

Statute Law (Miscellaneous Provisions) Act 2018 No 25

[2018-25]



New South Wales

Status Information

Currency of version

Historical version for 2 August 2018 to 24 September 2018 (accessed 29 April 2024 at 1:05)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Note**

Amending provisions are subject to automatic repeal pursuant to sec 30C of the [Interpretation Act 1987](#) [No 15](#) once the amendments have taken effect.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 24 September 2018

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Statute Law (Miscellaneous Provisions) Act 2018 No 25



New South Wales

An Act to repeal certain Acts and to amend certain other Acts and instruments in various respects and for the purpose of effecting statute law revision; and to make certain savings.

1 Name of Act

This Act is the *Statute Law (Miscellaneous Provisions) Act 2018*.

2 Commencement

- (1) This Act commences 14 days after the date of assent to this Act, except as provided by this section.
- (2) The amendments made by Schedules 1 and 5 to this Act commence on the day or days specified in those Schedules in relation to the amendments concerned. If a commencement day is not specified, the amendments commence in accordance with subsection (1).
- (3) Schedule 2 commences on 1 August 2018.
- (4) Schedule 4 commences on the date of assent to this Act.

3 Explanatory notes

The matter appearing under the heading “Explanatory note” in any of the Schedules does not form part of this Act.

Schedule 1 Minor amendments

1.1, 1.2

1.3 *Children (Detention Centres) Act 1987 No 57*

[1] Section 9A Certain persons not to be detained in detention centres

Insert “(to the extent the warrant continues in force after the repeal of that section by the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017*)” after “bond”

in section 9A (2) (c).

[2] Section 9A (2) (e)

Insert “(to the extent the warrant continues in force after the repeal of that section by the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017*)” after “order”.

[3] Section 9A (2) (e1)

Insert after section 9A (2) (e):

(e1) a warrant issued under section 181 (1) (a) of the *Crimes (Administration of Sentences) Act 1999* in relation to an alleged failure to comply with a condition of an order referred to in that paragraph (to the extent the warrant continues in force after the substitution of section 181 (1) by the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017*), or

[4] Section 9A (2) (f)

Omit “181 (1) (a)”. Insert instead “181 (1)”.

[5] Section 9A (2) (f1)

Insert after section 9A (2) (f):

(f1) a warrant issued under section 107C or 108C of the *Crimes (Administration of Sentences) Act 1999* in relation to an alleged failure to comply with a condition of a community correction order or of a conditional release order, or

Commencement

The amendments to the *Children (Detention Centres) Act 1987* commence on a day or days to be appointed by proclamation.

Explanatory note

Items [1]–[3] of the proposed amendments make it clear that a person aged 18–21 is not to be detained in a detention centre under an existing warrant issued in relation to an alleged failure to comply with the conditions of a good behaviour bond, community service order, intensive correction order, home detention order or parole order, where the bond or order is issued or made before the commencement of the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017*.

Item [4] removes an unnecessary reference to a paragraph of section 181 (1) of the *Crimes (Administration of Sentences) Act 1999* (as amended by the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017*).

Item [5] provides that a person aged 18–21 is not to be detained in a detention centre under a warrant issued in relation to an alleged failure to comply with the conditions of a community correction order or conditional release order, where the order is made after the commencement of the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017*.

1.4 Crimes (Administration of Sentences) Act 1999 No 93

[1] Section 3 Interpretation

Omit “Part 3, 4, 4A or 5” and “Part 3, 4 or 4A” from the definition of **offender** in section 3 (1).

Insert instead “Part 3, 4A, 4B, 4C or 5” and “Part 3, 4A, 4B or 4C”, respectively.

[2] Section 232 Commissioner

Omit “Part 2, 3 or 4” from section 232 (1) (a1). Insert instead “Part 2 or 3”.

Commencement

The amendments to the [Crimes \(Administration of Sentences\) Act 1999](#) commence on a day or days to be appointed by proclamation.

