

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 23 October, 1958.*

New South Wales



ANNO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. , 1958.

An Act to make further provision in relation to persons who plead guilty in committal proceedings; for this purpose to amend the Justices Act, 1902, the Criminal Appeal Act of 1912, the Habitual Criminals Act, 1957, and certain other Acts, in certain respects; and for purposes connected therewith.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Justices (Amend- Short title
ment) Act, 1958". (2) and citation.

Justices (Amendment).

(2) The Justices Act, 1902, as amended by subsequent Acts and by this Act, may be cited as the Justices Act, 1902-1958.

2. (1) The Justices Act, 1902, as amended by subsequent Acts, is amended by inserting at the end of section 51A the following new subsection :—

Amendment of Act No. 27, 1902.

Sec. 51A.

(Effect of plea of guilty in committal proceedings.)

10 (7) A person sentenced or otherwise dealt with under subparagraph (ii) of paragraph (d) of subsection one of this section for an offence to which he pleaded guilty pursuant to that subsection shall, for the purposes of any Act passed either before or after the commencement of section two of the Justices (Amendment) Act, 1958, be deemed to be convicted on indictment of the offence.

15 (2) This section shall be deemed to have commenced on the fourteenth day of April, one thousand nine hundred and fifty-five.

3. (1) The Criminal Appeal Act of 1912, as amended by subsequent Acts, is amended by inserting next after section eight the following new section :—

Amendment of Act No. 16, 1912.

New sec. 8A.

20 8A. (1) Where a person deemed to be convicted on indictment under subsection seven of section 51A of the Justices Act, 1902, as amended by subsequent Acts, appeals to the court against the conviction, the court may, either of its own motion, or on the application of
25 the appellant, order that the proceedings before the justice or justices at which the appellant pleaded guilty be continued at a time and place to be specified in the order, if the court considers that a miscarriage of justice has occurred, and, that having regard to all the circum-
30 stances, the miscarriage of justice can be more adequately remedied by an order that those proceedings be so continued than by any other order which the court is empowered to make.

Power of court to order committal proceedings to be continued in certain cases.

(2)

Justices (Amendment).

5 (2) Where an order is made under subsection one of this section, the proceedings before the justice or justices shall be continued in all respects as if the appellant had not pleaded guilty and as if those proceedings had been adjourned by the justice or justices to the time and place specified in the order.

cf. Act No.
27, 1902,
s. 51A (3).

10 Upon the making of the order, the court may exercise any power that the justice or justices might have exercised under section thirty-four of the Justices Act, 1902, as amended by subsequent Acts, if the order had been an order made by the justice or justices adjourning the proceedings to the time and place so specified; and the provisions of the said section thirty-four apply to and in respect of the appellant.

15 (3) The powers conferred on the court by this section are in addition to any other power conferred on the court by this Act.

20 (2) The amendment made by subsection one of this section applies to appeals to the Court of Criminal Appeal pending at the commencement of this section as well as to appeals to that Court instituted after that commencement.

4. (1) The Habitual Criminals Act, 1957, is amended by omitting subsection two of section three.

Amendment
of Act No.
19, 1957.
Sec. 3.

25 (2) This section shall be deemed to have commenced on the first day of June, one thousand nine hundred and fifty-seven.

(Interpre-
tation.)

Section 1938

(1) Wherever in this act the word "person" is used, it shall be construed to include any individual, partnership, firm, association, corporation, trust, estate, or other legal entity, whether or not such entity is a citizen or resident of this State.

(2) The provisions of this act shall apply to any instrument executed on or after the date of the passage of this act, whether such instrument was executed before or after the date of the passage of this act, and whether such instrument is a will or a trust agreement.

(3) The provisions of this act shall not apply to any instrument which is subject to the provisions of the will substitution act of 1937.

(4) The provisions of this act shall not apply to any instrument which is subject to the provisions of the trust agreement act of 1937.

(5) The provisions of this act shall not apply to any instrument which is subject to the provisions of the will substitution act of 1937.

(6) The provisions of this act shall not apply to any instrument which is subject to the provisions of the trust agreement act of 1937.

No. , 1958.

A BILL

To make further provision in relation to persons who plead guilty in committal proceedings; for this purpose to amend the Justices Act, 1902, the Criminal Appeal Act of 1912, the Habitual Criminals Act, 1957, and certain other Acts, in certain respects; and for purposes connected therewith.

