full-time detainee into the custody of the escort officer, and	16 17
(b)	for the conveyance of the full-time detainee to the Australian Capital Territory,	18 19
	the general manager of the correctional centre must deliver the full-time detainee into the custody of the escort officer.	20 21
(2)	The direction is sufficient authority for the escort officer to convey the full-time detainee in custody to the Australian Capital Territory.	22 23 24
46	Evidentiary provision	25
	A document purporting to be an Australian Capital Territory direction and to be under the hand of the chief executive is admissible in any proceedings and is in all courts exercising jurisdiction in New South Wales and on all occasions evidence of the particulars stated in the document.	26 27 28 29 30
[2]	Section 257 Disclosure of information	31
	Insert after section 257 (b):	32
(b1)	in connection with the administration or execution of a law of some other State or Territory in its application to an inmate who has been, or is to be, transferred to that State or Territory pursuant to:	33 34 35 36
(i)	a direction referred to in section 45, or	37

-
- (ii) a warrant referred to in section 49, or 1
 - (iii) an order of transfer under the *Prisoners (Interstate Transfer) Act 1982*, or 2
3

[3] Section 257 (2) 4

Insert at the end of section 257: 5

- (2) Information may be disclosed as referred to in subsection (1) (b1) 6
despite anything to the contrary in the *Privacy and Personal* 7
Information Protection Act 1998 or the *Health Records and* 8
Information Privacy Act 2002. 9

Schedule 8	Amendment of Crimes (Domestic and Personal Violence) Act 2007 No 80	1
		2
	(Section 3)	3
[1] Section 3 Definitions		4
	Omit “or” from paragraph (b) of the definition of <i>court</i> in section 3 (1).	5
[2] Section 3 (1)		6
	Omit paragraph (c) of the definition of <i>court</i> .	7
[3] Section 84 Review and appeal provisions concerning making etc of apprehended violence orders		8
	Insert after section 84 (2) (a):	9
	(a1) by the applicant for an apprehended violence order against the dismissal of the application by the Local Court or the Children’s Court, or	10
		11
		12
		13
[4] Section 91 Courts authorised to make orders and determine applications		14
	Omit section 91 (1) (c).	15
[5] Section 92 Jurisdiction of District Court to issue AVO following dismissal of application by Local Court or Children’s Court		16
	Omit the section.	17
		18
[6] Section 99 Costs		19
	Omit section 99 (6).	20

Schedule 9	Amendment of Crimes (Serious Sex Offenders) Act 2006 No 7	1
		2
	(Section 3)	3
[1]	Section 5 Definitions of “serious sex offence” and “offence of a sexual nature”	4
		5
	Insert after section 5 (1) (a):	6
	(a1) an offence under section 61K or 66EA of the <i>Crimes Act 1900</i> ,	7
		8
[2]	Section 7 Pre-trial procedures	9
	Omit section 7 (4) (a). Insert instead:	10
	(a) appointing:	11
	(i) 2 qualified psychiatrists, or	12
	(ii) 2 registered psychologists, or	13
	(iii) 1 qualified psychiatrist and 1 registered psychologist, or	14
	(iv) 2 qualified psychiatrists and 2 registered psychologists,	15
	to conduct separate psychiatric or psychological examinations (as the case requires) of the offender and to furnish reports to the Supreme Court on the results of those examinations, and	16
		17
		18
		19
		20
		21
[3]	Section 9 Determination of application for extended supervision order	22
	Omit section 9 (3) (b). Insert instead:	23
	(b) the reports received from the persons appointed under section 7 (4) to conduct examinations of the offender, and the level of the offender’s participation in any such examination,	24
		25
		26
		27
[4]	Section 15 Pre-trial procedures	28
	Omit section 15 (4) (a). Insert instead:	29
	(a) appointing:	30
	(i) 2 qualified psychiatrists, or	31
	(ii) 2 registered psychologists, or	32
	(iii) 1 qualified psychiatrist and 1 registered psychologist, or	33
		34

(iv)	2 qualified psychiatrists and 2 registered psychologists,	1
	to conduct separate psychiatric or psychological examinations (as the case requires) of the offender and to furnish reports to the Supreme Court on the results of those examinations, and	2
		3
		4
		5
		6
[5]	Section 17 Determination of application for continuing detention order	7
	Omit section 17 (4) (b). Insert instead:	8
	(b) the reports received from the persons appointed under section 15 (4) to conduct examinations of the offender, and the level of the offender's participation in any such examination,	9
		10
		11
		12
[6]	Schedule 2 Savings, transitional and other provisions	13
	Insert after Part 3:	14
		15
		16
		17
		18
		19
		20
		21
		22
		23

