

CRIMES (LIFE SENTENCES) AMENDMENT ACT 1989
No. 218

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Crimes Act 1900 No. 40
4. Amendment of Drug Misuse and Trafficking Act 1985 No. 226

SCHEDULE 1 - AMENDMENT OF CRIMES ACT 1900

SCHEDULE 2 - AMENDMENT OF DRUG MISUSE AND TRAFFICKING
ACT 1985

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY
5708 SOUTH CAMPUS DRIVE
CHICAGO, ILLINOIS 60637

RECEIVED

APR 15 1964

DEPARTMENT OF CHEMISTRY
UNIVERSITY OF CHICAGO

CRIMES (LIFE SENTENCES) AMENDMENT ACT 1989
No. 218

NEW SOUTH WALES



Act No. 218, 1989

An Act to amend the Crimes Act 1900 and the Drug Misuse and Trafficking Act 1985 in relation to the imposition of life sentences; and for other purposes. [Assented to 21 December 1989]

See also Prisons (Serious Offenders Review Board) Amendment Act 1989; Sentencing (Life Sentences) Amendment Act 1989.

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Crimes (Life Sentences) Amendment Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Crimes Act 1900 No. 40

3. The Crimes Act 1900 is amended as set out in Schedule 1.

Amendment of Drug Misuse and Trafficking Act 1985 No. 226

4. The Drug Misuse and Trafficking Act 1985 is amended as set out in Schedule 2.

SCHEDULE 1 - AMENDMENT OF CRIMES ACT 1900

(Sec. 3)

(1) Section 12 (**Compassing etc. deposition of the Sovereign - overawing Parliament etc.**):

Omit "life", insert instead "25 years".

(2) Section 18 (**Murder and manslaughter defined**):

In section 18 (1) (a), after "life" where lastly occurring, insert "or for 25 years".

(3) Section 19 (**Murder - punishment**):

Omit the section.

(4) Section 19A:

Before section 20, insert:

SCHEDULE 1 - AMENDMENT OF CRIMES ACT 1900 - *continued*

Punishment for murder

19A. (1) A person who commits the crime of murder is liable to penal servitude for life.

(2) A person sentenced to penal servitude for life for the crime of murder is to serve that sentence for the term of the person's natural life.

(3) Nothing in this section affects the operation of section 442 (which authorises the passing of a lesser sentence than penal servitude for life).

(4) This section applies to murder committed before or after the commencement of this section.

(5) However, this section does not apply where committal proceedings (or proceedings by way of ex officio indictment) for the murder were instituted against the convicted person before the commencement of this section. In such a case, section 19 as in force before that commencement continues to apply.

(6) Nothing in this section affects the prerogative of mercy.

(5) Section 24 (**Manslaughter - punishment**):

Omit "life", insert instead "25 years".

(6) Section 26 (**Conspiring to commit murder**):

Omit "life", insert instead "25 years".

(7) Section 27 (**Acts done to the person with intent to murder**):

Omit "life", insert instead "25 years".

(8) Section 28 (**Acts done to property with intent to murder**):

Omit "life", insert instead "25 years".

(9) Section 29 (**Certain other attempts to murder**):

Omit "life", insert instead "25 years".

SCHEDULE 1 - AMENDMENT OF CRIMES ACT 1900 - *continued*

- (10) Section 30 (**Attempts to murder by other means**):
Omit "life", insert instead "25 years".
- (11) Section 32 (**Impeding endeavours to escape shipwreck**):
Omit "life" where lastly occurring, insert instead "25 years".
- (12) Section 33 (**Wounding etc. with intent to do bodily harm or resist arrest**):
Omit "life", insert instead "25 years".
- (13) Section 37 (**Attempts to choke etc. (garrotting)**):
Omit "life", insert instead "25 years".
- (14) Section 38 (**Using chloroform etc. to commit an offence**):
Omit "life", insert instead "25 years".
- (15) Section 46 (**Causing bodily injury by gunpowder etc.**):
Omit "life", insert instead "25 years".
- (16) Section 47 (**Using etc. explosive substance or corrosive fluid etc.**):
Omit "life", insert instead "25 years".
- (17) Section 78H (**Homosexual intercourse with male under 10**):
Omit "life", insert instead "25 years".
- (18) Section 96 (**Same (robbery) with wounding**):
Omit "life", insert instead "25 years".

SCHEDULE 1 - AMENDMENT OF CRIMES ACT 1900 - *continued*

- (19) Section 98 (**Robbery with arms etc. and wounding**):
Omit "life", insert instead "25 years".
- (20) Section 110 (**Breaking, entering and assaulting with intent to murder etc.**):
Omit "life", insert instead "25 years".
- (21) Section 198 (**Maliciously destroying or damaging property with the intention of endangering life**):
Omit "life" where lastly occurring, insert instead "25 years".
- (22) Section 204 (**Destruction of, or damage to, an aircraft or vessel with intent or reckless indifference**):
Omit "life" where lastly occurring, insert instead "25 years".
- (23) Section 208 (**Threatening to destroy etc. an aircraft, vessel or vehicle**):
From section 208 (3), omit "life", insert instead "25 years".
- (24) Section 211 (**Criminal acts relating to railways**):
From section 211 (1), omit "life", insert instead "25 years".
- (25) Section 349 (**Punishment of accessories after the fact to murder etc.**):
From section 349 (1), omit "life", insert instead "25 years".
- (26) Section 431 (**Convicted persons not to be liable to death penalty**):
From section 431 (3), omit "life", insert instead "25 years".

