



New South Wales

Crimes (Sentencing Procedure) Amendment (Standard Non-parole Periods) Bill 2013

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 (Sentencing Procedure) Act 1999* with respect to the setting of standard non-parole periods for offences.

The amendments made by the Bill clarify the following aspects of the role of the standard non-parole period in sentencing, as a consequence of the High Court decision in *Muldrock v The Queen* [2011] HCA 39:

- (a) a standard non-parole period represents the non-parole period not for the actual offence for which an offender is to be sentenced but for an offence of the same kind that is in the middle of the range of seriousness taking into account only objective factors that affect its relative seriousness,
- (b) the standard non-parole period for an offence is to be taken into account in determining the appropriate sentence for an offender,
- (c) in taking a standard non-parole period into account, a court is not required to make an assessment of the extent to which the seriousness of the offence for which the non-parole period is set differs from that of an offence to which the standard non-parole period is referable.

The Bill implements recommendations of the NSW Law Reform Commission in its *Interim report on standard minimum non-parole periods* of May 2012.

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 to the proposed Act.

Schedule 1 Amendment of Crimes (Sentencing Procedure) Act 1999 No 92

Schedule 1 [2] makes it clear that a standard non-parole period represents the non-parole period not for the actual offence for which an offender is to be sentenced but for an offence of the same kind that is in the middle of the range of seriousness, and that this is determined by taking into account only objective factors that affect its relative seriousness (and without reference to matters personal to a particular offender or class of offenders).

Schedule 1 [3] makes it clear that a standard non-parole period is a matter to be taken into account in determining the appropriate sentence for an offender (as a “legislative guidepost”). The amendment does not affect a court’s usual sentencing practice of assessing the relative seriousness of an offence taking into account objective and subjective factors and does not limit the other matters that a court is required or permitted to take into account in determining the appropriate sentence for an offender. **Schedule 1 [1]** makes a consequential amendment.

Schedule 1 [4] provides that an amendment made by the proposed Act extends to an offence committed before the commencement of the amendment but does not affect any sentence imposed before that commencement.