



New South Wales

# Crimes Legislation Amendment Bill 2000

## Explanatory note

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

## Overview of Bill

The objects of this Bill are:

- (a) to revise the law with respect to the geographical reach of criminal offences punishable in the State (generally to ensure their application to events that occur in the State or to events elsewhere that have an effect in the State), and
- (b) to create a separate offence of sabotage (maximum penalty: 25 years imprisonment) and threatened sabotage (maximum penalty: 14 years imprisonment), and
- (c) to repeal the obligation of private individuals to arrest anyone who offers to sell or give them stolen property, and
- (d) to extend the sentencing options of the Children's Court to include the suspension or deferral of sentences for the purposes of rehabilitation ("Griffiths bonds") and for other purposes, and

- (e) to clarify a number of matters arising from the re-enactment in 1999 of sentencing legislation, and
- (f) to ensure that the *Listening Devices Act 1984* applies to sound recordings made by video cameras or by devices that are also capable of tracking a person's movements, and
- (g) to put beyond doubt the application of the *Search Warrants Act 1985* in respect of indictable offences committed outside the State, and
- (h) to enable the Victims of Crime Bureau to provide services to members of the family of a missing person, and
- (i) to make other miscellaneous changes to crimes legislation.

## 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.

**Clause 3** is a formal provision giving effect to the amendments to the *Crimes Act 1900*, the *Children (Criminal Proceedings) Act 1987*, the *Crimes (Sentencing Procedure) Act 1999*, the *Criminal Appeal Act 1912*, the *Criminal Procedure Act 1986*, the *Listening Devices Act 1984*, the *Search Warrants Act 1985* and the *Victims Rights Act 1996* set out in Schedules 1–8.

## Schedule 1 Amendment of Crimes Act 1900

**Schedule 1 [1]** repeals section 3A of the Act as a consequence of the enactment of proposed Part 1A to be inserted in the Act by Schedule 1 [3] to deal with geographical jurisdiction.

**Schedule 1 [2]** repeals section 3B of the Act as a consequence of the enactment of proposed Part 1A to be inserted in the Act by Schedule 1 [3], and of the amendments to be made by Schedule 1 [6] and [7], to deal with geographical jurisdiction.

**Schedule 1 [3]** inserts proposed Part 1A into the Act to replace section 3A. The proposed Part revises the law with respect to the geographical reach of criminal offences punishable in the State (generally to ensure their application to events that occur in the State or to events elsewhere that have an effect in the State). The provisions are in line with those recommended by the Model Criminal Code Officers Committee of the Standing Committee of Attorneys General and are

intended to overcome the limitations placed on the operation of the existing provisions in recent cases (such as *Catanzariti's* case (1995) 81 A Crim R 584).

The Part does not affect special provisions made with respect to the geographical reach of criminal offences, such as the following:

Section 45 (2) (Prohibition of female genital mutilation)

Section 66EA (Persistent sexual abuse of a child)

Section 93IG (Offences relating to contamination of goods)

Sections 178BA (3) and 178BB (2) (Misuse of public property by public officials outside the State)

**Schedule 1 [4]** omits section 78F (2) of the Act and is consequent on the amendment to section 118 of the *Criminal Procedure Act 1986* to be effected by proposed Schedule 5. The amendment transfers to that Act the mandatory requirement for incest proceedings to be held in private.

**Schedule 1 [5]** is consequent on proposed Part 1A to be inserted into the Act by Schedule 1 [3].

**Schedule 1 [6]** and **[7]** amend sections 178BA and 178BB of the Act to continue the special rule as to geographical jurisdiction contained in section 3B (which is to be replaced generally by the provisions of proposed Part 1A).

**Schedule 1 [8]** inserts sections 203A–203C into the Act to create separate offences of sabotage (maximum penalty: 25 years imprisonment) and threatened sabotage (maximum penalty: 14 years imprisonment). Sabotage refers to damage to public facilities, with the intent to cause that damage and to cause extensive destruction of property or major economic loss. Public facilities are defined widely, and include government facilities, public infrastructure facilities, public transport facilities and public places.

