

LEGISLATIVE COUNCIL

Crimes Amendment (Intoxication) Bill 2014

First print

Proposed amendments

- No. 1 Page 3, Schedule 1 [2] (proposed section 8A (1)), lines 8 and 9. Omit “, 35 (1AA), 35 (1A), 35 (2A), 35 (3A)”. Insert instead “, 34A”.
- No. 2 Page 4, Schedule 1 [2] (proposed section 8B (1)), line 25. Omit “, 35 (1AA), 35 (1A), 35 (2A), 35 (3A), 60 (3B) and 60 (3C)”. Insert instead “and 34A”.
- No. 3 Page 4, Schedule 1 [2] (proposed section 8B). Insert after line 36:
- (5) This section does not apply to the sentencing of a person for an offence under section 34A if the court finds that a special reason exists and states the special reason. The court may find that a special reason exists if:
 - (a) the person has substantially assisted the investigation or prosecution of that or any other offence (including by a plea of guilty), or
 - (b) the person is between 18 and 21 years of age and, because of psychosocial immaturity, has a substantially diminished ability to control the person’s behaviour in comparison with the norm for persons of that age, or
 - (c) there are other substantial and compelling circumstances that justify the finding (having regard to the intention of Parliament that a minimum sentence and non-parole period should ordinarily be imposed and to the cumulative impact of the circumstances of the case that justify a departure from that minimum sentence and non-parole period).
 - (6) This section does not apply to the sentencing of a person for an offence if the person is not the principal offender but is liable (as an accessory or otherwise) to the same penalty as the principal offender.
- No. 4 Page 5, Schedule 1. Insert after line 21:
- [11] Section 34A**
- Insert before section 35:
- 34A Reckless grievous bodily harm when intoxicated in public and in circumstances of gross violence**
- (1) A person of or above the age of 18 years who, when intoxicated in public and in circumstances of gross violence:
 - (a) causes grievous bodily harm to any person, and

(b) is reckless as to causing actual bodily harm to that or any other person,

is guilty of an offence.

Maximum penalty: Imprisonment for 16 years.

Minimum penalty: Imprisonment for 5 years.

(2) In this section, *circumstances of gross violence* means circumstances that involve any one or more of the following:

(a) the alleged offender is in the company of another person or persons,

(b) the alleged offender causes the grievous bodily harm to the person after incapacitating the person or while the person is otherwise incapacitated,

(c) the alleged offender uses an offensive weapon or instrument to cause the grievous bodily harm to the person,

(d) the alleged offender causes the grievous bodily harm to the person in a random attack that was not provoked by any conduct of the person,

(e) the alleged offender planned in advance to engage in the conduct that caused the grievous bodily harm (being conduct that any reasonable person would have foreseen would be likely to result in actual bodily harm),

(f) the alleged offender causes the grievous bodily harm to a police officer while in the execution of the officer's duty (within the meaning of section 60).

(3) If on the trial of a person charged with an offence under this section the jury is not satisfied that the offence is proven but is satisfied that the person has committed an offence under section 35, the jury may acquit the person of the offence under this section and find the person guilty of an offence under section 35. The person is liable to punishment accordingly.

No. 5 Pages 5 and 6, Schedule 1 [11] - [16], line 22 on page 5 to line 34 on page 6. Omit all words on those lines.

No. 6 Page 8, Schedule 1 [25], line 40. Omit all words on that line.

No. 7 Page 9, Schedule 1 [25], line 9. Omit all words on that line.

No. 8 Page 11, Schedule 2 [2], lines 14 and 15. Omit “, 35 (1AA), 35 (1A), 35 (2A), 35 (3A)”. Insert instead “, 34A”.

No. 9 Page 13, Schedule 3.2 [1], lines 10 and 11. Omit all words on those lines.