

CRIMINAL APPEAL (AMENDMENT) BILL 1987

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Supreme Court (Appeals) Amendment Bill 1987.

The object of this Bill is to confer certain rights of appeal to the Court of Criminal Appeal against an interlocutory judgment or order (such as on an application for a stay of proceedings)—

- (a) in criminal proceedings in the Supreme Court or the District Court; or
- (b) in proceedings in the Supreme Court or the District Court on a committal for sentence under section 51A of the Justices Act 1902 following a plea of guilty.

The Bill also proposes to enable the Court of Criminal Appeal to remit particular matters or issues for determination of the Court of first instance.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the proposed Act to commence on 18 December 1987.

Clause 3 provides for the Criminal Appeal Act 1912 to be amended in accordance with Schedule 1.

Schedule 1 (1) makes an amendment consequential on that proposed by Schedule 1 (2).

Schedule 1 (2) provides for an appeal to the Court of Criminal Appeal against an interlocutory judgment or order (such as a stay of proceedings or a refusal of such a stay) in proceedings (including committal proceedings) for the prosecution of offenders on indictment in the Supreme Court or the District Court. The Attorney General or the Director of Public Prosecutions would be able to appeal as of right (this is the present position on a stay of proceedings). Any other appeal would be by leave of the Court of Criminal Appeal or on a certificate by the trial judge and would replace the present right of appeal from the District Court (but not the Supreme Court) to the Court of Appeal.

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Schedule 1 (3) adds to the supplementary powers of the Court of Criminal Appeal by enabling it to remit matters or issues for determination by the Court of first instance.
