

CRIMES (AMENDMENT) ACT, 1979, No. 95

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 95, 1979.

An Act to confer jurisdiction on the Supreme Court in its summary jurisdiction to hear and determine proceedings for certain offences under the Crimes Act, 1900, the Companies Act, 1961, the Securities Industry Act, 1970, and the Securities Industry Act, 1975, for attempts or conspiracies to commit

See also Supreme Court (Summary Jurisdiction) Crimes (Amendment) Act, 1979; Criminal Appeal (Crimes) Amendment Act, 1979; Bail (Crimes) Amendment Act, 1979; Companies (Crimes) Amendment Act, 1979; Securities Industry (Crimes) Amendment Act, 1979.

Crimes (Amendment).

any of those offences and for the common law offence of conspiracy to cheat and defraud; to create additional offences under the Crimes Act, 1900; to reduce the penalty for certain offences under the Crimes Act, 1900; and for other purposes. [Assented to, 17th May, 1979.]

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 :—

Short
title.

1. This Act may be cited as the "Crimes (Amendment) Act, 1979".

Commence-
ment.

2. (1) This section and sections 1, 3 and 6 shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Principal
Act.

3. The Crimes Act 1900 is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 2.—SECTIONS OF PRINCIPAL ACT IN WHICH PENALTY OF PENAL SERVITUDE REDUCED.

Amendment
of Act No.
40, 1900.

5. (1) The Principal Act is amended in the manner set forth in Schedule 1.

(2) The Principal Act is further amended by omitting from each section specified in Schedule 2 the word "fourteen" wherever occurring and by inserting instead the matter "10".

Crimes (Amendment).

6. The Crimes (Bail) Amendment Act, 1978, is amended—
- (a) by omitting Schedule 1 (1);
 - (b) by omitting clause 6 of Schedule 2.

Amendment
of Act No.
166, 1978.
Sch. 1.

Sch. 2.

7. A reference in any other Act, or in any regulation, by-law or other statutory instrument or in any other document whether of the same or of a different kind, to the "Crimes Act 1900" or the "Crimes Act of 1900" shall be read and construed as a reference to the "Crimes Act, 1900," or, if that reference is not appropriate, to the "Crimes Act, 1900".

Savings.

SCHEDULE 1.

Sec. 5 (1).

AMENDMENTS TO THE PRINCIPAL ACT.

- (1) (a) Section 1—
Omit "Crimes Act 1900," insert instead "Crimes Act, 1900".
- (b) Section 1, matter relating to Part IV—
After "s. 178B.", insert :—
(f2a) OBTAINING MONEY, ETC., BY DECEPTION—s. 178BA.
(f2b) OBTAINING MONEY, ETC., BY FALSE OR MISLEADING STATEMENTS—s. 178BB.
- (c) Section 1—
After the matter relating to Part XIII, insert :—
PART XIII A.—OFFENCES PUNISHABLE BY THE SUPREME COURT IN ITS SUMMARY JURISDICTION.—ss. 475A, 475B.

*Crimes (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*(2) Section 4 (1), definition of “*Officer*”—

After the definition of “*Offensive weapon*” and “*Offensive weapon, or instrument*”, insert :—

“*Officer*”, in relation to a body corporate or public company, includes a person who has been appointed, or acts, as an auditor of the body corporate or public company.

(3) Section 176A—

After section 176, insert :—

176A. Whosoever, being a director, officer, or member, of any body corporate or public company, cheats or defrauds, or does or omits to do any act with intent to cheat or defraud, the body corporate or company or any person in his dealings with the body corporate or company shall be liable to imprisonment for 10 years.

Directors,
etc.,
cheating or
defrauding.

(4) Sections 178BA, 178BB, and short headings—

After section 178B, insert :—

OBTAINING MONEY, ETC., BY DECEPTION.

178BA. (1) Whosoever by any deception dishonestly obtains for himself or another person any money or valuable thing or any financial advantage of any kind whatsoever shall be liable to imprisonment for 5 years.

Obtaining
money, etc.,
by decep-
tion.
cf. Vic.
No. 6231,
ss. 81 (4),
82; U.K.
1968, c. 60,
ss. 15 (4),
16 (1) (3).

(2) For the purposes of subsection (1), “deception” means any deception (whether deliberate or reckless) by words or conduct as to fact or as to law, including a deception as to the present intentions of the person using the deception or any other person.