**Schedule 10 Amendment of Criminal Appeal Act 1912
No 16**

(Section 3)

Section 3 Constitution of court

Insert after section 3 (1):

- (1A) Without limiting subsection (1), the Chief Justice may (with the consent of the Chief Judge concerned) also direct that the Chief Judge of the Land and Environment Court or the Chief Judge of the District Court (or both) act as Judges of the Court of Criminal Appeal in relation to proceedings of that Court.
- (1B) The following provisions apply to and in respect of a Chief Judge who acts as a Judge of the Court of Criminal Appeal in relation to proceedings pursuant to a direction given by the Chief Justice under subsection (1A):
 - (a) the Chief Judge is taken to be a Judge of the Supreme Court for the purposes of subsection (1),
 - (b) the Chief Judge has, while acting as a Judge of the Court of Criminal Appeal, all the powers, authorities, privileges and immunities of a Judge of the Supreme Court,
 - (c) the Chief Judge may attend the sittings of the Court of Criminal Appeal for the purpose of giving judgment in, or otherwise completing, any proceedings which have been heard by the Court while the Chief Judge was acting as a Judge of the Court even if the Chief Judge is no longer acting as a Judge of the Court,
 - (d) the Chief Judge is not, while receiving remuneration as a Chief Judge, entitled to remuneration for acting as a Judge of the Court of Criminal Appeal,
 - (e) any service of the Chief Judge while acting as a Judge of the Court of Criminal Appeal is, for the purposes of the Act under which the Chief Judge was appointed and the *Judges' Pensions Act 1953*, taken to be service as the Chief Judge of the court concerned,
 - (f) nothing in this Act or any other law requires the Chief Judge to devote the whole of his or her time to the duties of acting as a Judge of the Court of Criminal Appeal.

Schedule 11	Amendment of Director of Public Prosecutions Act 1986 No 207	1
		2
	(Section 3)	3
[1] Section 9A		4
Insert after section 9:		5
9A Handing back of matters to original prosecutor		6
(1) If a prosecution or proceeding that has been taken over by the Director under section 9 is remitted to the Local Court, the Director may hand the matter back to the prosecutor from whom it was taken over (the <i>original prosecutor</i>) or, if the original prosecutor (being a holder of a position in the Government Service or a member of the NSW Police Force) no longer holds that position, to the person now holding that position (the <i>original prosecutor's successor</i>).		7 8 9 10 11 12 13 14
(2) If a matter is handed back under this section, the original prosecutor or the original prosecutor's successor, as the case may be, shall, as from the time when the Director complies with section 10 (1A) in relation to the matter, be deemed to be the prosecutor in connection with the matter.		15 16 17 18 19
[2] Section 10 Director to inform court etc when taking over, or handing back, proceedings		20 21
Insert after section 10 (1):		22
(1A) If the Director hands a matter back in accordance with section 9A, the Director shall, as soon as practicable:		23 24
(a) by notice in writing, inform the original prosecutor (or the original prosecutor's successor) referred to in section 9A, and		25 26 27
(b) by notice in writing, inform the registrar or other proper officer of the Local Court in which the prosecution or proceeding concerned is to be heard,		28 29 30
that the Director has handed the matter back to the original prosecutor (or the original prosecutor's successor).		31 32

Schedule 13	Amendment of Land and Environment Court Act 1979 No 204	1
		2
	(Section 3)	3
[1] Section 10 Acting Chief Judge		4
Insert after section 10 (1):		5
(1A) While the Chief Judge is absent from Australia and an Acting Chief Judge has not been appointed under subsection (1), the senior Judge present in Australia is taken to be the Acting Chief Judge.		6 7 8 9
(1B) For the purposes only of subsection (1A):		10
(a) the Judges shall have seniority between themselves according to the dates of their commissions as Judges under this Act, a Judge whose commission is dated earlier than that of another Judge being senior to that other Judge, and		11 12 13 14 15
(b) if the commissions of two or more Judges bear the same date, those Judges shall have seniority between themselves according to the seniority assigned to them by their commission or, failing any such assignment, according to the order of their being sworn.		16 17 18 19 20
[2] Section 19 Class 3—land tenure, valuation, rating and compensation matters		21 22
Insert at the end of section 19 (g4):		23
(g5) applications under section 40 (2) of this Act,		24
[3] Section 34 Conciliation conferences		25
Insert after section 34 (1):		26
(1A) It is the duty of each party to proceedings where a conciliation conference has been arranged under subsection (1) to participate, in good faith, in the conciliation conference.		27 28 29
[4] Section 34B Arrangements for dealing with on-site hearing matters		30
Omit “presided over by a single Commissioner” from section 34B (1).		31
Insert instead “to be heard and disposed of by one or more Commissioners”.		32