[Mr. McMAHON, *on behalf of Mr. SHEAHAN*;—22 October, 1958.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Justices (Amendment) Act, 1958".
- (2) Short title and citation.

Justices (Amendment).

(2) The Justices Act, 1902, as amended by subsequent Acts and by this Act, may be cited as the Justices Act, 1902-1958.

2. (1) The Justices Act, 1902, as amended by subsequent Acts, is amended by inserting at the end of section 51A the following new subsection :—

Amendment of Act No. 27, 1902.

Sec. 51A.

(Effect of plea of guilty in committal proceedings.)

10 (7) A person sentenced or otherwise dealt with under subparagraph (ii) of paragraph (d) of subsection one of this section for an offence to which he pleaded guilty pursuant to that subsection shall, for the purposes of any Act passed either before or after the commencement of section two of the Justices (Amendment) Act, 1958, be deemed to be convicted on indictment of the offence.

15 (2) This section shall be deemed to have commenced on the fourteenth day of April, one thousand nine hundred and fifty-five.

3. (1) The Criminal Appeal Act of 1912, as amended by subsequent Acts, is amended by inserting next after section eight the following new section :—

Amendment of Act No. 16, 1912.

New sec. 8A.

20 8A. (1) Where a person deemed to be convicted on indictment under subsection seven of section 51A of the Justices Act, 1902, as amended by subsequent Acts, appeals to the court against the conviction, the court may, either of its own motion, or on the application of the appellant, order that the proceedings before the justice or justices at which the appellant pleaded guilty be continued at a time and place to be specified in the order, if the court considers that a miscarriage of justice has occurred, and, that having regard to all the circumstances, the miscarriage of justice can be more adequately remedied by an order that those proceedings be so continued than by any other order which the court is empowered to make.

Power of court to order committal proceedings to be continued in certain cases.

(2)

Justices (Amendment).

5 (2) Where an order is made under subsection one of this section, the proceedings before the justice or justices shall be continued in all respects as if the appellant had not pleaded guilty and as if those proceedings had been adjourned by the justice or justices to the time and place specified in the order. cf. Act No. 27, 1902, s. 51A (3).

10 Upon the making of the order, the court may exercise any power that the justice or justices might have exercised under section thirty-four of the Justices Act, 1902, as amended by subsequent Acts, if the order had been an order made by the justice or justices adjourning the proceedings to the time and place so specified; and the provisions of the said section thirty-four apply to and in respect of the appellant.

15 (3) The powers conferred on the court by this section are in addition to any other power conferred on the court by this Act.

20 (2) The amendment made by subsection one of this section applies to appeals to the Court of Criminal Appeal pending at the commencement of this section as well as to appeals to that Court instituted after that commencement.

4. (1) The Habitual Criminals Act, 1957, is amended by omitting subsection two of section three. Amendment of Act No. 19, 1957.

25 (2) This section shall be deemed to have commenced on the first day of June, one thousand nine hundred and fifty-seven. Sec. 3. (Interpretation.)

Amendment

(1) Where in order to give effect to the provisions of this Act it is necessary to amend any law, the provisions of this Act shall be deemed to include those amendments.

(2) The provisions of this Act shall apply to any person who is liable to be punished under the provisions of the Criminal Code, as amended by the Criminal Code Act, 1953, in respect of any offence committed by him after the commencement of this Act.

(3) The power conferred on the court by this section shall be in addition to any other power conferred on the court by this Act.

(4) The amendment made by subsection one of this section applies to appeals to the Court of Criminal Appeal pending at the commencement of this section as well as to appeals to that Court instituted after that commencement.

4. (1) The Criminal Code Act, 1953, is amended by inserting subsection two of section three.

(2) This section shall be deemed to have commenced on the first day of June one thousand nine hundred and fifty-four.

Amendment
of Act No.
1000
1953

JUSTICES (AMENDMENT) BILL, 1958.

EXPLANATORY NOTE.

THE objects of this Bill are—

- (a) to provide that a person who pleads guilty to an offence in committal proceedings and is sentenced by a Judge of the Supreme Court or a Chairman of Quarter Sessions under section 51A of the Justices Act, 1902, as amended, shall, for the purposes of any Act, be deemed to be convicted on indictment of the offence ;
- (b) to provide that where a person deemed to be so convicted appeals to the Court of Criminal Appeal against the conviction, that Court may order that the committal proceedings be continued as if he had not pleaded guilty ;
- (c) to make certain other amendments ancillary to, or consequential on, the above objects.