Crimes (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

OBTAINING MONEY, ETC., BY FALSE OR MISLEADING STATEMENTS.

178BB. Whosoever, with intent to obtain for himself or another person any money or valuable thing or any financial advantage of any kind whatsoever, makes or publishes, or concurs in making or publishing, any statement (whether or not in writing) which he knows to be false or misleading in a material particular or which is false or misleading in a material particular and is made with reckless disregard as to whether it is true or is false or misleading in a material particular shall be liable to imprisonment for 5 years.

Obtaining money, etc., by false or misleading statements.

(5) Part XIII—

After Part XIII, insert :—

PART XIII.

OFFENCES PUNISHABLE BY THE SUPREME COURT IN ITS SUMMARY JURISDICTION.

475A. (1) Subject to subsection (2) and section 475B but notwithstanding any other law, proceedings for any offence mentioned in the Tenth Schedule may, pursuant to an application made under section 4 (1) of the Supreme Court (Summary Jurisdiction) Act, 1967, by the Attorney-General, be taken before the Supreme Court in its summary jurisdiction.

Offences punishable summarily.

(2) Proceedings for an offence mentioned in paragraph (f) of the Tenth Schedule may not be taken under subsection (1) unless, in the application made under section 4 (1) of the Supreme Court (Summary Jurisdiction) Act, 1967, in respect of the offence, the person against whom the offence is charged is also charged with an offence mentioned in paragraph (a), (b), (c), (d) or (e) of that Schedule.

Crimes (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(3) A person may be convicted of an offence mentioned in paragraph (f) of the Tenth Schedule notwithstanding that he is not convicted of the offence mentioned in paragraph (a), (b), (c), (d) or (e) of that Schedule that was also charged in the application made under section 4 (1) of the Supreme Court (Summary Jurisdiction) Act, 1967, in respect of the offence mentioned in paragraph (e) of that Schedule.

(4) The penalty that may be imposed by the Supreme Court in its summary jurisdiction on a person convicted of an offence mentioned in the Tenth Schedule is the penalty provided by law (other than this subsection), except that any fine imposed shall not exceed \$10,000 and any term of penal servitude or imprisonment imposed shall not exceed 10 years, whether the penalty imposed is either a fine or a term of penal servitude or imprisonment only or is both a fine and a term of penal servitude or imprisonment.

(5) Subsection (1) does not prevent proceedings for any offence referred to in that subsection from being taken otherwise than before the Supreme Court in its summary jurisdiction.

(6) The reference in subsection (1) to the Attorney-General includes, in relation to any proceedings, a reference to any person who is authorised in writing by the Governor to act, for the purposes of that subsection, on behalf of the Attorney-General in relation to those proceedings or in relation to proceedings for all offences mentioned in the Tenth Schedule.

Crimes (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (7) A document purporting to be signed—
- (a) by the Governor and to authorise a person specified in the document to act as referred to in subsection (6) is, in any proceedings referred to in subsection (1), admissible in evidence as prima facie evidence that the person is authorised so to act; or
 - (b) by the Attorney-General for the purpose of any proceedings referred to in subsection (1) is admissible in evidence as prima facie evidence that the Attorney-General signed the document.

475B. (1) Section 475A (1) applies only if, upon the completion of the pre-trial procedures in any proceedings in respect of an offence to which an application under section 4 (1) of the Supreme Court (Summary Jurisdiction) Act, 1967, relates, being procedures prescribed by rules made under that Act, the defendant makes an election to be tried for that offence in the Supreme Court in its summary jurisdiction. Election for summary trial.

(2) Notwithstanding subsection (1) where the defendant in any proceedings is the subject of an application (not being an application referred to in subsection (3)), under section 4 (1) of the Supreme Court (Summary Jurisdiction) Act, 1967, relating to 2 or more offences, he is not entitled to make an election under subsection (1) unless he makes it in respect of every offence to which the application relates.

Crimes (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(3) Where 2 or more defendants are the subject of an application under section 4 (1) of the Supreme Court (Summary Jurisdiction) Act, 1967, an election under subsection (1) made by one of the defendants in respect of any offence to which the application relates and alleged to have been committed by him has no effect for the purposes of this section unless such an election is made by that defendant in respect of every other offence to which the application relates and which is alleged to have been committed by him and by each of the other defendants in respect of every offence to which the application relates and which is alleged to have been committed by each of them.

