



New South Wales

# Crimes Legislation Amendment Bill 2014

## Explanatory note

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

## Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Crimes Act 1900*:
  - (i) to apply the statutory definition of *consent* to attempts to commit sexual assault offences; and
  - (ii) to negate consent to sexual intercourse in circumstances where consent has been given under a mistaken belief that the sexual intercourse is for health purposes, and
  - (iii) to make it an offence to possess a distress signal or distress flare in a public place without a reasonable excuse,
- (b) to amend the *Crimes (Domestic and Personal Violence) Act 2007* to provide a regulation-making power to prescribe the form of the application notice in respect of an application for an apprehended personal violence order,
- (c) to amend the *Crimes (Forensic Procedures) Act 2000* to deem certain members of the NSW Police Force who carried out forensic procedures under that Act before 24 December 2013 to have been appropriately qualified to carry out that forensic procedure,
- (d) to amend the *Crimes (Sentencing Procedure) Act 1999* to require a court that imposes an aggregate sentence when sentencing for two or more offences to make a written record of the sentence that would have been imposed, and the non-parole period that would have been set for any offence to which a standard non-parole period applied, for each offence had it imposed separate sentences,
- (e) to amend the *Criminal Appeal Rules* to update a reference to legislation,

- (f) to amend the *Criminal Procedure Act 1986*:
  - (i) to clarify that the Local Court can hear and finally determine a matter in an accused person's absence on the first return date or on a subsequent day when the matter is listed for mention or hearing if the accused person has been given notice of the proceedings, and
  - (ii) to remove the requirement that a court must obtain the consent of an accused person to the summary disposal of proceedings if a scientific examination certificate is tendered by the prosecution in the proceedings,
- (g) to amend the *Drug Misuse and Trafficking Act 1985*:
  - (i) to make offences involving the manufacture, production, possession or supply of Schedule 9 substances summary offences (including offences already committed), and
  - (ii) to provide that a substance that is represented as being a Schedule 9 substance is deemed a Schedule 9 substance,
- (h) to amend the *Graffiti Control Act 2008* to specify that the limitation period for bringing proceedings under that Act is 2 years,
- (i) to amend the *Inclosed Lands Protection Act 1901* to create a new offence relating to entering inclosed lands that are an event venue while an organised event is being held there in contravention of a re-entry prohibition,
- (j) to amend the definition of *certifying officer* in the *Telecommunications (Interception and Access) (New South Wales) Act 1987* to make it consistent with the *Telecommunications (Interception and Access) Act 1979* of the Commonwealth and to update certain references relating to the NSW Crime Commission,
- (k) to amend the *Terrorism (Police Powers) Act 2002* to prevent the disclosure of certain communications made between a detained person and that person's lawyer.

## 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 the date of assent to the proposed Act.

**Clause 3** makes it clear that the explanatory notes contained in Schedule 1 do not form part of the proposed Act.

## Schedule 1 Amendment of legislation

**Schedule 1** makes the amendments described above in the Overview. The amendments are explained in detail in the explanatory note that relates to the Act concerned.