JUSTICES (AMENDMENT) BILL, 1958

EXPLANATORY NOTE

The objects of this Bill are—

- (a) to provide that a person who pleads guilty to an offence in a criminal proceeding and is sentenced by a Judge of the Supreme Court or a Judge of the District Court under section 114 of the Criminal Code, shall be deemed to be convicted on indictment of the offence;
- (b) to provide that where a person is found guilty of an offence in a criminal proceeding and is sentenced by a Judge of the District Court, that the sentence shall be deemed to be a sentence of imprisonment for a term not exceeding the term specified in the above

No. , 1958.

A BILL

To make further provision in relation to persons who plead guilty in committal proceedings; for this purpose to amend the Justices Act, 1902, the Criminal Appeal Act of 1912, the Habitual Criminals Act, 1957, and certain other Acts, in certain respects; and for purposes connected therewith.

[Mr. McMAHON, *on behalf of* Mr. SHEAHAN;—22 October, 1958.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Justices (Amendment) Act, 1958".
- (2) Short title and citation.

Justices (Amendment).

(2) The Justices Act, 1902, as amended by subsequent Acts and by this Act, may be cited as the Justices Act, 1902-1958.

2. (1) The Justices Act, 1902, as amended by subsequent Acts, is amended by inserting at the end of section 51A the following new subsection :—

Amendment of Act No. 27, 1902. Sec. 51A.

(7) A person sentenced or otherwise dealt with under subparagraph (ii) of paragraph (d) of subsection one of this section for an offence to which he pleaded guilty pursuant to that subsection shall, for the purposes of any Act passed either before or after the commencement of section two of the Justices (Amendment) Act, 1958, be deemed to be convicted on indictment of the offence.

(Effect of plea of guilty in committal proceedings.)

(2) This section shall be deemed to have commenced on the fourteenth day of April, one thousand nine hundred and fifty-five.

3. (1) The Criminal Appeal Act of 1912, as amended by subsequent Acts, is amended by inserting next after section eight the following new section :—

Amendment of Act No. 16, 1912. New sec. 8A.

8A. (1) Where a person deemed to be convicted on indictment under subsection seven of section 51A of the Justices Act, 1902, as amended by subsequent Acts, appeals to the court against the conviction, the court may, either of its own motion, or on the application of the appellant, order that the proceedings before the justice or justices at which the appellant pleaded guilty be continued at a time and place to be specified in the order, if the court considers that a miscarriage of justice has occurred, and, that having regard to all the circumstances, the miscarriage of justice can be more adequately remedied by an order that those proceedings be so continued than by any other order which the court is empowered to make.

Power of court to order committal proceedings to be continued in certain cases.

(2)

Justices (Amendment).

5 (2) Where an order is made under subsection one of this section, the proceedings before the justice or justices shall be continued in all respects as if the appellant had not pleaded guilty and as if those proceedings had been adjourned by the justice or justices to the time and place specified in the order.

cf. Act No.
27, 1902,
s. 51A (3).

10 Upon the making of the order, the court may exercise any power that the justice or justices might have exercised under section thirty-four of the Justices Act, 1902, as amended by subsequent Acts, if the order had been an order made by the justice or justices adjourning the proceedings to the time and place so specified; and the provisions of the said section thirty-four apply to and in respect of the appellant.

15 (3) The powers conferred on the court by this section are in addition to any other power conferred on the court by this Act.

20 (2) The amendment made by subsection one of this section applies to appeals to the Court of Criminal Appeal pending at the commencement of this section as well as to appeals to that Court instituted after that commencement.

4. (1) The Habitual Criminals Act, 1957, is amended by omitting subsection two of section three.

Amendment
of Act No.
19, 1957.

25 (2) This section shall be deemed to have commenced on the first day of June, one thousand nine hundred and fifty-seven.

Sec. 3.
(Interpre-
tation.)

Section 10

10. The maintenance made by subsection one of this section applies to appeals to the Court of Criminal Appeal pending at the commencement of this section as well as to appeals made after the commencement of this section.

11. The section shall be deemed to have commenced operation on the day on which this Act is enacted.

12. The section shall be deemed to have commenced operation on the day on which this Act is enacted.

13. The section shall be deemed to have commenced operation on the day on which this Act is enacted.

14. The section shall be deemed to have commenced operation on the day on which this Act is enacted.

15. The section shall be deemed to have commenced operation on the day on which this Act is enacted.

New South Wales



ANNO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. 25, 1958.