(4) A reference in subsection (1), (2) or (3) to an offence to which an application under section 4 (1) of the Supreme Court (Summary Jurisdiction) Act, 1967, relates does not include a reference to such an offence to which the person charged with the offence has, upon such an application, pleaded guilty.

(5) Where the defendant does not make an election under subsection (1)—

- (a) the Supreme Court shall order that the proceedings for the offence to which the election relates shall be tried in the Supreme Court otherwise than in its summary jurisdiction; and
- (b) the provisions of section 475A (1) shall cease to apply to or in respect of the proceedings for that offence.

Crimes (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(6) A person tried pursuant to an order under subsection (5) (a) shall for all purposes, be deemed to be tried on indictment and if convicted to have been convicted on indictment.

(7) A reference in this section to a plea of guilty does not include a reference to such a plea if the plea has been withdrawn or has not been accepted.

(6) Section 567A—

After section 567, insert :—

567A. An indictment may contain counts for felonies or misdemeanours or both.

Counts for felonies and misdemeanours in one indictment.

(7) Tenth Schedule—

After the Ninth Schedule, insert :—

TENTH SCHEDULE.

Sec. 475A.

Offences Punishable by the Supreme Court in its Summary Jurisdiction.

- (a) Any offence arising under, or the common law offence of attempting, or of conspiracy, to commit any offence arising under, section 173, 174, 175, 176, 176A or 179 of this Act; any offence arising under section 185A (1) or (2) of this Act; the common law offence of attempting to commit any offence arising under section 185A (1) of this Act.

Crimes (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) Any offence arising under, or the common law offence of attempting, or of conspiracy, to commit any offence arising under, section 124, 374A (1) or (3), 374B, 374C (2), 374G, 375 (2), 375A or 376 (2) of the Companies Act, 1961.
 - (c) Any offence arising under, or the common law offence of attempting, or of conspiracy, to commit any offence arising under, section 14 (1), 27, 59 (7), 109 (1) or (2), 110, 111, 112 (1), (2), (3), (4), (5) or (6) or 121 (1) of the Securities Industry Act, 1975.
 - (d) Any offence arising under, or the common law offence of attempting, or of conspiracy, to commit any offence arising under, section 70, 71 (1) or (3), 72 (1) or 73 of the Securities Industry Act, 1970.
 - (e) The common law offence of conspiracy to cheat and defraud.
 - (f) Subject to section 475A (2) of this Act, any offence arising under, or the common law offence of attempting, or of conspiracy, to commit any offence arising under, section 165, 166, 168, 169, 170, 172, 178A, 178BA, 178BB, 178C, 185, 252, 256, 257, 258, 259, 272, 273, 274, 275, 276, 292, 327, 330 or 339 of this Act, section 47 (1), 51 (3), 64 (10), 86 (1), 163 (1) (being an offence committed as referred to in section 163 (3)), 179A (1), 180J (1) or (1A), 180W or 374F (1) or (2) of the Companies Act, 1961, or section 12 (6), 25 (1), 54 (1) or 58 (1), (2), (3) or (4) of the Securities Industry Act, 1975.
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Crimes (Amendment).

SCHEDULE 2.

Sec. 5 (2).

SECTIONS OF PRINCIPAL ACT IN WHICH PENALTY OF PENAL SERVITUDE
REDUCED.

Sections 173, 174, 175, 176, 256, 257, 258 and 272.

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

A. R. CUTLER,
Governor.

*Government House,
Sydney, 17th May, 1979.*

(S) 1952



CRIMES (AMENDMENT) BILL, 1979

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The following Bills are cognate with this Bill:—

- Supreme Court (Summary Jurisdiction) Crimes (Amendment) Bill, 1979;
- Criminal Appeal (Crimes) Amendment Bill, 1979;
- Bail (Crimes) Amendment Bill, 1979;
- Companies (Crimes) Amendment Bill, 1979;
- Securities Industry (Crimes) Amendment Bill, 1979.

The objects of this Bill are to make certain offences under the Crimes Act, 1900 ("the Principal Act"), the Companies Act, 1961, the Securities Industry Act, 1970, and the Securities Industry Act, 1975, the common law offences of attempting or of conspiracy to commit any of those offences and the common law offence of conspiracy to cheat and defraud punishable by the Supreme Court in its summary jurisdiction, to create certain new offences under the Principal Act and to reduce the penalty imposed for certain offences under that Act.

