

Courts and Crimes Legislation Amendment Bill 2010

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Child Protection (Offenders Registration) Act 2000* to make new Commonwealth offences relating to child sex tourism registrable offences under that Act,
- (b) to amend the *Criminal Procedure Act 1986* to extend the circumstances in which an alleged victim of an offence involving violence is not required to attend committal hearings,
- (c) to amend the *District Court Act 1973* so that a person who is or has been an associate Judge of the Supreme Court of New South Wales may be appointed as an Acting Judge of the District Court, even if that person has reached the age of 72 years but only if he or she has not yet reached the age of 75 years,
- (d) to amend the *Solicitor General Act 1969* to ensure that the Attorney General may delegate his or her power to intervene in proceedings to the Solicitor General, regardless of whether the power is conferred on the Attorney General in his or her capacity as Attorney General or as a Minister administering an Act,
- (e) to amend the *Trustee Act 1925* to allow the regulations made under that Act to prescribe a class of insurers that may insure the repayment of a loan to a trustee for the purposes of that Act.

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 Child Protection (Offenders Registration) Act 2000 No 42

Schedule 1 [1] and [2] amend the definitions of ***Class 1 offence*** and ***Class 2 offence*** to reflect the transferral of provisions relating to offences involving child sex tourism from the *Crimes Act 1914* of the Commonwealth to the *Criminal Code* of the Commonwealth. The amendments also insert new sex offences dealt with by the *Criminal Code*. As a consequence of the amendments, the reporting obligations provided for by the Act will apply to a person sentenced in respect of such an offence.

Schedule 1 [3] inserts a regulation-making power for matters of a savings and transitional nature. **Schedule 1 [4]** makes a transitional provision which ensures that the amendments extend to offences in respect of which a sentence was imposed before the amendments commence. The provision also makes adjustments to the reporting obligations of persons who were sentenced in respect of such offences before the amendments take effect.

Schedule 2 Amendment of Criminal Procedure Act 1986 No 209

Schedule 2 [1] extends the definition of ***offence involving violence*** so that it includes an offence the elements of which include the commission of, or intention to commit, any offence that is already defined as an offence involving violence. Consequently, an alleged victim of such an offence will not be required to attend a committal hearing unless the court is satisfied that there are special reasons why the alleged victim should attend to give oral evidence.

Schedule 2 [2] ensures that the amendment to the definition of ***offence involving violence*** only applies in committal proceedings that a Magistrate first starts to hear after the commencement of the amendment.

Schedule 3 Amendment of District Court Act 1973 No 9

Schedule 3 extends the kind of qualified person who may be appointed as an Acting Judge of the District Court from a retired Judge to include a person who is or has been an associate Judge of the Supreme Court of New South Wales. Such a person may be appointed as an acting judge even though that person has reached the age of 72 years (or will have reached that age before their appointment as acting judge expires).

However, a qualified person cannot be appointed as an acting judge for any period that extends beyond the day on which that person reaches the age of 75 years.

Schedule 4 Amendment of Solicitor General Act 1969 No 80

Schedule 4 allows any power, authority, duty or function of the Attorney General to intervene in proceedings (whether personally or by agent) to be delegated by the Attorney General, whether the power, authority, duty or function to be delegated is conferred on the Attorney General in his or her capacity as Attorney General or in his or her capacity as the Minister administering an Act.

Schedule 5 Amendment of Trustee Act 1925 No 14

Schedule 5 [1] clarifies that it is not necessary to prescribe an individual insurer for the purposes of a definition of *prescribed insurer* in the *Trustee Act 1925*. Rather, a class of insurers can be prescribed. A prescribed insurer is an insurer who can insure a loan repayment to a trustee under the provisions of the Act that specify the maximum ratio of the amount of the loan to the value of the property that secures the loan.

Schedule 5 [2] saves the existing regulation.