

Passed by both Houses



New South Wales

Criminal Procedure Amendment (Sexual Offence Case Management) Bill 2005

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Criminal Procedure Act 1986 No 209	2
Schedule 1 Amendments	3

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2005*



New South Wales

Criminal Procedure Amendment (Sexual Offence Case Management) Bill 2005

Act No , 2005

An Act to amend the *Criminal Procedure Act 1986* to provide that a pre-trial order made in proceedings relating to a prescribed sexual offence is binding on the trial Judge.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Criminal Procedure Amendment (Sexual Offence Case Management) Act 2005*.

2 Commencement

This Act commences on the date of assent to this Act.

3 Amendment of Criminal Procedure Act 1986 No 209

The *Criminal Procedure Act 1986* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 130A

Insert after section 130:

130A Pre-trial orders bind trial Judge in sexual offence proceedings

- (1) A pre-trial order made by a Judge in sexual offence proceedings is binding on the trial Judge in those proceedings unless, in the opinion of the trial Judge, it would not be in the interests of justice for the order to be binding.
- (2) If, on an appeal against a conviction for a prescribed sexual offence, a new trial is ordered, a pre-trial order made by a Judge in relation to the sexual offence proceedings from which the conviction arose is binding on the trial Judge hearing the fresh trial proceedings unless:
 - (a) the pre-trial order is inconsistent with an order made on appeal, or
 - (b) in the opinion of the trial Judge, it would not be in the interests of justice for the order to be binding.
- (3) If sexual offence proceedings before a trial Judge are discontinued for any reason, a pre-trial order made by a Judge in respect of those proceedings is binding on a trial Judge hearing any subsequent trial proceedings relating to the same offence as the discontinued proceedings unless, in the opinion of the trial Judge, it would not be in the interests of justice for the order to be binding.
- (4) For the purposes of this section:

pre-trial order means any order made after the indictment is first presented but before the empanelment of a jury for a trial.

sexual offence proceedings means proceedings on indictment in respect of a prescribed sexual offence.

trial Judge means the Judge before whom the trial proceedings, following empanelment of a jury, are heard.
- (5) For the purposes of this section, a reference to the *empanelment of a jury* is, in the case of a trial by a Judge alone, taken to be a reference to the point in time when the Judge first assumes the role of the tribunal of fact.

[2] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Criminal Procedure Amendment (Sexual Offence Case Management) Act 2005

[3] Schedule 2

Insert at the end of the Schedule with appropriate Part and clause numbers:

**Part Provisions consequent on enactment of
Criminal Procedure Amendment (Sexual
Offence Case Management) Act 2005**

Application of section 130A

- (1) Section 130A, as inserted by the amending Act, applies only to pre-trial orders made after the commencement of that section (irrespective of when the relevant sexual offence proceedings commenced).
- (2) In this clause, **amending Act** means the *Criminal Procedure Amendment (Sexual Offence Case Management) Act 2005*.