Explanatory note

Item [1] of the proposed amendments updates the definition of **offender** for the purposes of the [Crimes \(Administration of Sentences\) Act 1999](#) to make it clear that the definition applies for the purposes of provisions dealing with the administration of community correction orders and conditional release orders that are to be inserted by the [Crimes \(Sentencing Procedure\) Amendment \(Sentencing Options\) Act 2017](#). The amendment also omits a reference to repealed Part 4.

Item [2] omits a reference to repealed Part 4.

1.5 Crimes (Sentencing Procedure) Act 1999 No 92

Section 25B Definitions

Omit the definition of **sentence**. Insert instead:

sentence means a term of imprisonment, fine or the term of an intensive correction order, a community correction order or a conditional release order.

Commencement

The amendment to the [Crimes \(Sentencing Procedure\) Act 1999](#) commences or is taken to have commenced on the commencement of Schedule 1 to the [Crimes \(Sentencing Procedure\) Amendment \(Sentencing Options\) Act 2017](#).

Explanatory note

The amendment updates a definition of **sentence** to reflect changes to sentencing options as a consequence of amendments made to the [Crimes \(Sentencing Procedure\) Act 1999](#) by the [Crimes \(Sentencing Procedure\) Amendment \(Sentencing Options\) Act 2017](#).

1.6-1.24

(Repealed)

Schedules 2-6 (Repealed)

Schedule 7 General savings, transitional and other provisions

1 Effect of amendment of amending provisions

(1) An amendment made by Schedule 1 or 5 to an amending provision contained in an Act or instrument is, if the amending provision has commenced before the Schedule 1 or 5 amendment concerned, taken to have effect as from the commencement of the amending provision (whether or not the amending provision has been repealed).

(2) In this clause:

amending provision means a provision of an Act or instrument that makes a direct amendment to an Act or instrument by:

- (a) the repeal or omission of matter contained in the amended Act or instrument without the insertion of any matter instead of the repealed or omitted matter, or
- (b) the omission of matter contained in the amended Act or instrument and the insertion of matter instead of the omitted matter, or
- (c) the insertion into the amended Act or instrument of matter, not being matter inserted instead of matter omitted from the Act or instrument.

Explanatory note

This clause ensures that an amendment made by the proposed Act to a repealing or amending provision of an Act or instrument will (if the repealing or amending provision commences before the amendment made by the proposed Act) be taken to have commenced on the date the repealing or amending provision commences.

2 Effect of amendment or repeal on acts done or decisions made

Except where it is expressly provided to the contrary, if this Act:

- (a) amends a provision of an Act or an instrument, or
- (b) repeals and re-enacts (with or without modification) a provision of an Act or an instrument,

any act done or decision made under the provision amended or repealed has effect after the amendment or repeal as if it had been done or made under the provision as so amended or repealed.

Explanatory note

This clause ensures that the amendment or repeal of a provision will not, unless expressly provided, vitiate any act done or decision made under the provision as in force before the amendment or repeal.

3 Effect of amendment on instruments

Except where expressly provided to the contrary, any instrument made under an Act

amended by this Act, that is in force immediately before the commencement of the amendment, is taken to have been made under the Act as amended.

Explanatory note

This clause ensures that, unless expressly provided, any instrument that is in force and made under a provision of an Act that is amended or substituted by the proposed Act will be taken to have been made under the Act as amended.

4 Revocation of repeal

Section 29A of the [Interpretation Act 1987](#) applies to the repeal of Acts or instruments, or provisions of Acts or instruments, by this Act.

Explanatory note

The effect of this clause is to enable the Governor, by proclamation, to revoke the repeal of any Act or instrument, or any provision of any Act or instrument, by the proposed Act. The Act or provision the subject of the revocation of repeal is taken not to be, and never to have been, repealed.

5 Regulations

- (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Explanatory note

This clause enables the making of regulations of a savings or transitional nature relating to incidental matters arising out of the proposed Act.