**Schedule 1 [9]** repeals section 353 of the Act, which provides that any person who is offered to be sold or given property which the person reasonably suspects is stolen (or with respect to which any other offence has been committed) may arrest the person offering the property and bring the person before a court. The section places an obligation on the person to arrest the offender if it is within the person's power to do so. The repeal of the section does not affect the general powers of arrest of police officers and private individuals conferred by the Act.

**Schedule 1 [10]** ensures that the provisions of proposed Part 1A relating to geographical jurisdiction with respect to offences applies to all statutory and common law offences and to all courts in which they are tried.

**Schedule 1 [11]** makes a transitional provision so that the amendments relating to geographical jurisdiction have prospective operation only.

### **Schedule 2 Amendment of Children (Criminal Proceedings) Act 1987**

**Schedule 2 [1]** replaces the expression “serious indictable offence” in the Act with the expression “serious children’s indictable offence” to avoid confusion with the expression “serious indictable offence” defined differently in the *Crimes Act 1900* and the *Interpretation Act 1987*.

**Schedule 2 [2]** amends section 33 of the Act to extend the sentencing options of the Children’s Court to include the deferral of the imposition of a penalty for the purposes of rehabilitation (“Griffiths bonds”) and for other purposes. This sentencing option is similar to that available with respect to adult offenders under section 11 of the *Crimes (Sentencing Procedure) Act 1999*.

**Schedule 2 [3] and [4]** amend section 33 of, and insert section 41A into, the Act to extend the sentencing options of the Children’s Court to include the suspension of an order for detention in a juvenile detention centre, subject to compliance with a good behaviour bond. This sentencing option is similar to that available with respect to adult offenders under section 12 of the *Crimes (Sentencing Procedure) Act 1999*.

**Schedule 2 [5]** inserts section 50B into the Act to facilitate the use of drug rehabilitation programs for child offenders. The provision is similar to section 31 of the *Drug Court Act 1998* that applies to adult drug offenders undergoing rehabilitation.

**Schedule 2 [6] and [7]** make provision of a savings and transitional nature consequent on the amendments made by the Schedule.

### **Schedule 3 Amendment of Crimes (Sentencing Procedure) Act 1999**

**Schedule 3 [1]** amends section 4 of the Act to clarify the penalty applicable for common law offences and other offences for which a penalty is not specifically provided. Section 4 (2) (b) of the Act at present provides that a penalty of imprisonment for 5 years may be imposed if no penalty for the offence is provided by or under an Act. That provision replaced section 440 of the *Crimes Act 1900*, which applied only to statutory offences (*R v Price* (1885) 6 LR (NSW) 140). In the case of common law offences, a range of penalties would be applicable under the law for offences formerly classified as common law misdemeanours or felonies. Section 4 is being amended to make it clear that the replacement provision

continues to apply only to statutory offences and does not affect the penalty for the remaining common law offences. The amendment does not affect the provisions retained in the *Crimes Act 1900* that ensure that a penalty of 25 years is applicable for common law or other offences formerly punishable by death (section 431) or for common law or other offences (other than murder and certain narcotics offences) formerly punishable by life imprisonment (section 431A).

**Schedule 3 [2]** amends section 10 of the Act, which provides that a good behaviour bond may be imposed under that section when the court finds the offender guilty of the offence but, because of the character of the offender, the trivial nature of the offence and other matters, does not proceed to conviction and the imposition of a penalty (former section 556A of the *Crimes Act 1900*). The section does not limit the period of any good behaviour bond that may be imposed. At present, section 9 authorises the imposition of a good behaviour bond not exceeding 5 years as an alternative to a sentence of imprisonment. Section 12 also authorises the imposition of a good behaviour bond when a sentence of imprisonment is suspended not exceeding the term of the sentence, but not in any case exceeding 2 years. In view of the less serious nature of offences for which a good behaviour bond may be imposed under section 10 (including those for which a fine only may be imposed), the amendment of section 10 limits the maximum term of a good behaviour bond under that section to 2 years.