The Bill contains the following provisions:—

Clause 1. Short title.

Clause 2. Commencement.

Clause 3 designates the Crimes Act, 1900, as the Principal Act.

Clause 4 specifies the Schedules contained in the proposed Act.

Clause 5 effects the amendments set forth in Schedule 1 and reduces from 14 to 10 years the period of penal servitude that may be imposed as a punishment for offences against the sections of the Principal Act specified in Schedule 2.

Clause 6 amends the Crimes (Bail) Amendment Act, 1978, consequentially upon altering references to the Crimes Act 1900 or the Crimes Act of 1900 to the Crimes Act, 1900.

Clause 7 contains savings with respect to the amendment made by clause 6.

Schedule 1 contains amendments to the Principal Act. The objects of the amendments are:—

- (a) to include in section 4 (1) of the Principal Act a definition of the expression "*Officer*" in relation to a body corporate or public company so that the expression includes a person who has been appointed, or acts, as an auditor of the body corporate or public company (Schedule 1 (2));

- (b) to create new offences under the Principal Act as follows:—
- (i) the offence of a director, officer or member of a body corporate or public company cheating or defrauding certain persons—punishable by imprisonment for a term not exceeding 10 years;
 - (ii) the offence of a person, by any deception, obtaining any money or valuable thing or financial advantage—punishable by imprisonment for a term not exceeding 5 years; and
 - (iii) the offence of any person, with intent to obtain any money or valuable thing or any financial advantage, making or publishing a statement that is false or misleading in a material particular—punishable by imprisonment for a term not exceeding 5 years
- (Schedule 1 (3), (4));
- (c) to provide that certain offences under the Crimes Act, 1900, the Companies Act, 1961, the Securities Industry Act, 1970, and the Securities Industry Act, 1975, the common law offences of attempting or of conspiracy to commit any of those offences and the common law offence of conspiracy to cheat and defraud shall be punishable in the Supreme Court in its summary jurisdiction (Schedule 1 (5), (7));
- (d) to provide that an indictment may contain counts for felonies or misdemeanours or both (Schedule 1 (6));
- (e) to include in the Principal Act a Tenth Schedule specifying the offences referred to in paragraph (c) above (Schedule 1 (7)); and
- (f) to make other provisions consequential upon or ancillary to the foregoing amendments.
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CRIMES (AMENDMENT) BILL, 1979

No. , 1979.

A BILL FOR

An Act to confer jurisdiction on the Supreme Court in its summary jurisdiction to hear and determine proceedings for certain offences under the Crimes Act, 1900, the Companies Act, 1961, the Securities Industry Act, 1970, and the Securities Industry Act, 1975, for attempts or conspiracies to commit any of those offences and for the common law offence of conspiracy to cheat and defraud; to create additional offences under the Crimes Act, 1900; to reduce the penalty for certain offences under the Crimes Act, 1900; and for other purposes.

[MR F. J. WALKER—1 *March*, 1979.]

See also Supreme Court (Summary Jurisdiction) Crimes (Amendment) Bill, 1979; Criminal Appeal (Crimes) Amendment Bill, 1979; Bail (Crimes) Amendment Bill, 1979; Companies (Crimes) Amendment Bill, 1979; Securities Industry (Crimes) Amendment Bill, 1979.

Crimes (Amendment).

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 :—

5 **1.** This Act may be cited as the "Crimes (Amendment) Act, Short
1979". title.

2. (1) This section and sections 1, 3 and 6 shall commence on Commence-
the date of assent to this Act. ment.

 (2) Except as provided in subsection (1), this Act shall
10 commence on such day as may be appointed by the Governor in
respect thereof and as may be notified by proclamation published
in the Gazette.

3. The Crimes Act 1900 is referred to in this Act as the Principal
Principal Act. Act.

15 **4.** This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 2.—SECTIONS OF PRINCIPAL ACT IN WHICH
PENALTY OF PENAL SERVITUDE REDUCED.

20 **5.** (1) The Principal Act is amended in the manner set forth Amendment
in Schedule 1. of Act No.
40, 1900.

