

Overview of Bill

The object of this Bill is to amend the *Criminal Procedure Act 1986* (the **principal Act**) to make provision for case management procedures to reduce delays in trial and sentencing proceedings before the Supreme Court and the Land and Environment Court in their summary jurisdiction. This is achieved by granting those courts the discretion to make orders requiring that certain disclosures be made by the prosecution and the defence before a trial or sentencing hearing. The Bill also provides for pre-hearing mechanisms (for example, preliminary hearings and preliminary conferences) which are aimed at achieving a more efficient management and conduct of the proceedings.

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 a day or days to be appointed by proclamation.

Schedule 1 Amendment of Criminal Procedure

Act 1986 No 209

Case management in proceedings before the court in its summary jurisdiction

Currently, the principal Act only provides for case management procedures in respect of proceedings on indictment. This Bill introduces similar provisions for the case management of trial and sentencing proceedings before each relevant court in its summary jurisdiction.

Schedule 1 [3] introduces the new Division setting out the scheme for pre-hearing case management procedures.

Proposed sections 247A–247C specify the proceedings to which the Division applies, state the purpose of the proposed Division (which is principally to reduce delays in trial and sentencing proceedings before the court in its summary jurisdiction) and set out relevant definitions.

Proposed sections 247D–247F require the court to give directions as to the conduct of proceedings and specify the notices required to be given by the prosecution of its case and the defence of its response.

Proposed section 247G enables the court to order the prosecutor and the defendant to attend one or more preliminary hearings. The court may make various orders and rulings during those hearings (for example, as to the admissibility of evidence or on questions of law that might arise at the trial or sentencing proceedings) that will be binding on the presiding Judge except in certain circumstances. The proposed section also prevents certain matters being raised at a trial or sentencing hearing without the leave of the court if those matters were not raised at the preliminary hearing or were dealt with at the preliminary hearing.

Proposed section 247H enables the court to order that the prosecutor and the defendant's legal representative attend a preliminary conference for the purpose of reaching agreement regarding the evidence to be admitted at a hearing. The court may make such an order only if the defendant is represented by an Australian legal practitioner.

Proposed sections 247I–247L make provision relating to further disclosures that the court may order under **proposed section 247I**. **Proposed sections 247J–247L** set out the requirements for the contents of disclosure notices.

Proposed section 247M enables the court to dispense with formal proof of certain matters in proceedings where the matters were not disputed in the course of making preliminary disclosures.

Proposed section 247N provides for sanctions for any failure to comply with preliminary disclosure requirements, such as the exclusion of evidence (including expert evidence) where that evidence has not been disclosed in accordance with preliminary disclosure requirements. The regulations may make further provision for sanctions under the proposed section.

Proposed section 247O provides that the obligation to make preliminary disclosures continues for the duration of the relevant trial proceedings or until the defendant is acquitted of or sentenced for the offence. **Proposed section 247P** allows the court to waive any of the requirements that apply under the proposed Division as it thinks fit.

Proposed sections 247Q–247U make provision relating to notices given under the proposed Division, including setting out the matters or documents that are required to accompany the notices.

Proposed section 247V generally empowers the court to make such orders, determinations, findings, directions or rulings as it thinks appropriate for the efficient management and conduct of the trial, including ordering any of the parties to proceedings to make disclosures that were, or could have been, required to be disclosed before the commencement of the relevant hearing.

Proposed section 247W provides that a preliminary order made in proceedings by a presiding Judge is binding on another presiding Judge. Accordingly, if a new hearing is ordered or the proceedings are discontinued, the orders of the original presiding Judge will bind the Judge presiding at the fresh hearing.

Proposed section 247X contains miscellaneous provisions in relation to the proposed Division, including provisions giving the court power to resolve disputes arising from the matters dealt with under the proposed Division and stating the relationship of the proposed Division to other Acts and laws.

Proposed section 247Y provides for a review of the proposed Division to be undertaken by the Attorney General as soon as possible after the period of 2 years from the commencement of proposed section 247A.

Other amendments

Schedule 1 [1], [2] and [4] make consequential amendments. **Schedule 1 [5]** enables savings and transitional regulations to be made as a consequence of the enactment of the proposed Act.

Schedule 1 [6] contains a transitional provision.