[5] Section 34B (5)	1
Omit the subsection. Insert instead:	2
(5) The provisions of section 36 (2)–(6) apply to the hearing and disposal of proceedings under this section.	3 4
[6] Section 34B (6)	5
Insert after section 34B (5):	6
(6) In this section, <i>Commissioner</i> means the Commissioner or Commissioners hearing the on-site hearing matter.	7 8
[7] Section 34D	9
Omit the section. Insert instead:	10
34D Site inspections in court hearing matters	11
Before disposing of a court hearing matter, the Court (or the persons exercising the functions of the Court) must make an inspection of the site of the proposed development, unless:	12 13 14
(a) all the parties agree to dispense with an inspection, or	15
(b) the Court (or the persons exercising the functions of the Court) considers that the matter can be properly determined without the need for an inspection.	16 17 18
[8] Section 36 Delegation to Commissioners	19
Insert “or 40” after “section 34A” in section 36 (1).	20
[9] Section 40	21
Omit the section. Insert instead:	22
40 Additional powers of Court—provision of easements	23
(1) This section applies if an appeal involving the grant or modification of a development consent under the <i>Environmental Planning and Assessment Act 1979</i> is pending before the Court.	24 25 26
(2) The appellant may make an application to the Court for an order imposing an easement over land.	27 28
(3) The parties to an application under this section include the owner of the land to be burdened by the easement, and each other person having an estate or interest in the land, as evidenced by an instrument registered in the General Register of Deeds or the Register kept under the <i>Real Property Act 1900</i> .	29 30 31 32 33

Courts and Crimes Legislation Amendment Bill 2008

Schedule 13 Amendment of Land and Environment Court Act 1979 No 204

- (4) In dealing with an application under this section, the Court may exercise the jurisdiction of the Supreme Court under section 88K of the *Conveyancing Act 1919* and, in that event, section 88K of the *Conveyancing Act 1919* applies to the Court's exercise of that jurisdiction in the same way as it applies to the exercise of that jurisdiction by the Supreme Court.
- 1
2
3
4
5
6

Schedule 14	Amendment of Legal Profession Act	1
	2004 No 112	2
	(Section 3)	3
[1]	Section 384 Appeal against decision of costs assessor as to matter of law	4
	Omit “Supreme Court” wherever occurring in section 384 (1) and (2).	5
	Insert instead “District Court”.	6
[2]	Section 385 Appeal against decision of costs assessor by leave	7
	Omit “Supreme Court” wherever occurring in section 385 (1), (3) and (5).	8
	Insert instead “District Court”.	9
[3]	Section 387 Assessor can be party to appeal	10
	Omit “only by the Supreme Court”. Insert instead “by the District Court”.	11
[4]	Schedule 9 Savings, transitional and other provisions	12
	Insert at the end of clause 1 (1):	13
	<i>Courts and Crimes Legislation Amendment Act 2008</i>	14
[5]	Schedule 9, Part 4	15
	Insert after clause 33:	16
Part 4	Provision consequent on enactment of Courts and Crimes Legislation Amendment Act 2008	17
		18
34	Pending appeals	19
	An appeal to the Supreme Court for which a hearing date had been allocated before the commencement of Schedule 14 to the <i>Courts and Crimes Legislation Amendment Act 2008</i> is to be determined as if that Act had not been enacted.	20
		21
		22
		23
		24
		25

Schedule 15	Amendment of Local Court Act 2007	1
	No 93	2
	(Section 3)	3
[1] Section 19 Registrar’s functions generally		4
Insert after section 19 (2):		5
(3) A person employed as a deputy registrar has, under the registrar,		6
all of the functions of the registrar and may exercise those		7
functions in respect of any place in the State.		8
[2] Section 39 Appeals as of right		9
Omit “Supreme Court” from section 39 (2).		10
Insert instead “District Court”.		11
[3] Section 41 Determination of appeals		12
Omit “this Division”. Insert instead “section 39 (1) or 40”.		13
[4] Section 41 (2)		14
Insert at the end of section 41:		15
(2) The District Court may determine an appeal made under section		16
39 (2):		17
(a) by varying the terms of the judgment or order, or		18
(b) by setting aside the judgment or order, or		19
(c) by setting aside the judgment or order and remitting the		20
matter to the Local Court for determination in accordance		21
with the District Court’s directions, or		22
(d) by dismissing the appeal.		23
[5] Schedule 4 Savings, transitional and other provisions		24
Insert at the end of clause 1 (1):		25
<i>Courts and Crimes Legislation Amendment Act 2008</i>		26