 (2) The Principal Act is further amended by omitting from
each section specified in Schedule 2 the word "fourteen" wherever
occurring and by inserting instead the matter "10".

Crimes (Amendment).

6. The Crimes (Bail) Amendment Act, 1978, is amended—

Amendment
of Act No.
166, 1978.
Sch. 1.

(a) by omitting Schedule 1 (1);

(b) by omitting clause 6 of Schedule 2.

Sch. 2.

7. A reference in any other Act, or in any regulation, by-law Savings.
5 or other statutory instrument or in any other document whether of
the same or of a different kind, to the "Crimes Act 1900" or the
"Crimes Act of 1900" shall be read and construed as a reference
to the "Crimes Act, 1900," or, if that reference is not appropriate,
to the "Crimes Act, 1900".

SCHEDULE 1.

Sec. 5 (1).

AMENDMENTS TO THE PRINCIPAL ACT.

(1) (a) Section 1—

Omit "Crimes Act 1900," insert instead "Crimes
Act, 1900".

(b) Section 1, matter relating to Part IV—

After "s. 178B.", insert :—

(f2a) OBTAINING MONEY, ETC., BY DECEPTION—s.
178BA.

(f2b) OBTAINING MONEY, ETC., BY FALSE OR
MISLEADING STATEMENTS—s. 178BB.

(c) Section 1—

After the matter relating to Part XIII, insert :—

PART XIII A.—OFFENCES PUNISHABLE BY THE
SUPREME COURT IN ITS SUMMARY JURISDIC-
TION.—s. 475A.

Crimes (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(2) Section 4 (1), definition of “Officer”—

5 After the definition of “Offensive weapon” and “Offensive weapon, or instrument”, insert :—

“Officer”, in relation to a body corporate or public company, includes a person who has been appointed, or acts, as an auditor of the body corporate or public company.

10 (3) Section 176A—

After section 176, insert :—

15 176A. Whosoever, being a director, officer, or member, of any body corporate or public company, cheats or defrauds, or does or omits to do any act with intent to cheat or defraud, the body corporate or company or any person in his dealings with the body corporate or company shall be liable to imprisonment for 10 years.

Directors,
etc.,
cheating or
defrauding.

(4) Sections 178BA, 178BB, and short headings—

After section 178B, insert :—

20 OBTAINING MONEY, ETC., BY DECEPTION.

178BA. (1) Whosoever by any deception dishonestly obtains for himself or another person any money or valuable thing or any financial advantage of any kind whatsoever shall be liable to imprisonment for 5 years.

Obtaining
money, etc.,
by decep-
tion.

cf. Vic.
No. 6231,
ss. 81 (4),
82; U.K.
1968, c. 60,
ss. 15 (4),
16 (1) (3).

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(2) For the purposes of subsection (1), “deception” means any deception (whether deliberate or reckless) by words or conduct as to fact or as to law, including a deception as to the present intentions of the person using the deception or any other person.

Crimes (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

OBTAINING MONEY, ETC., BY FALSE OR MISLEADING STATEMENTS.

5 178BB. Whosoever, with intent to obtain for himself or another person any money or valuable thing or any financial advantage of any kind whatsoever, makes or publishes, or concurs in making or publishing, any statement (whether or not in writing) which he knows to be false or misleading in a material particular or which is false or misleading in a material particular and is made with reckless disregard as to whether it is true or is false or misleading in a material particular shall be liable to imprisonment for 5 years.

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Obtaining money, etc., by false or misleading statements.

(5) Part XIII—

15 After Part XIII, insert :—

PART XIII.

OFFENCES PUNISHABLE BY THE SUPREME COURT IN ITS SUMMARY JURISDICTION.

20 475A. (1) Subject to subsection (2) but notwithstanding any other law, proceedings for any offence mentioned in the Tenth Schedule may, pursuant to an application made under section 4 (1) of the Supreme Court (Summary Jurisdiction) Act, 1967, by the Attorney-General, be taken before the Supreme Court in its summary jurisdiction.

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Offences punishable summarily.

30 (2) Proceedings for an offence mentioned in paragraph (f) of the Tenth Schedule may not be taken under subsection (1) unless, in the application made under section 4 (1) of the Supreme Court (Summary Jurisdiction) Act, 1967, in respect of the offence, the person against whom the offence is charged is also charged with an offence mentioned in paragraph (a), (b), (c), (d) or (e) of that Schedule.

