

**SUPREME COURT (SUMMARY JURISDICTION)
CRIMES (AMENDMENT) ACT, 1979, No. 96**

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 96, 1979.

An Act to amend the Supreme Court (Summary Jurisdiction) Act, 1967, so as to abolish, consequentially upon the enactment of the Criminal Appeal (Crimes) Amendment Act, 1979, appeals to the Court of Appeal against convictions or orders made by the Supreme Court in its summary jurisdiction; and for other purposes. [Assented to, 17th May, 1979.]

Supreme Court (Summary Jurisdiction) 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 :—

Short title. **1.** This Act may be cited as the "Supreme Court (Summary Jurisdiction) Crimes (Amendment) Act, 1979".

Com-
mencement. **2.** (1) This section and sections 1 and 3 shall commence on the date of assent to this Act.

(2) Section 6 shall commence on the day appointed and notified under section 2 (2) of the Bail Act, 1978.

(3) Except as provided in subsections (1) and (2), this Act shall commence on the day appointed and notified under section 2 (2) of the Crimes (Amendment) Act, 1979.

Principal Act. **3.** The Supreme Court (Summary Jurisdiction) Act, 1967, 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.—SAVINGS AND TRANSITIONAL PROVISIONS.

Amend-
ment of
Act No. 72,
1967. **5.** The Principal Act is amended in the manner set forth in Schedule 1.

Supreme Court (Summary Jurisdiction) Crimes (Amendment).

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| 6. The Supreme Court (Summary Jurisdiction) Bail (Amendment) Act, 1978, is amended by omitting Schedule 1 (4)–(8). | Amendment of Act No. 164, 1978. Sch. 1. |
| 7. The Supreme Court Act, 1970, is amended— | Amendment of Act No. 52, 1970. |
| (a) by omitting section 17 (4); | Sec. 17.
(Criminal proceedings.) |
| (b) by omitting section 48 (2) (a); | Sec. 48.
(Assignment to the Court of Appeal.) |
| (c) by omitting paragraph (k) of the Third Schedule. | Third Sch. |
| 8. Schedule 2 has effect. | Savings and transitional provisions. |

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT.

- (1) Section 4 (1)—
 Omit “may”, insert instead “shall”.
- (2) Section 11 (2)—
 At the end of section 11, insert :—
 (2) Subsection (1) does not empower the Judge to order costs to be paid in proceedings for an offence referred to in section 475A (1) of the Crimes Act, 1900.

Supreme Court (Summary Jurisdiction) Crimes (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(3) Section 13—

After “nature” wherever occurring, insert “and whether they are either felonies or misdemeanours only or some one or more are felonies and some one or more are misdemeanours”.

(4) Section 13A—

After section 13, insert :—

Pre-trial
procedure.

13A. Nothing in this Act requires the Judge to proceed to hear and determine any case if any prescribed pre-trial procedures which are required by rules made under this Act to be completed before the trial of a case commences have not been completed.

(5) Section 14 (3)—

After section 14 (2), insert :—

(3) Subsection (1) does not empower the Judge to order costs to be paid in proceedings for an offence referred to in section 475A (1) of the Crimes Act, 1900.

(6) Sections 18–26, 28—

Omit the sections.

(7) Sections 28A, 28B—

Before section 29, insert :—

Termination
of petty
sessions
proceedings
upon com-
mencement
of
proceedings
under this
Act.

28A. Any proceedings in a court of petty sessions for an offence for which proceedings may be taken either under this Act or before a court of petty sessions shall be terminated upon the court of petty sessions being notified, in accordance with the rules, of the commencement of proceedings under this Act for that offence.

Supreme Court (Summary Jurisdiction) Crimes (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

28B. A conviction under this Act for an offence—

Effect of
convictions
under this
Act.

- (a) that is a felony does not affect the character of the conviction as a conviction for a felony; or
- (b) that is of a kind that may be tried either on indictment or under this Act shall be deemed for all purposes, except the Criminal Appeal Act, 1912, to be a conviction on indictment.

(8) Section 29 (2) (a1)—

After section 29 (2) (a), insert :—

- (a1) pre-trial procedures in any proceedings in the Court in the exercise of its summary jurisdiction and practice with respect thereto;

SCHEDULE 2.

Sec. 8.

SAVINGS AND TRANSITIONAL PROVISIONS.

1. In this Schedule, "appointed day" means the day appointed and notified under section 2 (2) of the Crimes (Amendment) Act, 1979.

2. The provisions of the Criminal Appeal Act, 1912, with respect to the submission of any question of law arising at or in reference to the trial and conviction of a person by the Supreme Court in its summary jurisdiction or with respect to an appeal against any conviction or order made by the Supreme Court in its summary jurisdiction apply in relation to any such trial, conviction or order held or made before the appointed day except so far as clause 3 applies with respect to any such submission or appeal.

