

[Act 1996 No 65]



New South Wales

Crimes Amendment (Review of Convictions and Sentences) Bill 1996

Explanatory note

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

Overview of Bill

The object of this Bill is to amend Part 13A of the *Crimes Act 1900* so as:

- (a) to enable reviews to be carried out under Part 13A in relation to sentences as well as in relation to convictions, and
 - (b) to enable reviews to be carried out under Part 13A in relation to the proceedings giving rise to convictions and sentences as well as in relation to the convictions and sentences themselves, and
 - (c) to make it clear that consideration of a petition or application for review of a conviction or sentence may be dismissed if it appears that the matter to which it relates has been fully dealt with in the proceedings giving rise to the conviction or sentence, or in any proceedings on appeal from the conviction or sentence, and
 - (d) to make it clear that consideration of a petition or application for review of a conviction or sentence may be deferred while appeal proceedings on the conviction or sentence are yet to be finally determined, or if the petition or application contains inadequate information, and
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- (e) to give the Supreme Court the same power as the Governor has to refer a case to the Court of Criminal Appeal to be dealt with as an appeal under the *Criminal Appeal Act 1912*, and
- (f) to enable a person conducting an inquiry under Part 13A to refer questions of sentence to the Court of Criminal Appeal in the same way as the person can currently refer questions of guilt.

The Bill also contains a provision of a 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.

Clause 3 is a formal provision giving effect to the amendments to the *Crimes Act 1900* set out in Schedule 1.

Extension of Part 13A to sentences

Schedule 1 [4] gives effect to the object referred to in paragraph (a) above (to enable reviews to be carried out under Part 13A in relation to sentences as well as in relation to convictions).

Extension of Part 13A to proceedings giving rise to conviction or sentence

Schedule 1 [3] gives effect to the object referred to in paragraph (b) above (to enable reviews to be carried out under Part 13A in relation to the proceedings giving rise to convictions and sentences as well as in relation to the convictions and sentences themselves).

Clarification of grounds for refusing consideration of petition or application

Schedule 1 [5] and [8] give effect to the object referred to in paragraph (c) above (to make it clear that consideration of a petition or application for review of a conviction or sentence may be dismissed if it appears that the matter to which it relates has been fully dealt with in the proceedings giving rise to the conviction or sentence, or in any proceedings on appeal from the conviction or sentence).

Clarification of grounds for deferring consideration of petition or application

Schedule 1 [6] and [9] give effect to the object referred to in paragraph (d) above (to make it clear that consideration of a petition or application for review of a conviction or sentence may be deferred while appeal proceedings on the conviction or sentence are yet to be finally determined, or if the petition or application contains inadequate information).

Reference of cases to the Court of Criminal Appeal by the Supreme Court

Schedule 1 [7] and [11] give effect to the object referred to in paragraph (e) above (to give the Supreme Court the same power as the Governor has to refer a case to the Court of Criminal Appeal to be dealt with as an appeal under the *Criminal Appeal Act 1912*).

Reference of cases to the Court of Criminal Appeal by persons conducting inquiries

Schedule 1 [10], [12] and [13] give effect to the object referred to in paragraph (f) above (to enable a person conducting an inquiry under Part 13A to refer questions of sentence to the Court of Criminal Appeal in the same way as the person can currently refer questions of guilt).

Miscellaneous matters

Schedule 1 [1] and [2] amend the table of contents in section 1, and the heading to Part 13A, so as to reflect the extension of Part 13A to sentences as well as convictions.

Schedule 1 [14] amends the Eleventh Schedule so as to provide for the application of the amendments made by the proposed Act to convictions and sentences arising before the commencement of that Act.