Crimes (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (3) A person may be convicted of an offence
mentioned in paragraph (f) of the Tenth Schedule
notwithstanding that he is not convicted of the offence
mentioned in paragraph (a), (b), (c), (d) or (e) of that
Schedule that was also charged in the application made
under section 4 (1) of the Supreme Court (Summary
Jurisdiction) Act, 1967, in respect of the offence
10 mentioned in paragraph (e) of that Schedule.

15 (4) The penalty that may be imposed by the
Supreme Court in its summary jurisdiction on a person
convicted of an offence mentioned in the Tenth Schedule is
the penalty provided by law (other than this subsection),
except that any fine imposed shall not exceed \$10,000 and
any term of penal servitude or imprisonment imposed shall
not exceed 10 years, whether the penalty imposed is either
a fine or a term of penal servitude or imprisonment only or
20 is both a fine and a term of penal servitude or
imprisonment.

(5) Subsection (1) does not prevent proceedings
for any offence referred to in that subsection from being
taken otherwise than before the Supreme Court in its
summary jurisdiction.

25 (6) The reference in subsection (1) to the
Attorney-General includes, in relation to any proceedings,
a reference to any person who is authorised in writing by
the Governor to act, for the purposes of that subsection, on
behalf of the Attorney-General in relation to those
30 proceedings or in relation to proceedings for all offences
mentioned in the Tenth Schedule.

Crimes (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(7) A document purporting to be signed—

- 5 (a) by the Governor and to authorise a person specified in the document to act as referred to in subsection (6) is, in any proceedings referred to in subsection (1), admissible in evidence as prima facie evidence that the person is authorised so to act; or
- 10 (b) by the Attorney-General for the purpose of any proceedings referred to in subsection (1) is admissible in evidence as prima facie evidence that the Attorney-General signed the document.

(6) Section 567A—

After section 567, insert :—

15 567A. An indictment may contain counts for felonies or misdemeanours or both.

Counts for felonies and misdemeanours in one indictment.

(7) Tenth Schedule—

After the Ninth Schedule, insert :—

TENTH SCHEDULE.

Sec. 475A.

20 *Offences Punishable by the Supreme Court in its Summary Jurisdiction.*

- 25 (a) Any offence arising under, or the common law offence of attempting, or of conspiracy, to commit any offence arising under, section 165, 166, 168, 169, 170, 172, 173, 174, 175, 176, 176A, 178A, 178BA, 178BB, 178C, 179 or 185 of this Act; any offence arising under section 185A (1) or (2) of this Act; the common law offence of attempting to commit any offence arising under section 185A (1)
- 30 of this Act.

Crimes (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 (b) Any offence arising under, or the common law
offence of attempting, or of conspiracy, to commit
any offence arising under, section 47 (1), 51 (3),
64 (10), 86 (1), 124, 163 (1) (being an offence
committed as referred to in section 163 (3)), 179A
(1), 180J (1) or (1A), 180W, 374A (1) or (3),
10 374B, 374C (2), 374F (1) or (2), 374G, 375 (2),
375A or 376 (2) of the Companies Act, 1961.
- 15 (c) Any offence arising under, or the common law
offence of attempting, or of conspiracy, to commit
any offence arising under, section 12 (6), 14 (1),
25 (1), 27, 54 (1), 58 (1), (2), (3) or (4), 59
(7), 109 (1) or (2), 110, 111, 112 (1), (2), (3),
(4), (5) or (6) or 121 (1) of the Securities
Industry Act, 1975.
- 20 (d) Any offence arising under, or the common law
offence of attempting, or of conspiracy, to commit
any offence arising under, section 70, 71 (1) or
(3), 72 (1) or 73 of the Securities Industry Act,
1970.
- (e) The common law offence of conspiracy to cheat and
defraud.
- 25 (f) Subject to section 475A (2) of this Act, any offence
arising under, or the common law offence of
attempting, or of conspiracy, to commit any offence
arising under, section 252, 256, 257, 258, 259, 272,
273, 274, 275, 276, 292, 327, 330 or 339 of this
30 Act.
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Act No. , 1979.

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Crimes (Amendment).

SCHEDULE 2.

Sec. 5 (2).

SECTIONS OF PRINCIPAL ACT IN WHICH PENALTY OF PENAL SERVITUDE
REDUCED.