[6] Schedule 4, Part 3	1
Insert after Part 2:	2
Part 3 Provision consequent on enactment of Courts and Crimes Legislation Amendment Act 2008	3 4 5
12 Pending appeals	6
An appeal to the Supreme Court for which a hearing date had been allocated before the commencement of Schedule 15 [2]–[6] to the <i>Courts and Crimes Legislation Amendment Act 2008</i> is to be determined as if that Act had not been enacted.	7 8 9 10

Schedule 16	Amendment of Local Courts Act 1982	1
	No 164	2
	(Section 3)	3
[1] Section 73 Appeals as of right		4
	Omit “Supreme Court” from section 73 (2).	5
	Insert instead “District Court”.	6
[2] Section 75 Determination of appeals		7
	Omit “this Division”. Insert instead “section 73 (1) or 74”.	8
[3] Section 75 (2)		9
	Insert at the end of section 75:	10
	(2) The District Court may determine an appeal made under section 73 (2):	11
	(a) by varying the terms of the judgment or order, or	12
	(b) by setting aside the judgment or order, or	13
	(c) by setting aside the judgment or order and remitting the matter to the Court for determination in accordance with the District Court’s directions, or	14
	(d) by dismissing the appeal.	15
[4] Schedule 1 Savings and transitional provisions		16
	Insert at the end of clause 8 (1):	17
	<i>Courts and Crimes Legislation Amendment Act 2008</i>	18
[5] Schedule 1, clause 19		19
	Insert after clause 18:	20
	19 Pending appeals	21
	An appeal to the Supreme Court for which a hearing date had been allocated before the commencement of Schedule 16 to the <i>Courts and Crimes Legislation Amendment Act 2008</i> is to be determined as if that Act had not been enacted.	22
		23
		24
		25
		26
		27
		28

Schedule 18	Amendment of Strata Schemes Management Act 1996 No 138	1
		2
	(Section 3)	3
[1]	Chapter 5 Disputes and orders of Adjudicators and Tribunal	4
	Omit “This Part” from the introductory note to the Chapter.	5
	Insert instead “This Chapter”.	6
[2]	Chapter 5, introductory note, and section 200 (1)	7
	Omit “Supreme Court” wherever occurring. Insert instead “District Court”.	8
[3]	Schedule 4 Savings, transitional and other provisions	9
	Insert at the end of clause 1 (1):	10
	<i>Courts and Crimes Legislation Amendment Act 2008</i>	11
[4]	Schedule 4	12
	Insert at the end of the Schedule with appropriate Part and clause numbering:	13
Part	Provision consequent on enactment of Courts and Crimes Legislation Amendment Act 2008	14
		15
		16
	Pending appeals	17
	An appeal to the Supreme Court for which a hearing date had been allocated before the commencement of Schedule 18 to the <i>Courts and Crimes Legislation Amendment Act 2008</i> is to be determined as if that Act had not been enacted.	18
		19
		20
		21
[5]	Dictionary	22
	Insert in alphabetical order in Part 1 of the Dictionary:	23
	<i>District Court</i> means the District Court of New South Wales.	24

