



New South Wales

Criminal Procedure Amendment (Summary Proceedings for Indictable Offences) Bill 2016

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Criminal Procedure Act 1986* (the *principal Act*):

- (a) to provide for certain indictable breaking and entering offences under the *Crimes Act 1900* to be dealt with summarily unless the prosecutor or person charged elects otherwise, and
- (b) to make other amendments in the nature of statute law revision.

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

Schedule 1 [1] and [2] update outdated references to maliciously.

Schedule 1 [3] amends Table 1 of Schedule 1 to the principal Act to include offences under sections 109 (2), 111 (2), 112 (2) and 113 (2) of the *Crimes Act 1900*. These offences involve breaking and entering into dwelling-houses and other buildings and committing serious indictable offences in circumstances of aggravation. The offences may be tried summarily if:

- (a) the serious indictable offence alleged is stealing or intentionally or recklessly destroying or damaging property, and

- (b) the value of the property stolen or destroyed, or the value of the damage to the property, does not exceed \$60,000, and
- (c) the only circumstance of aggravation is that the alleged offender is in the company of another person or persons.

Schedule 1 [4] provides for certain matters of a savings and transitional nature.

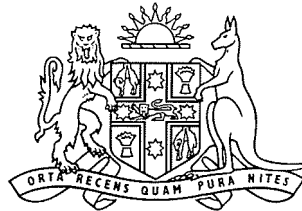


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New South Wales

Criminal Procedure Amendment (Summary Proceedings for Indictable Offences) Bill 2016

No. , 2016

A Bill for

An Act to amend the *Criminal Procedure Act 1986* to provide for certain additional indictable offences to be tried summarily.

The Legislature of New South Wales enacts:

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1 Name of Act

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This Act is the *Criminal Procedure Amendment (Summary Proceedings for Indictable Offences) Act 2016*.

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2 Commencement

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This Act commences on a day or days to be appointed by proclamation.

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Schedule 1	Amendment of Criminal Procedure Act 1986	1
	No 209	2
[1]	Section 348 Offences in respect of which an intervention program may be conducted	3
	Omit section 348 (2) (a). Insert instead:	4
	(a) an offence under section 35 (Reckless grievous bodily harm or wounding) or 35A (1) (Cause dog to inflict grievous bodily harm) of the <i>Crimes Act 1900</i> ,	5 6 7
[2]	Schedule 1 Indictable offences triable summarily	8
	Omit “maliciously” wherever occurring in clauses 6, 7 and 8 of Table 1.	9
	Insert instead “intentionally or recklessly”.	10
[3]	Schedule 1, Table 1	11
	Insert after clause 8:	12
	8A Breaking and entering in company	13
	An offence under section 109 (2), 111 (2), 112 (2) or 113 (2) of the <i>Crimes Act 1900</i> where:	14 15
	(a) the serious indictable offence alleged is stealing or intentionally or recklessly destroying or damaging property, and	16 17
	(b) the value of the property stolen or destroyed, or the value of the damage to the property, does not exceed \$60,000, and	18 19
	(c) the only circumstance of aggravation is that the alleged offender is in the company of another person or persons.	20 21
[4]	Schedule 2 Savings, transitional and other provisions	22
	Insert at the end of the Schedule, with appropriate Part and clause numbering:	23
Part	Provisions consequent on enactment of Criminal Procedure Amendment (Summary Proceedings for Indictable Offences) Act 2016	24 25 26
	Definitions	27
	In this Part:	28
	amending Act means the <i>Criminal Procedure Amendment (Summary Proceedings for Indictable Offences) Act 2016</i> .	29 30
	former provisions means clauses 6, 7 and 8 of Table 1 of Schedule 1 to this Act as in force before the commencement of Schedule 1 [2] to the amending Act.	31 32 33
	Application of amendments	34
	(1) Each of the former provisions continues to apply in relation to proceedings for offences alleged to have been committed before the repeal of section 5 of the <i>Crimes Act 1900</i> .	35 36 37
	Note. Section 5 of the <i>Crimes Act 1900</i> defined the term maliciously for the purposes of that Act and was repealed by the <i>Crimes Amendment Act 2007</i> .	38 39
	(2) A reference in any of the former provisions to maliciously is taken to have always included a reference to intentionally or recklessly for offences alleged	40 41

- to have been committed on or after the repeal of section 5 of the *Crimes Act 1900*. 1
2
- (3) Clause 8A of Table 1 of Schedule 1 to this Act does not apply to proceedings 3
for offences for which alleged offenders were charged before the 4
commencement of that clause. 5