Sections 173, 174, 175, 176, 256, 257, 258 and 272.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1979

[24c]

CRIMES (AMENDMENT) BILL

Schedule of the amendments referred to in Legislative Council's
Message of 24 April, 1979

- No. 1.—Page 3, Schedule 1, line 25. After “475A”, insert “, 475B”.
- No. 2.—Page 5, Schedule 1, line 19. After “subsection (2)”, insert “and section 475B”.
- No. 3.—Page 7, Schedule 1. After line 12, insert:—

475B. (1) Section 475A (1) applies only if, upon the completion of the pre-trial procedures in any proceedings in respect of an offence to which an application under section 4 (1) of the Supreme Court (Summary Jurisdiction) Act, 1967, relates, being procedures prescribed by rules made under that Act, the defendant makes an election to be tried for that offence in the Supreme Court in its summary jurisdiction.

Election
for summary
trial.

(2) Notwithstanding subsection (1) where the defendant in any proceedings is the subject of an application (not being an application referred to in subsection (3)), under section 4 (1) of the Supreme Court (Summary Jurisdiction) Act, 1967, relating to 2 or more offences, he is not entitled to make an election under subsection (1) unless he makes it in respect of every offence to which the application relates.

(3) Where 2 or more defendants are the subject of an application under section 4 (1) of the Supreme Court (Summary Jurisdiction) Act, 1967, an election under subsection (1) made by one of the defendants in respect of any offence to which the application relates and alleged to have been committed by him has no effect for the purposes of this section unless such an election is made by that defendant in respect of every other offence to which the application relates and which is alleged to have been committed by him and by each of the other defendants in respect of every offence to which the application relates and which is alleged to have been committed by each of them.

(4) A reference in subsection (1), (2) or (3) to an offence to which an application under section 4 (1) of the Supreme Court (Summary Jurisdiction) Act, 1967, relates does not include a reference to such an offence to which the person charged with the offence has, upon such an application, pleaded guilty.

- (5) Where the defendant does not make an election under subsection (1)—
- (a) the Supreme Court shall order that the proceedings for the offence to which the election relates shall be tried in the Supreme Court otherwise than in its summary jurisdiction; and
 - (b) the provisions of section 475A (1) shall cease to apply to or in respect of the proceedings for that offence.

(6) A person tried pursuant to an order under subsection (5) (a) shall for all purposes be deemed to be tried on indictment and if convicted to have been convicted on indictment.

(7) A reference in this section to a plea of guilty does not include a reference to such a plea if the plea has been withdrawn or has not been accepted.

- No. 4.—Page 7, Schedule 1, lines 24 to 26. Omit “165, 166, 168, 169, 170, 172, 173, 174, 175, 176, 176A, 178A, 178BA, 178BB, 178c, 179 or 185”, insert “**173, 174, 175, 176, 176A or 179**”.
- No. 5.—Page 8, Schedule 1, lines 5 to 9. Omit “47 (1), 51 (3), 64 (10), 86 (1), 124, 163 (1) (being an offence committed as referred to in section 163 (3)), 179A (1), 180J (1) or (1A), 180W, 374A (1) or (3), 374B, 374c (2), 374F (1) or (2)”, insert “**124, 374A (1) or (3), 374B, 374c (2)**”.
- No. 6.—Page 8, Schedule 1, lines 13, 14. Omit “12 (6), 14 (1), 25 (1), 27, 54 (1), 58 (1), (2), (3) or (4)”, insert “**14 (1), 27**”.
- No. 7.—Page 8, Schedule 1, lines 28–30. Omit “252, 256, 257, 258, 259, 272, 273, 274, 275, 276, 292, 327, 330 or 339 of this Act”, insert “**165, 166, 168, 169, 170, 172, 178A, 178BA, 178BB, 178c, 185, 252, 256, 257, 258, 259, 272, 273, 274, 275, 276, 292, 327, 330 or 339 of this Act, section 47 (1), 51 (3), 64 (10), 86 (1), 163 (1) (being an offence committed as referred to in section 163 (3)), 179A (1), 180J (1) or (1A), 180W or 374F (1) or (2) of the Companies Act, 1961, or section 12 (6), 25 (1), 54 (1) or 58 (1), (2), (3) or (4) of the Securities Industry Act, 1975**”.
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