



New South Wales

# Crimes Legislation Amendment Bill 2013

## 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 *Bail Act 1978* to clarify that a magistrate may review any decision made in relation to bail by the President of the Children's Court, exercising the jurisdiction of the Children's Court,
- (b) to amend the *Crimes Act 1900* to extend the period for review of certain provisions of that Act relating to consorting with convicted offenders,
- (c) to make various amendments to the *Crimes (Forensic Procedures) Act 2000*, including to provide that a hearing of an application for an order to authorise the carrying out of a forensic procedure may be heard *ex parte*,
- (d) to amend the *Crimes (High Risk Offenders) Act 2006* in relation to the provision to the Attorney General of information held by a court relating to the behaviour, or physical or mental condition, of an offender,
- (e) to amend the *Criminal Procedure Act 1986* to make it clear that protections that apply to the giving of evidence by a witness in certain sexual offence proceedings extend to evidence about acts that would constitute a relevant sexual offence,
- (f) to amend the *Interpretation Act 1987* in relation to the interpretation of references to offences punishable by imprisonment for a specified term or more.

## 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 legislation**

### **Schedule 1.1 Bail Act 1978 No 161**

**Schedule 1.1** clarifies that a magistrate may review any decision made in relation to bail by the President of the Children's Court, exercising the jurisdiction of the Children's Court.

### **Schedule 1.2 Crimes Act 1900 No 40**

**Schedule 1.2** extends the period within which the Ombudsman must prepare a report on the operation of certain provisions of the *Crimes Act 1900* relating to consorting with convicted offenders. The review period is currently due to end on 9 April 2014 (2 years after the commencement of those provisions). The proposed amendment extends the review period for a further year.

### **Schedule 1.3 Crimes (Forensic Procedures) Act 2000 No 59**

**Schedule 1.3 [1]** makes it clear that the legal representative and interview friend of a suspect who is subject to an order (made by oral communication) to carry out a non-intimate forensic procedure must be given the opportunity to speak to the senior police officer who made the order.

**Schedule 1.3 [3]** removes the requirement for an application for an order authorising the carrying out of a forensic procedure on a suspect to be made in the presence of the suspect. **Schedule 1.3 [2]** makes a consequential amendment.

**Schedule 1.3 [4]** enables a magistrate to make an order authorising the carrying out of a forensic procedure on a suspect *ex parte*. **Schedule 1.3 [5] and [6]** make consequential amendments.

### **Schedule 1.4 Crimes (High Risk Offenders) Act 2006 No 7**

**Schedule 1.4 [1]** enables the Attorney General to request a court to provide information held by the court that relates to the behaviour, or physical or mental condition, of an offender. **Schedule 1.4 [2]** provides that the information is admissible in proceedings under the *Crimes (High Risk Offenders) Act 2006*.

### **Schedule 1.5 Criminal Procedure Act 1986 No 209**

**Schedule 1.5** extends Division 1 of Part 5 of the *Criminal Procedure Act 1986* to make it clear that the protections of that Division that apply to the giving of evidence by certain witnesses in sexual offence proceedings are not limited to the sexual offences to which the Division applies and extend to acts that would constitute such an offence if they occurred in the State at the time of the proceedings.

### **Schedule 1.6 Interpretation Act 1987 No 15**

**Schedule 1.6** provides for the avoidance of doubt that, in any Act or instrument, a reference to an offence that is punishable by imprisonment for a specified term or more includes a reference to a common law offence and an offence that is punishable by imprisonment for life.



New South Wales

# Crimes Legislation Amendment Bill 2013

## Contents

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	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of legislation	3



New South Wales

# Crimes Legislation Amendment Bill 2013

No. , 2013

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## **A Bill for**

An Act to make miscellaneous amendments to various Acts with respect to criminal offences and procedure; and for other purposes.

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**The Legislature of New South Wales enacts:**

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**1 Name of Act**

2

This Act is the *Crimes Legislation Amendment Act 2013*.

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**2 Commencement**

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

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<b>Schedule 1</b>	<b>Amendment of legislation</b>	1
<b>1.1</b>	<b>Bail Act 1978 No 161</b>	2
	<b>Section 44 Power of authorised justices, magistrates and certain courts to review</b>	3
	Omit section 44 (2). Insert instead:	4
	(2) Except as prescribed by the regulations and subject to this Division, a magistrate may review any decision made in relation to bail by:	5
	(a) any authorised officer, magistrate (including the reviewing magistrate) or authorised justice, or	6
	(b) the President of the Children’s Court, exercising the jurisdiction of the Children’s Court.	7
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<b>1.2</b>	<b>Crimes Act 1900 No 40</b>	11
	<b>Schedule 11 Savings and transitional provisions</b>	12
	Omit “2 years” from clause 71 (1). Insert instead “3 years”.	13
<b>1.3</b>	<b>Crimes (Forensic Procedures) Act 2000 No 59</b>	14
[1]	<b>Section 21 Making and recording senior police officer’s order</b>	15
	Insert “senior” after “speak to the” in section 21 (2).	16
[2]	<b>Section 26 Application for order</b>	17
	Omit “out, and” from section 26 (2) (c). Insert instead “out.”.	18
[3]	<b>Section 26 (2) (d)</b>	19
	Omit the paragraph.	20
[4]	<b>Section 30 Procedure at hearing of application for order</b>	21
	Omit section 30 (1). Insert instead:	22
	(1) An order may be made in the presence of the suspect concerned or, at the discretion of the Magistrate, ex parte.	23
		24
[5]	<b>Section 30 (2) (a)</b>	25
	Insert “if the suspect is present” after “present”.	26
[6]	<b>Section 30 (4)</b>	27
	Insert “, if present at the hearing,” after “the suspect”.	28
<b>1.4</b>	<b>Crimes (High Risk Offenders) Act 2006 No 7</b>	29
[1]	<b>Section 25 Provision of certain information to Attorney General</b>	30
	Insert after section 25 (2):	31
	(2A) The Attorney General may request a court to provide to the Attorney General any document, report or other information held by the court that relates to the behaviour, or physical or mental condition, of any offender.	32
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		34

<b>[2] Section 25 (3)</b>	1
Insert “or (2A)” after “subsection (1)”.	2
<b>1.5 Criminal Procedure Act 1986 No 209</b>	3
<b>Section 294D Protections of Division extend to tendency witnesses</b>	4
Omit section 294D (2A) and (3). Insert instead:	5
(3) Accordingly, in this Division a reference to a complainant includes a reference to a sexual offence witness and a reference to a prescribed sexual offence, in relation to a sexual offence witness, includes a reference to an act referred to in subsection (2) (b).	6 7 8 9
<b>1.6 Interpretation Act 1987 No 15</b>	10
<b>[1] Section 21 Meanings of commonly used words and expressions</b>	11
Insert after section 21 (2):	12
(3) In any Act or instrument:	13
(a) a reference to an offence that is punishable by imprisonment for a specified term or more includes a reference to a common law offence, and	14 15 16
(b) a reference to an offence that is punishable by imprisonment for a specified term or more includes a reference to an offence punishable by imprisonment for life.	17 18 19
<b>[2] Schedule 3 Savings and transitional provisions</b>	20
Insert at the end of the Schedule:	21
<b>11 References to offences—section 21 (3)</b>	22
(1) Section 21 (3), as inserted by the <i>Crimes Legislation Amendment Act 2013</i> , is taken to have applied to any Act in force before the commencement of that subsection (and to have applied on and from the enactment of any such Act).	23 24 25
(2) Nothing in subclause (1) affects any judgment or other order of a court or tribunal given or made before the commencement of that subsection.	26 27