

CRIMES (SENTENCING PROCEDURE) AMENDMENT BILL 2025

STATEMENT OF PUBLIC INTEREST

Need: Why is the policy needed based on factual evidence and stakeholder input?

This Bill would address a gap identified in the legislation that governs sentence discounts for guilty pleas or plea offers in indictable criminal proceedings. This gap was identified by stakeholders as potentially causing unfairness to a small class of offenders whose mental fitness is in issue.

Objectives: What is the policy's objective couched in terms of the public interest?

Generally, the *Crimes (Sentencing Procedure) Act 1999* provides that any sentence discount available to an offender is based on the timing of their guilty plea or offer to plead guilty. The sooner a plea or offer is made, the greater the discount applied on sentence. This sliding scale recognises the practical value of a plea of guilty, that is, the benefit to witnesses and the community in resolving the proceedings without a contested trial.

The amendments would remove an inconsistency where previously-unfit offenders could receive different sentence discounts depending on whether they entered a timely guilty plea or made a timely plea offer. Making the position consistent between entered pleas and plea offers supports the broader policy objective of the early resolution of indictable criminal proceedings where appropriate.

Options: What alternative policies and mechanisms were considered in advance of the bill?

The identified issues and policy outcomes targeted in this Bill can only be achieved through legislative amendment.

Analysis: What were the pros/cons and benefits/costs of each option considered?

If the amendments were not made, there is a risk that the current inconsistency in the relevant legislation will result in procedural unfairness to a small class of offenders subject to a mental health or cognitive impairment.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

The amendments in this Bill will commence on assent. Once the relevant provisions in the Bill commence, the amendments will take effect. No operational changes are expected to be required.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

The Bill was subject to consultation with key criminal justice stakeholders, including representatives from the courts, the Office of the Director of Public Prosecutions, the NSW Police Force, Legal Aid NSW, Aboriginal Legal Service NSW/ACT, the Law Society of NSW and the NSW Bar Association among others.