**Schedule 3 [3]** and **[4]** amend section 11 of the Act to ensure that the sentencing option of deferral of sentencing for the purposes of rehabilitation (“Griffiths bonds”) or for other purposes that is available on conviction is also available where the court finds the person guilty of the offence but determines not to proceed to a conviction.

**Schedule 3 [5]** amends section 12 of the Act to ensure that when a court suspends a sentence of imprisonment following a decision not to make a home detention order, any non-parole period previously set ceases to have effect. Section 12 (3) generally provides that when a sentence is suspended the court is not required to set a non-parole period for the sentence, but such a period is to be set under section 99 should a breach of the good behaviour bond during the suspension result in the removal of the suspension of the sentence.

**Schedule 3 [6]** amends section 25 of the Act (which relates to the prohibition on the imposition of penalties on absent offenders) to make it clear that an absent offender to whom the section applies is an offender who is absent from the court at the time of the imposition of the penalty concerned (rather than at any earlier time when the offender was convicted).

**Schedule 3 [7]** amends section 51 of the Act so as to ensure that the power of a court to impose conditions of parole in relation to supervision are the same as the power of the Parole Board to impose such conditions under the *Crimes (Administration of Sentences) Act 1999*.

#### **Schedule 4 Amendment of Criminal Appeal Act 1912**

The amendment clarifies the provisions relating to appeals to the Court of Criminal Appeal involving sentences imposed on persons convicted or found guilty of offences. The amendment ensures that the right of appeal is not affected because of any delay in the sentence caused by the need to obtain assessment reports or otherwise (eg for consideration of home detention orders) or as a result of re-sentencing (eg following the breach of a good behaviour bond).

#### **Schedule 5 Amendment of Criminal Procedure Act 1986**

**Schedule 5 [1]** transfers to section 118 of the Act (which provides for a court to have a discretion to hold proceedings for incest and other sexual offences in camera) a provision that is currently located in section 78F of the *Crimes Act 1900* (which provides that all proceedings for incest must be held in camera). The transfer of the provision will make it clear that proceedings for the offence of incest or attempted incest must be held in private and will enable the court to permit a support person for a victim to give evidence in the proceedings.

**Schedule 5 [2]** enables the proposed indictable offence of threatening sabotage (proposed section 203C of the *Crimes Act 1900*) to be dealt with summarily by a Local Court unless the prosecuting authority or the person charged elects otherwise.

#### **Schedule 6 Amendment of Listening Devices Act 1984**

The amendments ensure that the Act applies to a device that makes a sound recording of a private conversation even though the device also records or transmits visual images (eg a video camera) or also records or transmits its own position (eg a tracking device with an audio component).

### **Schedule 7 Amendment of Search Warrants Act 1985**

Section 5 of the Act defines an indictable offence, with respect to which a search warrant may be issued, to include an act or omission that if done or omitted in New South Wales would constitute an offence punishable on indictment. Section 24A of the Act provides for Ministerial arrangements with other States and Territories for things seized under a search warrant issued under this Act that may be relevant to an offence against a law of the State or Territory to be transmitted to that State or Territory.

The amendment removes any doubt that may arise that the Act does not in fact authorise the issue of search warrants for extra-territorial offences.

### **Schedule 8 Amendment of Victims Rights Act 1996**

The amendment ensures that the Victims of Crime Bureau, a branch of the Attorney General's Department that is established by the Act with functions with respect to the support of victims of crime, may also exercise those functions to support the immediate family of missing persons.



New South Wales

# Crimes Legislation Amendment Bill 2000

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New South Wales

# Crimes Legislation Amendment Bill 2000

No. , 2000

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## A Bill for

An Act to make miscellaneous amendments to the *Crimes Act 1900* and other crimes legislation.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Crimes Legislation Amendment Act 2000</i> .	3
<b>2 Commencement</b>	4
This Act commences on a day or days to be appointed by proclamation.	5 6
<b>3 Amendment of Crimes Act 1900 and other Acts</b>	7
Each Act specified in a Schedule to this Act is amended as set out in that Schedule.	8 9