3. (1) Any proceedings on a case stated under the Principal Act or on appeal under that Act, being proceedings the hearing of which was commenced before the Court of Appeal but which had not been completed before the appointed day, may be continued and completed in all respects as if this Act had not been enacted.

Supreme Court (Summary Jurisdiction) Crimes (Amendment)

SCHEDULE 2—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

- (2) Any order or determination made by the Court of Appeal—
- (a) under the Principal Act, as in force before the appointed day; or
 - (b) pursuant to proceedings referred to in subclause (1) of this clause,
- shall, in so far as it had not been given effect to before the appointed day, be given effect to in all respects as if this Act had not been enacted.

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

A. R. CUTLER,
Governor.

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

BY AUTHORITY

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





SUPREME COURT (SUMMARY JURISDICTION) CRIMES (AMENDMENT) BILL, 1979

EXPLANATORY NOTE

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

This Bill is cognate with the Crimes (Amendment) Bill, 1979.

The objects of this Bill are—

- (a) to repeal (as a consequence of provision being made for appeals against convictions or orders made by the Supreme Court in its summary jurisdiction to be made to the Court of Criminal Appeal instead of the Court of Appeal) certain uncommenced amendments to the Supreme Court (Summary Jurisdiction) Act, 1967 (the "Principal Act"), made by the Supreme Court (Summary Jurisdiction) Bail (Amendment) Act, 1978 (clause 6);
- (b) to repeal the provisions of the Supreme Court Act, 1970, relating to appeals to the Court of Appeal against convictions or orders made by the Supreme Court in its summary jurisdiction (clause 7);
- (c) to provide that an order for costs may not be made under section 11 or 14 of the Principal Act in proceedings for an offence referred to in the proposed section 475A (1) of the Crimes Act 1900 (Schedule 1 (2), (4));
- (d) to ensure that both felonies and misdemeanours may be charged in the one application under section 4 (1) of the Principal Act (Schedule 1 (3));
- (e) to repeal the provisions of the Principal Act relating to the stating of cases and appeals to the Court of Appeal (Schedule 1 (5));
- (f) to require proceedings in a court of petty sessions for an offence to be terminated if the court is notified of the commencement of proceedings in the Supreme Court in its summary jurisdiction for that offence (Proposed section 28A, Schedule 1 (6));
- (g) to provide that a conviction under the Principal Act for an offence—
 - (i) that is a felony does not affect the character of the conviction as a conviction for a felony; or
 - (ii) that is triable on indictment or under the Principal Act shall, except for the purposes of the Criminal Appeal Act, 1912, be deemed to be a conviction on indictment(Proposed section 28B, Schedule 1 (6));
- (h) to make other provisions of a savings and transitional nature (clause 8, Schedule 2); and
- (i) to make other provisions of a minor or ancillary nature.



**SUPREME COURT (SUMMARY JURISDICTION)
CRIMES (AMENDMENT) BILL, 1979**

No. , 1979.

A BILL FOR

An Act to amend the Supreme Court (Summary Jurisdiction) Act, 1967, so as to abolish, consequentially upon the enactment of the Criminal Appeal (Crimes) Amendment Act, 1979, appeals to the Court of Appeal against convictions or orders made by the Supreme Court in its summary jurisdiction; and for other purposes.

[MR F. J. WALKER—1 *March*, 1979.]

Supreme Court (Summary Jurisdiction) 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 "Supreme Court (Summary Jurisdiction) Crimes (Amendment) Act, 1979". Short title.

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

 (2) Section 6 shall commence on the day appointed and
10 notified under section 2 (2) of the Bail Act, 1978.

 (3) Except as provided in subsections (1) and (2), this Act shall commence on the day appointed and notified under section 2 (2) of the Crimes (Amendment) Act, 1979.

3. The Supreme Court (Summary Jurisdiction) Act, 1967, is
15 referred to in this Act as the Principal Act. Principal
Act.

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

 SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.

 SCHEDULE 2.—SAVINGS AND TRANSITIONAL PROVISIONS.

5. The Principal Act is amended in the manner set forth in
20 Schedule 1. Amend-
ment of
Act No. 72,
1967.

Supreme Court (Summary Jurisdiction) Crimes (Amendment).

- 6. The Supreme Court (Summary Jurisdiction) Bail Amendment of Act No. 164, 1978. Sch. 1.
(Amendment) Act, 1978, is amended by omitting Schedule 1 (4)– (8).

- 7. The Supreme Court Act, 1970, is amended—
 - 5 (a) by omitting section 48 (2) (a); Sec. 48. (Assign- ment to the Court of Appeal.)
 - (b) by omitting paragraph (k) of the Third Schedule. Third Sch.

