

Crimes and Courts Legislation Amendment Act 2006 No 107

[2006-107]



New South Wales

Status Information

Currency of version

Repealed version for 4 July 2007 to 18 December 2009 (accessed 25 November 2024 at 22:47)

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—

- **Does not include amendments by**
[Statute Law \(Miscellaneous Provisions\) Act \(No 2\) 2009 No 106](#) (not commenced — to commence on 8.1.2010)
- **Repeal**
The Act was repealed by sec 5 (1) of this Act with effect from 19.12.2009.

Authorisation

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Contents

| | |
|------------------------------------|---|
| Long title | 3 |
| 1 Name of Act | 3 |
| 2 Commencement | 3 |
| 3 Amendments | 3 |
| 4 Explanatory notes | 3 |
| 5 Repeal of Act | 3 |
| Schedule 1 Amendments | 4 |

Crimes and Courts Legislation Amendment Act 2006 No 107



New South Wales

An Act to make miscellaneous amendments to legislation relating to crimes, courts and other matters.

1 Name of Act

This Act is the *Crimes and Courts Legislation Amendment Act 2006*.

2 Commencement

- (1) This Act commences on the date of assent to this Act, except as otherwise provided by this section.
- (2) The amendments made by Schedule 1 commence on the day or days specified in that Schedule in relation to the amendments concerned. If a commencement day is not specified, the amendments commence on the date of assent to this Act.

3 Amendments

The Acts specified in Schedule 1 are amended as set out in that Schedule.

4 Explanatory notes

The matter appearing under the heading “Explanatory note” in Schedule 1 does not form part of this Act.

5 Repeal of Act

- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendments

(Section 3)

1.1-1.10

(Repealed)

1.11 Criminal Procedure Act 1986 No 209

[1]-[19] (Repealed)

[20] Section 237 Duration of arrest warrants

Omit “is carried out” from section 237 (1). Insert instead “expires”.

[21] Section 237 (1A)-(1C)

Insert after section 237 (1):

(1A) A warrant to arrest an accused person in respect of an offence specified in the Table below expires at the end of the period specified in the Table in relation to the offence.

| Offence | Period |
|--|----------|
| Indictable offences (punishable by imprisonment for life or 25 years or more) | 50 years |
| Indictable offences (punishable by imprisonment for less than 25 years and not less than 5 years) | 30 years |
| Indictable offences not punishable by imprisonment for 5 years or more (where the accused person is not a child) | 15 years |
| Summary offences (where the accused person is not a child) | 10 years |
| Indictable offences not punishable by imprisonment for 5 years or more (where the accused person is a child) | 10 years |
| Summary offences (where the accused person is a child) | 5 years |

(1B) A warrant issued for the arrest of a convicted person to bring that person before a court for sentencing expires at the end of 30 years after it is issued.

(1C) Nothing in subsection (1A) or (1B) prevents a new warrant for arrest from being issued in respect of the same offence or offences as a previous arrest warrant.

[22], [23] (Repealed)

Explanatory note

The term **public officer** is defined in section 3 of the *Criminal Procedure Act 1986*. Item [1] of the proposed amendments establishes an evidentiary presumption that a person purporting to be a public officer is acting in an official capacity.

Sections 48, 49, 173 and 174 of the *Criminal Procedure Act 1986* provide that various authorised persons may commence proceedings. Items [2], [3], [12] and [13] make it clear that section 14 of the *Criminal Procedure Act 1986* or authorisation under any other law is sufficient authorisation for the purposes of those sections.

Sections 52 and 177 of the *Criminal Procedure Act 1986* require a court attendance notice issued by a police officer to be served on the accused by a police officer. Items [4] and [14] provide that a court attendance notice issued by a police officer may also be served by a prosecutor.

Sections 52 (4) and 177 (4) of the *Criminal Procedure Act 1986* require that an endorsement of service be filed with a court when a court attendance notice is issued. It was held in *Sharman v Director of Public Prosecutions*(2006) NSWSC 135 that a failure to comply with this requirement may render the proceedings invalidly commenced. Items [5] and [15] remove the link between service of a court attendance notice and the jurisdiction of the court. Items [6] and [16] remove redundant provisions relating to when proceedings commence.

At present, prosecution evidence in committal proceedings is given in the form of written statements of witnesses that are tendered in evidence at the proceedings. Section 79 of the *Criminal Procedure Act 1986* requires that a written statement be endorsed in accordance with the rules. Item [7] provides an exemption for children from having to endorse a written statement where the statement is a transcript certified under section 76.

Item [8] gives a Magistrate a discretion to admit prosecution evidence in committal proceedings despite a non-compliance with the requirements of the relevant provisions of the Act or the rules if the Magistrate is satisfied that the non-compliance is trivial in nature or that there are other good reasons to excuse the non-compliance and admit the evidence.

Currently, section 91 of the *Criminal Procedure Act 1986* allows a Magistrate to direct a person who has provided a written statement to attend to give oral evidence at the committal proceedings in exceptional circumstances. Item [9] amends section 91 to clarify that a direction may be given in respect of any written statement that the prosecution intends to tender as evidence in the proceedings. Items [10] and [11] remove any doubt that the tendering of the written statement to the Magistrate, for the purpose of a directions hearing under section 91, prevents the Magistrate from giving such a direction.

Items [17], [18] and [19] enable summary offence proceedings relating to a death that is the subject of a coronial inquest to be commenced within 6 months from when the inquest concludes or no later than 2 years after the commission of the offence, whichever occurs first. Item [23] includes a savings and transitional provision that extends the amendment to summary offences committed before the commencement of that amendment if the existing limitation period has not expired.

Currently there is no provision in the *Criminal Procedure Act 1986* that enables a warrant issued under that Act to expire. Items [20] and [21] make provision for the expiration of arrest warrants issued under the Act. Item [23] inserts a savings and transitional provision making it clear that the amendments do not apply to existing warrants.

Item [22] enables savings and transitional regulations to be made as a consequence of the proposed amendments.

1.12 Director of Public Prosecutions Act 1986 No 207

Section 9 Taking over prosecutions or proceedings

Insert after section 9 (4):

- (5) For the purposes of this section, **proceeding** includes any application, appeal or other proceeding commenced under Division 1A of Part 3 of the *Confiscation of Proceeds of Crime Act 1989*.

Explanatory note

The proposed amendment to the *Director of Public Prosecutions Act 1986* makes it clear that the Director of Public Prosecutions may take over proceedings relating to the freezing of assets commenced by a police officer under Division 1A of Part 3 of the

Confiscation of Proceeds of Crime Act 1989.

1.13-1.23

(Repealed)