

[Act 1996 No 5]



New South Wales

# Crimes Amendment (Mandatory Life 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 the *Crimes Act 1900* to specify the circumstances in which it will be mandatory for a court to impose a life sentence on a person found guilty of murder or of trafficking in large commercial quantities of heroin or cocaine.

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## 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 a day to be appointed by proclamation.

**Clause 3** gives effect to the Schedule of amendments to the *Crimes Act 1900*.

## Schedule 1 Amendments

### Mandatory life sentences for certain offences

**Schedule 1** amends the *Crimes Act 1900* to achieve the object of this Bill.

By section 431A of the *Crimes Act 1900* the punishment of penal servitude for the term of a person's natural life may be imposed only for the offence of murder and certain offences under the *Drug Misuse and Trafficking Act 1985* involving large commercial quantities of prohibited drugs or prohibited plants (but not cannabis plant or cannabis leaf). Section 431B is being inserted into the *Crimes Act 1900* to specify the circumstances that, if satisfied, will result in the imposition of that punishment.

In the case of murder, a life sentence is to be imposed if “the level of culpability in the commission of the offence is so extreme that the community interest in retribution, punishment, community protection and deterrence can only be met through the imposition of that sentence”.

In the case of the drug offences involving large commercial quantities of heroin or cocaine, a life sentence is to be imposed if the level of culpability in the commission of the offence is so extreme that the community interest in retribution, punishment, community protection and deterrence can only be met through the imposition of that sentence and:

- the offence involved a high degree of planning and organisation and the use of other people acting at the direction of the person convicted of the offence, and
- the defendant was solely or principally responsible for planning, organising and financing the offence, and
- the heroin or cocaine was of a high degree of purity, and
- the defendant committed the offence solely for financial reward.

The court's discretion under section 442 of the *Crimes Act 1900* to consider the imposition of a lesser punishment is not affected in the case of murder but that discretion, as well as a corresponding discretion under section 33A (2) of the *Drug Misuse and Trafficking Act 1985*, are displaced in the case of the drug offences if the requisite criteria are established.

The enumeration, in subsection (2) of the proposed section, of the circumstances in which a court is to impose a life sentence on a person convicted of a drug offence involving large commercial quantities of heroin or cocaine is not intended to limit the imposition of the sentence to those circumstances.

The proposed section will not apply to persons who were under 18 years of age when the offences were committed.

The proposed section will not apply to offences committed before the section commences.