An Act to make further provision in relation to persons who plead guilty in committal proceedings; for this purpose to amend the Justices Act, 1902, the Criminal Appeal Act of 1912, the Habitual Criminals Act, 1957, and certain other Acts, in certain respects; and for purposes connected therewith. [Assented to, 31st October, 1958.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Justices (Amendment) Act, 1958". (2) Short title and citation.

Justices (Amendment).

(2) The Justices Act, 1902, as amended by subsequent Acts and by this Act, may be cited as the Justices Act, 1902-1958.

Amendment
of Act No.
27, 1902.
Sec. 51A.
(Effect of
plea of
guilty in
committal
proceed-
ings.)

2. (1) The Justices Act, 1902, as amended by subsequent Acts, is amended by inserting at the end of section 51A the following new subsection :—

(7) A person sentenced or otherwise dealt with under subparagraph (ii) of paragraph (d) of subsection one of this section for an offence to which he pleaded guilty pursuant to that subsection shall, for the purposes of any Act passed either before or after the commencement of section two of the Justices (Amendment) Act, 1958, be deemed to be convicted on indictment of the offence.

(2) This section shall be deemed to have commenced on the fourteenth day of April, one thousand nine hundred and fifty-five.

Amendment
of Act No.
16, 1912.
New sec.
8A.

3. (1) The Criminal Appeal Act of 1912, as amended by subsequent Acts, is amended by inserting next after section eight the following new section :—

Power of
court to
order
committal
proceedings
to be
continued
in certain
cases.

8A. (1) Where a person deemed to be convicted on indictment under subsection seven of section 51A of the Justices Act, 1902, as amended by subsequent Acts, appeals to the court against the conviction, the court may, either of its own motion, or on the application of the appellant, order that the proceedings before the justice or justices at which the appellant pleaded guilty be continued at a time and place to be specified in the order, if the court considers that a miscarriage of justice has occurred, and, that having regard to all the circumstances, the miscarriage of justice can be more adequately remedied by an order that those proceedings be so continued than by any other order which the court is empowered to make.

Justices (Amendment).

(2) Where an order is made under subsection one of this section, the proceedings before the justice or justices shall be continued in all respects as if the appellant had not pleaded guilty and as if those proceedings had been adjourned by the justice or justices to the time and place specified in the order. cf. Act No. 27, 1902, s. 51A (3).

Upon the making of the order, the court may exercise any power that the justice or justices might have exercised under section thirty-four of the Justices Act, 1902, as amended by subsequent Acts, if the order had been an order made by the justice or justices adjourning the proceedings to the time and place so specified; and the provisions of the said section thirty-four apply to and in respect of the appellant.

(3) The powers conferred on the court by this section are in addition to any other power conferred on the court by this Act.

(2) The amendment made by subsection one of this section applies to appeals to the Court of Criminal Appeal pending at the commencement of this section as well as to appeals to that Court instituted after that commencement.

4. (1) The Habitual Criminals Act, 1957, is amended by omitting subsection two of section three. Amendment of Act No. 19, 1957.

(2) This section shall be deemed to have commenced on the first day of June, one thousand nine hundred and fifty-seven. Sec. 3. (Interpretation.)

By Authority:

V. C. N. BLIGHT, Government Printer, Sydney, 1958

Justice (Amendment)

3) Where in order is made under subsection one of this section, the proceedings before the justice or justices shall be continued to all respects as if the applicant had not appeared and as if the proceedings had not been adjourned by the justice or justices to the time and place specified in the order.

4) Upon the making of the order, the court may also make an order that the justice or justices might have exercised under section thirty-four of the Justice Act, 1951 as amended by subsequent laws if the order had been made by the justice or justices adjoining the proceedings to the time and place specified and the provisions of the said section thirty-four shall in and in respect of the applicant.

5) The power conferred on the court by this section may, in addition to any other power conferred on the court by this Act.

(2) The amendment made by subsection one of this section applies to appeals to the Court of Criminal Appeal pending at the commencement of this section as well as to appeals to that Court instituted after that commencement.

(1) The Hibiscus-Crested Act, 1957 is amended by inserting subsection two of section three

(3) This section shall be deemed to have commenced on the first day of June and shall have effect and shall be deemed to have effect from that date.

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 28 October, 1958.*

New South Wales



ANNO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. 25, 1958.

