

Act 1994 No. 15

## CRIMINAL APPEAL (AMENDMENT) BILL 1994

NEW SOUTH WALES



### EXPLANATORY NOTE

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

This Bill is cognate with the Supreme Court (Amendment) Bill 1994.

The Criminal Appeal Act 1912 establishes the Court of Criminal Appeal to hear certain appeals in criminal cases, including appeals against convictions and sentences.

The object of this Bill is to amend that Act:

- (a) to provide that in an appeal from a decision of the Supreme Court exercising its summary jurisdiction (and from certain other courts) the Court of Criminal Appeal is not required to hear additional or substituted evidence (as it is required to do at present) but may give leave to adduce fresh, additional or substituted evidence if there are special grounds for doing so; and  
to allow the Chief Justice to direct that an appeal against a sentence (including an application for leave to appeal) be heard by only 2 judges, instead of 3 judges (as is presently the case), if in the opinion of the Chief Justice the case is not likely to require the resolution of a disputed issue of general principle; and
- (b) to provide that in a case to which (a) applies, if the 2 judges do not come to the same decision on the proceedings, the proceedings are to be reheard and determined by a court consisting of 3 judges (including, if practicable, the 2 judges who first heard the proceedings on appeal); and
- (c) to allow any judge or judges of the Court of Criminal Appeal to deliver the judgment of the court so that the judges who heard the proceedings need not be present at the sitting of the court when judgment is delivered; and
- (d) to make minor and consequential amendments and enact transitional provisions.

The Supreme Court (Amendment) Bill 1994 also amends the Suitors' Fund Act 1951 to enable a party to proceedings that are required to be reheard as referred to in (c) above (or under the parallel provisions of the Supreme Court (Amendment) Bill 1994) to be paid the party's costs on the aborted proceedings out of the Suitors' Fund established under that Act.

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*Criminal Appeal (Amendment) 1994 [Act 1994 No. 15]*

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**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the Schedule of amendments to the Criminal Appeal Act 1912.

**Schedule 1** contains the amendments to the Criminal Appeal Act 1912 described above.

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