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<b>Schedule 1</b>	<b>Amendment of Crimes Act 1900 No 40</b>	1
	(Section 3)	2
<b>[1]</b>	<b>Section 3A Territorial application of the criminal law of the State</b>	3
	Omit the section and the heading before the section.	4
<b>[2]</b>	<b>Section 3B Misuse of public property by public officials outside the State</b>	5
	Omit the section and the heading before the section.	6
<b>[3]</b>	<b>Part 1A</b>	8
	Insert after Part 1:	9
	<b>Part 1A Geographical jurisdiction</b>	10
	<b>10A Application and effect of Part</b>	11
	(1) This Part applies to all offences.	12
	(2) This Part extends, beyond the territorial limits of the State, the application of a law of the State that creates an offence if there is the nexus required by this Part between the State and the offence.	13
	(3) If the law that creates an offence makes provision with respect to any geographical consideration concerning the offence, that provision prevails over any inconsistent provision of this Part.	14
	(4) This Part is in addition to and does not derogate from any other basis on which the courts of the State may exercise criminal jurisdiction.	15
	<b>10B Interpretation</b>	16
	(1) For the purposes of this Part, the necessary geographical nexus is the geographical nexus required by section 10C.	17
	(2) For the purposes of this Part, the place in which an offence is committed is the place in which the physical elements of the offence occur.	18

- (3) For the purposes of this Part, the place in which an offence has an effect includes: 1  
2
- (a) any place whose peace, order or good government is threatened by the offence, and 3  
4
  - (b) any place in which the offence would have an effect (or would cause such a threat) if the criminal activity concerned were carried out. 5  
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- (4) A reference in this Part to the State includes a reference to the coastal waters of the State in which the criminal law of the State applies (including in any part of the adjacent area of the State in which the substantive criminal law of the State applies by force of the law of the State or of the Commonwealth in accordance with the *Crimes at Sea Act 1998*). 8  
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12  
13
- 10C Extension of offences if there is a geographical nexus 14**
- (1) If: 15
- (a) all elements necessary to constitute an offence against a law of the State exist (disregarding geographical considerations), and 16  
17  
18
  - (b) a geographical nexus exists between the State and the offence, 19  
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- the person alleged to have committed the offence is guilty of an offence against that law. 21  
22
- (2) A geographical nexus exists between the State and an offence if: 23  
24
- (a) the offence is committed wholly or partly in the State (whether or not the offence has any effect in the State), or 25  
26  
27
  - (b) the offence is committed wholly outside the State, but the offence has an effect in the State. 28  
29
- 10D Provisions relating to double criminality 30**
- (1) This Part applies to an offence that is committed partly in the State and partly in another place outside the State, irrespective of whether it is also an offence in that other place. 31  
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| (2) This Part applies to an offence that is committed wholly in a place outside the State only if:                                                                                                                                                                                                                                                                                                                                                  | 1  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 2  |
| (a) it is also an offence in that place, or                                                                                                                                                                                                                                                                                                                                                                                                         | 3  |
| (b) it is not also an offence in that place, but the trier of fact is satisfied that the offence constitutes such a threat to the peace, order or good government of the State that the offence warrants criminal punishment in the State.                                                                                                                                                                                                          | 4  |
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| <b>10E Procedural and other provisions</b>                                                                                                                                                                                                                                                                                                                                                                                                          | 8  |
| (1) The existence of the necessary geographical nexus for an offence is to be presumed and the presumption is conclusive unless rebutted under subsection (2).                                                                                                                                                                                                                                                                                      | 9  |
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|                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 11 |
| (2) If a person charged with an offence disputes the existence of the necessary geographical nexus, the court is to proceed with the trial of the offence in the usual way. If, at the conclusion of the trial, the trier of fact is satisfied on the balance of probabilities that the necessary geographical nexus does not exist, it must (subject to subsection (3)) make or return a finding to that effect and the charge is to be dismissed. | 12 |
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| (3) If the trier of fact would, disregarding any geographical considerations, find the person not guilty of the offence, it must make or return a finding of not guilty. The trier of fact must make or return a finding of not guilty on the grounds of mental illness in any such case if they were the only grounds on which the trier of fact would have found the person not guilty of the offence.                                            | 19 |
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| (4) This section also applies to any alternative verdict available by law to the trier of fact in respect of another offence with which the person was not charged. A finding of guilt may be made or returned in any such case, unless the trier of fact is satisfied on the balance of probabilities that the necessary geographical nexus for that other offence does not exist.                                                                 | 26 |
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| (5) The issue of whether the necessary geographical nexus exists must, if raised before the trial, be reserved for consideration at the trial.                                                                                                                                                                                                                                                                                                      | 32 |
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(6)	A power or authority exercisable on reasonable suspicion or belief that an offence has been committed may be exercised in the State if the person in whom the power or authority is vested suspects on reasonable grounds or believes that the elements necessary to constitute the offence exist (whether or not the person suspects or believes or has any ground to suspect or believe that the necessary geographical nexus with the State exists).	1 2 3 4 5 6 7 8
<b>[4]</b>	<b>Section 78F Sanction of Attorney-General</b>	9
	Omit section 78F (2).	10
<b>[5]</b>	<b>Section 93IG Special provisions relating to geographical application of this Part</b>	11 12
	Omit “territorial nexus” from section 93IG (3).	13
	Insert instead “geographical nexus”.	14
<b>[6]</b>	<b>Section 178BA Obtaining money etc by deception</b>	15
	Insert at the end of the section:	16
(3)	For the purposes of and without limiting Part 1A, the necessary geographical nexus exists between the State and an offence against this section if the offence is committed by a public official (within the meaning of the <i>Independent Commission Against Corruption Act 1988</i> ) and involves public money of the State or other property held by the public official for or on behalf of the State.	17 18 19 20 21 22 23
<b>[7]</b>	<b>Section 178BB Obtaining money etc by false or misleading statements</b>	24
	Insert at the end of the section:	25
(2)	For the purposes of and without limiting Part 1A, the necessary geographical nexus exists between the State and an offence against this section if the offence is committed by a public official (within the meaning of the <i>Independent Commission Against Corruption Act 1988</i> ) and involves public money of the State or other property held by the public official for or on behalf of the State.	26 27 28 29 30 31 32