An Act to make further provision in relation to persons who plead guilty in committal proceedings; for this purpose to amend the Justices Act, 1902, the Criminal Appeal Act of 1912, the Habitual Criminals Act, 1957, and certain other Acts, in certain respects; and for purposes connected therewith. [Assented to, 31st October, 1958.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Justices (Amendment) Act, 1958".
- (2) Short title and citation.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

G. BOOTH,
Chairman of Committees of the Legislative Assembly.

Justices (Amendment).

(2) The Justices Act, 1902, as amended by subsequent Acts and by this Act, may be cited as the Justices Act, 1902-1958.

Amendment
of Act No.
27, 1902.
Sec. 51A.
(Effect of
plea of
guilty in
committal
proceed-
ings.)

2. (1) The Justices Act, 1902, as amended by subsequent Acts, is amended by inserting at the end of section 51A the following new subsection : —

(7) A person sentenced or otherwise dealt with under subparagraph (ii) of paragraph (d) of subsection one of this section for an offence to which he pleaded guilty pursuant to that subsection shall, for the purposes of any Act passed either before or after the commencement of section two of the Justices (Amendment) Act, 1958, be deemed to be convicted on indictment of the offence.

(2) This section shall be deemed to have commenced on the fourteenth day of April, one thousand nine hundred and fifty-five.

Amendment
of Act No.
16, 1912.
New sec.
8A.

3. (1) The Criminal Appeal Act of 1912, as amended by subsequent Acts, is amended by inserting next after section eight the following new section : —

Power of
court to
order
committal
proceedings
to be
continued
in certain
cases.

8A. (1) Where a person deemed to be convicted on indictment under subsection seven of section 51A of the Justices Act, 1902, as amended by subsequent Acts, appeals to the court against the conviction, the court may, either of its own motion, or on the application of the appellant, order that the proceedings before the justice or justices at which the appellant pleaded guilty be continued at a time and place to be specified in the order, if the court considers that a miscarriage of justice has occurred, and, that having regard to all the circumstances, the miscarriage of justice can be more adequately remedied by an order that those proceedings be so continued than by any other order which the court is empowered to make.

(2)

Justices (Amendment).

(2) Where an order is made under subsection one of this section, the proceedings before the justice or justices shall be continued in all respects as if the appellant had not pleaded guilty and as if those proceedings had been adjourned by the justice or justices to the time and place specified in the order. cf. Act No. 27, 1902, s. 51A (3).

Upon the making of the order, the court may exercise any power that the justice or justices might have exercised under section thirty-four of the Justices Act, 1902, as amended by subsequent Acts, if the order had been an order made by the justice or justices adjourning the proceedings to the time and place so specified; and the provisions of the said section thirty-four apply to and in respect of the appellant.

(3) The powers conferred on the court by this section are in addition to any other power conferred on the court by this Act.

(2) The amendment made by subsection one of this section applies to appeals to the Court of Criminal Appeal pending at the commencement of this section as well as to appeals to that Court instituted after that commencement.

4. (1) The Habitual Criminals Act, 1957, is amended by omitting subsection two of section three. Amendment of Act No. 19, 1957.

(2) This section shall be deemed to have commenced on the first day of June, one thousand nine hundred and fifty-seven. Sec. 3. (Interpretation.)

In the name and on behalf of Her Majesty I assent to this Act.

E. W. WOODWARD,
Governor.

*Government House,
Sydney, 31st October, 1958.*

Annex (continued)

1.1. When an order is made under subsection 1(1) of the Act, the proceeds of the order shall be deemed to be received by the order recipient as if the order had not been made and as if the order recipient had been admitted to the bank of deposit for the order.

1.2. The order recipient shall be deemed to have received the order as if the order had not been made and as if the order recipient had been admitted to the bank of deposit for the order.

1.3. The order recipient shall be deemed to have received the order as if the order had not been made and as if the order recipient had been admitted to the bank of deposit for the order.

1.4. The order recipient shall be deemed to have received the order as if the order had not been made and as if the order recipient had been admitted to the bank of deposit for the order.

1.5. The order recipient shall be deemed to have received the order as if the order had not been made and as if the order recipient had been admitted to the bank of deposit for the order.

1.6. The order recipient shall be deemed to have received the order as if the order had not been made and as if the order recipient had been admitted to the bank of deposit for the order.

1.7. The order recipient shall be deemed to have received the order as if the order had not been made and as if the order recipient had been admitted to the bank of deposit for the order.

E. W. WOODWARD,
Governor

Government House,
Ottawa, Ontario, 1972