



New South Wales

Criminal Case Conferencing Trial Repeal Bill 2011

Explanatory note

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

Overview of Bill

The *Criminal Case Conferencing Trial Act 2008* establishes a trial scheme (which commenced on 1 May 2008) for participation in criminal case conferencing. The scheme is designed to encourage early plea negotiations in certain criminal cases heard in certain courts, before committal for trial.

The Act prescribes discounts for guilty pleas in matters to which the scheme applies. If an offender pleads guilty at any time before being committed for sentence, the court must allow a discount of 25%. If an offender pleads guilty to an offence at any time after being committed for trial, the court may allow a discount of up to 12.5% (unless “substantial grounds” exist that warrant a discount that is greater than 12.5% but not greater than 25%). To the extent that these discounts apply, the sentencing procedure set out in sections 21A and 22 of the *Crimes (Sentencing Procedure) Act 1999* (and the relevant common law sentencing guideline) is displaced.

The objects of this Bill are as follows:

- (a) to discontinue the trial criminal case conferencing scheme established under the Act (and, accordingly, to repeal the *Criminal Case Conferencing Trial Act 2008* and the *Criminal Case Conferencing Trial Regulation 2008*) on the date of assent to the proposed Act (the *repeal date*),

- (b) to preserve any entitlement under the scheme to a 25% discount on sentence for a guilty plea entered before committal,
- (c) to provide for the continued application of a discount under the scheme to any offender who (before the repeal date) had pleaded guilty to an offence at any time after being committed for trial,
- (d) to continue the application of certain procedural protections under the Act.

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 to the proposed Act.

Clause 3 repeals the *Criminal Case Conferencing Trial Act 2008* and the *Criminal Case Conferencing Trial Regulation 2008*.

Schedule 1 Amendment of Crimes (Sentencing Procedure) Act 1999 No 92

Schedule 1 [1] enables regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.

Schedule 1 [2] provides for various matters of a savings or transitional nature (as referred to in the objects of the Bill set out above) as a consequence of the repeal of the *Criminal Case Conferencing Trial Act 2008*.

First print



New South Wales

Criminal Case Conferencing Trial Repeal Bill 2011

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Repeal of Criminal Case Conferencing Trial Act 2008 No 10 and Regulation	2
Schedule 1 Amendment of Crimes (Sentencing Procedure) Act 1999 No 92	3



New South Wales

Criminal Case Conferencing Trial Repeal Bill 2011

No. , 2011

A Bill for

An Act to repeal the *Criminal Case Conferencing Trial Act 2008* and to make provision consequent on that repeal.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Criminal Case Conferencing Trial Repeal Act 2011</i> .	3
2 Commencement	4
This Act commences on the date of assent to this Act.	5
3 Repeal of Criminal Case Conferencing Trial Act 2008 No 10 and Regulation	6
The following are repealed:	7
(a) <i>Criminal Case Conferencing Trial Act 2008</i> ,	8
(b) <i>Criminal Case Conferencing Trial Regulation 2008</i> .	9
	10

Schedule 1	Amendment of Crimes (Sentencing Procedure) Act 1999 No 92	1
		2
[1]	Schedule 2 Savings, transitional and other provisions	3
	Insert at the end of clause 1 (1):	4
	<i>Criminal Case Conferencing Trial Repeal Act 2011</i>	5
[2]	Schedule 2	6
	Insert at the end of the Schedule with appropriate Part and clause numbering:	7
Part	Provisions consequent on repeal of Criminal Case Conferencing Trial Act 2008	8
		9
	Definitions	10
	In this Part:	11
	<i>repeal date</i> means the date of assent to the <i>Criminal Case Conferencing Trial Repeal Act 2011</i> .	12
		13
	<i>repealed Act</i> means the <i>Criminal Case Conferencing Trial Act 2008</i> , as in force immediately before its repeal.	14
		15
	Effect of repeal of Act	16
	Except as provided by this Part, the repealed Act ceases to apply on and from the repeal date to and in respect of any proceedings for an offence to which the repealed Act applied immediately before the repeal date (regardless of what steps have been taken with respect to any compulsory conference under the repealed Act in the proceedings).	17
		18
		19
		20
		21
		22
	Continued operation of sentencing discount arrangements	23
	(1) Part 4 (Sentences—guilty pleas) of the repealed Act continues to apply (as if it had not been repealed) to and in respect of the sentencing of an offender on or after the repeal date in proceedings for an offence to which the repealed Act applied immediately before the repeal date, but not to the sentencing of an offender who pleads guilty, on or after the repeal date, at any time after being committed for trial.	24
		25
		26
		27
		28
		29
		30
	(2) The repeal of the repealed Act does not affect a sentence imposed before the repeal date.	31
		32

Continued operation of certain protections and offences

The following provisions of the repealed Act continue to apply (as if the Act had not been repealed):

- (a) section 6 (4) of the repealed Act, to and in respect of the admissibility of evidence of anything said or admission made (as referred to in that provision) before the repeal date, in any proceedings before a court, tribunal or body commenced before, or on or after, that date,
- (b) section 9 (3) (as qualified by section 9 (7)) of the repealed Act, to and in respect of a pre-conference disclosure certificate filed with the Local Court before the repeal date, in relation to any Local Court proceedings with respect to the matters set out in it commenced before, or on or after, the repeal date,
- (c) section 12 (5) of the repealed Act, to and in respect of a compulsory conference certificate filed before the repeal date,
- (d) section 13 of the repealed Act, to and in respect of:
 - (i) the production and admissibility of a compulsory conference certificate filed before the repeal date (or a copy of such a certificate), in any proceedings before a court, tribunal or body commenced before, or on or after, that date, and
 - (ii) a disclosure of a compulsory conference certificate filed before the repeal date or a copy of such a certificate (or any of its contents) that occurs on or after the repeal date,

Note. Section 13 (5) of the repealed Act creates an offence of disclosing the contents of a filed compulsory conference certificate (or copy) in contravention of section 13 (1) of the repealed Act.

- (e) section 14 of the repealed Act, to and in respect of a disclosure of information referred to in that section that occurs before, or on or after, the repeal date.

General

- | | | |
|-----|--|-------------|
| (1) | The provisions of this Part are subject to any regulations made under clause 1. | 1
2
3 |
| (2) | Except to the extent otherwise provided by this Part, nothing in this Part affects the application of section 30 of the <i>Interpretation Act 1987</i> . | 4
5
6 |