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<b>[8] Part 4, Division 2, Subdivision 4</b>	1
Insert after Subdivision 3 of Division 2 of Part 4:	2
<b>Subdivision 4 Sabotage</b>	3
<b>203A Definitions</b>	4
In this Subdivision:	5
<i>economic loss</i> includes the disruption of government functions or the disruption of the use of public facilities.	6 7
<i>public facility</i> means any of the following (whether publicly or privately owned):	8 9
(a) a government facility, including premises used by government employees in connection with official duties,	10 11 12
(b) a public infrastructure facility, including a facility providing water, sewerage, energy or other services to the public,	13 14 15
(c) a public transport facility, including a conveyance used to transport people or goods,	16 17
(d) a public place, including any premises, land or water open to the public.	18 19
<b>203B Sabotage</b>	20
A person:	21
(a) whose conduct causes damage to a public facility, and	22
(b) who intended to cause that damage, and	23
(c) who intended by that conduct to cause:	24
(i) extensive destruction of property, or	25
(ii) major economic loss,	26
is guilty of an offence.	27
Maximum penalty: Imprisonment for 25 years.	28

<b>203C</b>	<b>Threaten sabotage</b>	1
(1)	A person who:	2
(a)	makes to another person a threat to damage a public facility, and	3 4
(b)	intends that person to fear that the threat will be carried out and will cause:	5 6
(i)	extensive destruction of property, or	7
(ii)	major economic loss,	8
	is guilty of an offence.	9
	Maximum penalty: Imprisonment for 14 years.	10
(2)	In the prosecution of an offence under this section it is not necessary to prove that the person threatened actually feared that the threat would be carried out.	11 12 13
(3)	For the purposes of this section:	14
(a)	a threat may be made by any conduct, and may be explicit or implicit and conditional or unconditional, and	15 16
(b)	a threat to a person includes a threat to a group of persons, and	17 18
(c)	fear that a threat will be carried out includes apprehension that it will be carried out.	19 20
<b>[9]</b>	<b>Section 353 Persons offering stolen property</b>	21
	Omit the section.	22
<b>[10]</b>	<b>Second Schedule</b>	23
	Insert after "Part 1":	24
	Part 1A	25