- 8. Schedule 2 has effect. Savings and transitional provisions.

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT.

- 10 (1) Section 4 (1)—
 - Omit “may”, insert instead “shall”.

- (2) Section 11 (2)—
 - At the end of section 11, insert :—
 - (2) Subsection (1) does not empower the Judge to order costs to be paid in proceedings for an offence referred to in section 475A (1) of the Crimes Act, 1900.

- 15 (3) Section 13—
 - 20 After “nature” wherever occurring, insert “and whether they are either felonies or misdemeanours only or some one or more are felonies and some one or more are misdemeanours”.

Supreme Court (Summary Jurisdiction) Crimes (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) Section 14 (3)—

After section 14 (2), insert :—

5 (3) Subsection (1) does not empower the Judge to order costs to be paid in proceedings for an offence referred to in section 475A (1) of the Crimes Act, 1900.

(5) Sections 18–26, 28—

Omit the sections.

10 (6) Sections 28A, 28B—

Before section 29, insert :—

15 28A. Any proceedings in a court of petty sessions for an offence for which proceedings may be taken either under this Act or before a court of petty sessions shall be terminated upon the court of petty sessions being notified, in accordance with the rules, of the commencement of proceedings under this Act for that offence.

Termination of petty sessions proceedings upon commencement of proceedings under this Act.

28B. A conviction under this Act for an offence—

20 (a) that is a felony does not affect the character of the conviction as a conviction for a felony; or

Effect of convictions under this Act.

(b) that is of a kind that may be tried either on indictment or under this Act shall be deemed for all purposes, except the Criminal Appeal Act, 1912, to be a conviction on indictment.

Supreme Court (Summary Jurisdiction) Crimes (Amendment).

SCHEDULE 2.

Sec. 8.

SAVINGS AND TRANSITIONAL PROVISIONS.

1. In this Schedule, "appointed day" means the day appointed and notified under section 2 (2) of the Crimes (Amendment) Act, 1979.
- 5 2. The provisions of the Criminal Appeal Act, 1912, with respect to the submission of any question of law arising at or in reference to the trial and conviction of a person by the Supreme Court in its summary jurisdiction or with respect to an appeal against any conviction or order made by the Supreme Court in its summary jurisdiction apply in relation to any such
10 trial, conviction or order held or made before the appointed day except so far as clause 3 applies with respect to any such submission or appeal.
3. (1) Any proceedings on a case stated under the Principal Act or on appeal under that Act, being proceedings the hearing of which was commenced before the Court of Appeal but which had not been completed
15 before the appointed day, may be continued and completed in all respects as if this Act had not been enacted.
 - (2) Any order or determination made by the Court of Appeal—
 - (a) under the Principal Act, as in force before the appointed day; or
 - (b) pursuant to proceedings referred to in subclause (1) of this clause,
20 shall, in so far as it had not been given effect to before the appointed day, be given effect to in all respects as if this Act had not been enacted.

BY AUTHORITY

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

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SUPREME COURT (SUMMARY JURISDICTION) CRIMES
(AMENDMENT) BILL

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

No. 1.—Page 3, clause 7. After line 4, insert:—

(a) by omitting section 17 (4);

**Sec. 17.
(Criminal
proceedings.**

No. 2.—Page 3, Schedule 1. After line 21, insert:—

(4) Section 13A—

After section 13, insert:—

13A. Nothing in this Act requires the Judge to proceed to hear and Pre-trial determine any case if any prescribed pre-trial procedures which are procedure. required by rules made under this Act to be completed before the trial of a case commences have not been completed.

No. 3.—Page 4, Schedule 1. After line 24, insert:—

(7) Section 29 (2) (a1)—

After section 29 (2) (a), insert:—

(a1) pre-trial procedures in any proceedings in the Court in the exercise of its summary jurisdiction and practice with respect thereto;

of the committee, the committee shall have the right to request the production of any documents or information in the possession or control of any person, organization or entity, and to examine and copy such documents and information.

(c) Section 50 (a) (1) —

For the purpose of this section, the term "person" shall include any individual, partnership, corporation, association, or other entity.

of a state committee shall not be considered a violation of this section if the committee has a reasonable belief that the information is necessary to the conduct of its official duties. The committee shall have the right to request the production of any documents or information in the possession or control of any person, organization or entity, and to examine and copy such documents and information.

(d) Section 124 —

For the purpose of this section, the term "person" shall include any individual, partnership, corporation, association, or other entity.

(e) Section 125 (a) —

For the purpose of this section, the term "person" shall include any individual, partnership, corporation, association, or other entity.

Approved
1974

Message of 24 April 1974

Message of the President of the United States to the Congress

(UNIFIED) BILL
SUPREME COURT (CONSTITUTIONAL JURISDICTION) CIRCUIT