Schedule 19	Amendment of Supreme Court Act 1970	1
	No 52	2
	(Section 3)	3
Section 37A		4
Insert after section 37:		5
37A	Certain Chief Judges of other courts may act as additional Judges of Appeal	6
		7
(1)	This section applies to each of the following Chief Judges (a <i>designated Chief Judge</i>):	8
		9
(a)	the Chief Judge of the Land and Environment Court,	10
(b)	the Chief Judge of the District Court.	11
(2)	A designated Chief Judge may act as an additional Judge of Appeal in relation to proceedings in the Court of Appeal if:	12
		13
(a)	the Chief Justice certifies that it is expedient that the Chief Judge should act as an additional Judge of Appeal in the proceedings, and	14
		15
		16
(b)	the Chief Judge consents to act as an additional Judge of Appeal in the proceedings.	17
		18
(3)	The following provisions apply to and in respect of a designated Chief Judge who acts as an additional Judge of Appeal pursuant to the provisions of this section:	19
		20
		21
(a)	the Chief Judge has, while acting as an additional Judge of Appeal, all the powers, authorities, privileges and immunities of a Judge of Appeal (including the powers, authorities, privileges and immunities of a Judge of the Supreme Court),	22
		23
		24
		25
		26
(b)	the Chief Judge may attend the sittings of the Court of Appeal for the purpose of giving judgment in, or otherwise completing, any proceedings which have been heard by the Court while the Chief Judge was acting as an additional Judge of Appeal even if the Chief Judge is no longer acting as an additional Judge of Appeal,	27
		28
		29
		30
		31
		32
(c)	the Chief Judge is not, while receiving remuneration as a Chief Judge, entitled to remuneration for acting as an additional Judge of Appeal,	33
		34
		35

Courts and Crimes Legislation Amendment Bill 2008

Schedule 19 Amendment of Supreme Court Act 1970 No 52

- (d) any service of the Chief Judge while acting as an additional Judge of Appeal is, for the purposes of the Act under which the Chief Judge was appointed and the *Judges' Pensions Act 1953*, taken to be service as the Chief Judge of the court concerned, 1
2
3
4
5
- (e) nothing in this Act or any other law requires the Chief Judge to devote the whole of his or her time to the duties of acting as an additional Judge of Appeal. 6
7
8

**Schedule 20 Amendment of Surveillance Devices Act
2007 No 64**

	(Section 3)	1 2 3
[1] Section 8 Installation, use and maintenance of optical surveillance devices without consent		4 5
Insert after section 8 (2) (c):		6
(d) the installation, use or maintenance of an optical surveillance device by a law enforcement officer in the execution of a search warrant or crime scene warrant (including the use of an optical surveillance device to record any activity in connection with the execution of the warrant).		7 8 9 10 11 12
Note. See also section 255 of the <i>Children and Young Persons (Care and Protection) Act 1998</i> .		13 14
[2] Section 8 (3)		15
Insert after section 8 (2):		16
(3) In this section:		17
crime scene warrant has the same meaning as it has in the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .		18 19
search warrant means a search warrant issued under:		20
(a) any of the following provisions of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> :		21 22
(i) Division 2 (Police powers relating to warrants) of Part 5,		23 24
(ii) Part 6 (Search, entry and seizure powers relating to domestic violence offences),		25 26
(iii) Division 1 (Drug premises) of Part 11, or		27
(b) section 40 of the <i>Independent Commission Against Corruption Act 1988</i> , or		28 29
(c) section 11 of the <i>New South Wales Crime Commission Act 1985</i> , or		30 31
(d) Division 2 or 3 of Part 4 of the <i>Criminal Assets Recovery Act 1990</i> ,		32 33
(e) section 45 of the <i>Police Integrity Commission Act 1996</i> .		34

Schedule 21	Amendment of Terrorism (Police Powers) Act 2002 No 115	1
		2
	(Section 3)	3
Section 27A Definitions		4
Omit section 27A (2).		5

Schedule 22	Amendment of Births, Deaths and Marriages Registration Regulation 2006	1
		2
	(Section 4)	3
[1] Clause 9A		4
	Insert after clause 9:	5
	9A Application to register change of sex	6
	For the purposes of section 32DB (b) of the Act, the following documents are prescribed as documents that must accompany an application under section 32DA of the Act:	7
		8
		9
	(a) a signed statement by each of the 2 doctors (or 2 medical practitioners) referred to in section 32DB (a) of the Act declaring that the doctor or practitioner concerned sighted proof of the identity of the person the subject of the application when making the statutory declaration referred to in that section, and	10
		11
		12
		13
		14
		15
	(b) documentary proof to the Registrar's satisfaction:	16
	(i) that the person is an Australian citizen or permanent resident of Australia, and	17
		18
	(ii) that the person lives, and has lived for at least one year, in New South Wales.	19
		20
[2] Clause 10 Persons who may apply for old birth certificate		21
	Omit "sexual reassignment surgery" from clause 10 (2) (a).	22
	Insert instead "a sex affirmation procedure".	23

[3] Clause 11 Prescribed interstate laws

1

Insert at the end of clause 11:

2

- (2) For the purposes of section 32J (Effect of registration of change of sex and interstate recognised details certificates) of the Act the *Gender Reassignment Act 2000* of Western Australia is prescribed.

3

4

5

6