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<b>[11] Eleventh Schedule Savings and transitional provisions</b>	1
Insert the following Part at the end of the Schedule (with appropriate Part and clause numbers):	2 3
<b>Part Crimes Legislation Amendment Act 2000</b>	4
<b>Application of amendments relating to geographical jurisdiction</b>	5
Part 1A and sections 178BA (3) and 178BB (2), as inserted by the <i>Crimes Legislation Amendment Act 2000</i> , do not apply in respect of any act or omission occurring before their commencement. Sections 3A and 3B (as in force before their repeal by that Act) continue to apply to any such act or omission.	6 7 8 9 10 11

<b>Schedule 2</b>	<b>Amendment of Children (Criminal Proceedings) Act 1987 No 55</b>	1
		2
	(Section 3)	3
<b>[1] The whole Act</b>		4
	Omit “serious indictable offence” wherever occurring.	5
	Insert instead “serious children’s indictable offence”.	6
<b>[2] Section 33 Penalties</b>		7
	Insert after section 33 (1) (c1):	8
	(c2) it may make an order adjourning proceedings against the person to a specified date (being an adjournment for a maximum period of 12 months from the date of the finding of guilt), and granting bail to the person in accordance with the <i>Bail Act 1978</i> :	9
	(i) for the purpose of assessing the person’s capacity and prospects for rehabilitation, or	10
	(ii) for the purpose of allowing the person to demonstrate that rehabilitation has taken place, or	11
	(iii) for any other purpose the Children’s Court considers appropriate in the circumstances,	12
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<b>[3] Section 33 (1B)</b>		21
	Insert after section 33 (1A):	22
	(1B) If the Children’s Court deals with a person under subsection (1) (g), it may make an order:	23
	(a) suspending the execution of its order under subsection (1) (g) for a specified period (not exceeding the term of that order), and	24
	(b) releasing the person on condition that the person enters into a good behaviour bond under subsection (1) (b) for such a specified period,	25
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but only if the person is not subject to any other order under subsection (1) (g) or to any sentence of imprisonment. Part 4 of the *Crimes (Sentencing Procedure) Act 1999* does not apply to an order under subsection (1) (g) whose execution is suspended under this subsection except to the extent to which it deals with setting the term of the order.

**[4] Section 41A**

Insert after section 41:

**41A Provisions applicable where control order suspended subject to good behaviour bond**

- (1) This section applies where the Children's Court has, under section 33 (1B), suspended the execution of an order under section 33 (1) (g) and the person concerned has entered into a good behaviour bond.
- (2) Action with respect to a failure to comply with any such good behaviour bond may be taken under section 41. The good behaviour bond is to be terminated unless the court is satisfied that:
  - (a) the person's failure to comply with the conditions of the bond was trivial in nature, or
  - (b) there are good reasons for excusing the person's failure to comply with the conditions of the bond.
- (3) If any such good behaviour bond is terminated:
  - (a) the suspension of the execution of the order under section 33 (1) (g) ceases to have effect, and
  - (b) Part 4 of the *Crimes (Sentencing Procedure) Act 1999* applies to that order, except to the extent to which it has already been applied in relation to setting the term of the order, and
  - (c) subject to the requirements of Part 4 of that Act having been complied with, that order takes effect.
- (4) The conditions of any such good behaviour bond may be varied under section 40 or in proceedings taken under section 41.

<b>[5] Section 50B</b>	1
Insert after section 50A:	2
<b>50B Special provision relating to drug rehabilitation programs</b>	3
(1) This section applies to any program for the rehabilitation of persons affected by alcohol or other drugs in which a child is required to participate as a result of an order or a condition of an order of the Children’s Court in connection with criminal proceedings against the child.	4 5 6 7 8
(2) The Children’s Court may, as a condition of any such order, require the provision of information about the child’s participation in any such program to be given to a member or officer of the Children’s Court by a person who is involved in the administration of, or who provides services in connection with, the program.	9 10 11 12 13 14
(3) The following provisions apply to and in respect of any information provided for the purposes of this section ( <i>protected information</i> ):	15 16 17
(a) the provision of the information does not constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct,	18 19 20
(b) no liability for defamation is incurred because of the provision of the information,	21 22
(c) the provision of the information does not constitute grounds for civil proceedings for malicious prosecution or conspiracy,	23 24 25
(d) the information is not admissible in evidence in any proceedings before a court, tribunal or committee,	26 27
(e) a person is not compellable in any proceedings before a court, tribunal or committee to disclose the information or to produce any document that contains the information.	28 29 30 31
(4) The provisions of subsection (3) (d) and (e) do not apply to or in respect of the provision of protected information in proceedings before the Children’s Court or any court hearing an appeal from a decision of that court.	32 33 34 35

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(5) The child participating in any such program is taken to have authorised the communication of protected information between anyone referred to in subsection (2).	1 2 3
(6) A provision of any Act or law that prohibits or restricts the disclosure of information does not operate to prevent the provision of information for the purposes of this section.	4 5 6
<b>[6] Schedule 2 Savings and transitional provisions</b>	7
Insert at the end of clause 1 (1):	8
Schedule 2 to the <i>Crimes Legislation Amendment Act 2000</i>	9
<b>[7] Schedule 2</b>	10
Insert at the end of the Schedule:	11
 <b>Part 6 Crimes Legislation Amendment Act 2000</b>	 12
<b>9 New sentencing options in pending proceedings</b>	13
Section 33 (1) (c2) and (1B), as inserted by the <i>Crimes Legislation Amendment Act 2000</i> , extend to proceedings pending at the commencement of those provisions.	14 15 16

<b>Schedule 3</b>	<b>Amendment of Crimes (Sentencing Procedure) Act 1999 No 92</b>	1
		2
	(Section 3)	3
<b>[1]</b>	<b>Section 4 Penalties generally</b>	4
	Omit section 4 (1) and (2). Insert instead:	5
	(1) The penalty to be imposed for an offence is to be the penalty provided by or under this or any other Act or law.	6
		7
	(2) The penalty to be imposed for a statutory offence for which no penalty is so provided is imprisonment for 5 years.	8
		9
<b>[2]</b>	<b>Section 10 Dismissal of charges and conditional discharge of offender</b>	10
	Insert “for a term not exceeding 2 years” after “good behaviour bond” in section 10 (1) (b).	11
		12
<b>[3]</b>	<b>Section 11 Deferral of sentencing for rehabilitation and other purposes</b>	13
	Omit “A court that convicts an offender” from section 11 (1).	14
	Insert instead “A court that finds a person guilty of an offence (whether or not it proceeds to conviction)”.	15
		16
<b>[4]</b>	<b>Section 11 (2)</b>	17
	Omit “the date of conviction”.	18
	Insert instead “the date of the finding of guilt”.	19
<b>[5]</b>	<b>Section 12 Suspended sentences</b>	20
	Insert after section 12 (3):	21
	(4) An order under this section may be made after a court has decided not to make a home detention order in relation to the sentence of imprisonment. In that case, any non-parole period set for the sentence ceases to have effect when the order under this section is made.	22
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<b>[6] Section 25 Local Court not to impose certain penalties if offender is absent</b>	1
	2
Omit the definition of <i>absent offender</i> from section 25 (4).	3
Insert instead:	4
<i>absent offender</i> means an offender who is being dealt with in his or her absence.	5
	6
<b>[7] Section 51 Court may impose conditions on parole order</b>	7
Insert after section 51 (1):	8
(1A) The conditions of a parole order may include conditions requiring that the offender to whom the order relates be subject to supervision prescribed by the regulations under the <i>Crimes (Administration of Sentences) Act 1999</i> during the period specified by or under the order or those regulations.	9
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<b>Schedule 4</b>	<b>Amendment of Criminal Appeal Act</b>	1
	<b>1912 No 16</b>	2
	(Section 3)	3
<b>Section 2</b>	<b>Definitions</b>	4
	Insert after section 2 (1):	5
	(2) For the purposes of this Act, a sentence is imposed or passed on a person on conviction or on a finding of guilt even if it is imposed or passed after the conviction or finding of guilt or as a result of re-sentencing.	6 7 8 9



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<b>Schedule 5</b>	<b>Amendment of Criminal Procedure Act</b>	1
	<b>1986 No 209</b>	2
	(Section 3)	3
<b>[1]</b>	<b>Section 118 Proceedings in camera in certain cases</b>	4
	Insert after section 118 (1):	5
	(1A) The court must direct that any proceedings in respect of an offence under section 78A or 78B of the <i>Crimes Act 1900</i> be held in camera.	6 7 8
<b>[2]</b>	<b>Schedule 1 Indictable offences triable summarily</b>	9
	Omit “or 203” from clause 9 of Part 2 of Table 1.	10
	Insert instead “, 203 or 203C”.	11

<b>Schedule 6</b>	<b>Amendment of Listening Devices Act</b>	1
	<b>1984 No 69</b>	2
	(Section 3)	3
<b>[1]</b>	<b>Section 3 Definitions</b>	4
	Insert after section 3 (1):	5
	(1A) A thing is not precluded from being a listening device within the meaning of this Act merely because it is also capable of:	6
	(a) recording or transmitting visual images (for example a video camera), or	7
	(b) recording or transmitting its own position.	8
		9
		10
<b>[2]</b>	<b>Schedule 1 Savings and transitional provisions</b>	11
	Insert after clause 7:	12
	<b>8 Application of section 3 (1A) inserted by Crimes Legislation Amendment Act 2000</b>	13
		14
	(1) In this clause:	15
	<i>amending Act</i> means Schedule 6 to the <i>Crimes Legislation Amendment Act 2000</i> .	16
		17
	<i>relevant device</i> means a device that was not a listening device within the meaning of this Act before the commencement of section 3 (1A), as inserted by the amending Act, but that becomes such a listening device because of the enactment of section 3 (1A).	18
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	(2) A warrant authorising the use of a listening device that was granted under Part 4 before the commencement of the amending Act is taken to authorise the use, on and after that commencement, of a relevant device.	23
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	(3) Section 6 extends to and in respect of the communication or publication, after the commencement of the amending Act, of a private conversation, or of a report of a private conversation, that has come to a person's knowledge as a result of the use of a relevant device before that commencement.	27
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| (4) Section 7 extends to and in respect of the communication or publication, after the commencement of the amending Act, of a record of a private conversation made by the use of a relevant device before that commencement. | 1<br>2<br>3<br>4    |
| (5) Section 8 extends to and in respect of the possession, after the commencement of the amending Act, of a record of a private conversation obtained by the use of a relevant device before that commencement.               | 5<br>6<br>7<br>8    |
| (6) Section 14 extends to and in respect of the admissibility of evidence arising from the use of a relevant device before the commencement of the amending Act in proceedings instituted after that commencement.            | 9<br>10<br>11<br>12 |

<b>Schedule 7</b>	<b>Amendment of Search Warrants Act</b>	1
	<b>1985 No 37</b>	2
	(Section 3)	3
	<b>Section 5 Application for warrant in respect of certain offences, stolen property etc</b>	4 5
	Insert at the end of the section:	6
	(3) To avoid doubt, an application may be made under subsection (1) with respect to an act or omission that is an indictable offence (within the meaning of subsection (2)) even though the act or omission occurred outside New South Wales and was not an offence against the law of New South Wales.	7 8 9 10 11

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<b>Schedule 8</b>	<b>Amendment of Victims Rights Act</b>	1
	<b>1996 No 114</b>	2
	(Section 3)	3
<b>Section 10</b>	<b>Functions of Victims of Crime Bureau</b>	4
	Insert at the end of the section:	5
	(2) In this section, <i>victim of crime</i> includes a member of the	6
	immediate family of a missing person.	7