SCHEDULE 1 - AMENDMENT OF CRIMES ACT 1900 - *continued*

(27) Section 431A:

After section 431, insert:

Life sentences

431A. (1) This section applies to offences under:

- (a) an Act; or
- (b) an Imperial Act so far as it applies in New South Wales; or
- (c) a rule of law.

(2) A person is not liable to the punishment of penal servitude for life for any offence to which this section applies except for the offence of murder or for an offence carrying that punishment under the Drug Misuse and Trafficking Act 1985.

(3) Where, but for this subsection, no penalty would be provided for an offence to which this section applies that was formerly punishable by penal servitude for life, that offence is punishable by penal servitude for 25 years.

(4) This section applies to offences committed before or after the commencement of this section. However, this section does not apply where committal proceedings (or proceedings by way of ex officio indictment) for the offence were instituted against the convicted person before the commencement of this section.

(5) Any amendment made by the Crimes (Life Sentences) Amendment Act 1989 altering the penalty for an offence under this Act from penal servitude for life to penal servitude for 25 years applies to an offence committed before or after the commencement of the amendment. However, the amendment does not apply where committal proceedings (or proceedings by way of ex officio indictment) for the offence were instituted against the convicted person before the commencement of the amendment.

SCHEDULE 1 - AMENDMENT OF CRIMES ACT 1900 - *continued*

(6) A reference in this section to penal servitude includes a reference to imprisonment.

(28) Section 440B (**Imposition of fine on sentence being deferred or suspended**):

From section 440B (1), omit "homicide or other offence punishable by penal servitude for life", insert instead "murder".

SCHEDULE 2 - AMENDMENT OF DRUG MISUSE AND
TRAFFICKING ACT 1985

(Sec. 4)

Section 33A:

After section 33, insert:

Provisions relating to life sentences

33A. (1) A person sentenced to imprisonment for life for an offence under this Division is to serve that sentence for the term of the person's natural life.

(2) Where a person is liable to imprisonment for life for an offence under this Division, the court may nevertheless pass a sentence of imprisonment of fixed duration.

(3) This section applies to offences under this Division committed before or after the commencement of this section. However, this section does not apply where committal proceedings (or proceedings by way of ex officio indictment) for the offence were instituted against the convicted person before the commencement of this section.

(4) Nothing in this section affects the prerogative of mercy.

[*Minister's second reading speech made in -
Legislative Assembly on 30 November 1989
Legislative Council on 7 December 1989*]

Department of Health, Education and Welfare
Public Health Service
Washington, D.C. 20462

Office of the Assistant Secretary for Health
Washington, D.C. 20462

Division of Health Policy and Statistics
Washington, D.C. 20462

Section of Health Statistics
Washington, D.C. 20462

Office of the Assistant Secretary for Health
Washington, D.C. 20462

Division of Health Policy and Statistics
Washington, D.C. 20462

Section of Health Statistics
Washington, D.C. 20462

Office of the Assistant Secretary for Health
Washington, D.C. 20462

Division of Health Policy and Statistics
Washington, D.C. 20462

Section of Health Statistics
Washington, D.C. 20462

Office of the Assistant Secretary for Health
Washington, D.C. 20462

Division of Health Policy and Statistics
Washington, D.C. 20462

Section of Health Statistics
Washington, D.C. 20462













FIRST PRINT

CRIMES (LIFE SENTENCES) AMENDMENT BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

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

The following Bills are cognate with this Bill:

Prisons (Serious Offenders Review Board) Amendment Bill 1989;
Sentencing (Life Sentences) Amendment Bill 1989.

The object of this Bill is to provide that the punishment for the crime of murder and for certain offences involving commercial quantities of drugs is a sentence for the term of the offender's natural life. The maximum sentence for other offences which are punishable at present by penal servitude for life will be 25 years. The existing power for prisoners serving life or other sentences to be released on licence is to be removed by amendments contained in the Prisons (Serious Offenders Review Board) Amendment Bill 1989.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act is to commence on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the Schedule amending the Crimes Act 1900.

Clause 4 is a formal provision that gives effect to the Schedule amending the Drug Misuse and Trafficking Act 1985.

SCHEDULE 1 - AMENDMENT OF CRIMES ACT 1900

Schedule 1 (4) provides that the punishment for the crime of murder is penal servitude for the term of the offender's natural life. The amendment applies to proceedings for murder instituted after the commencement of the proposed section. The discretion of a sentencing court under section 442 (which authorises the passing

Crimes (Life Sentences) Amendment 1989

of a lesser sentence than penal servitude for life) and the prerogative of mercy are retained. Schedule 1 (2) and (3) make consequential amendments.

Schedule 1 (1) and (5)-(28) provide that the maximum sentence in respect of all offences (except murder and certain offences involving commercial quantities of drugs) in New South Wales that are presently punishable by penal servitude for life is to be 25 years. Those offences include:

- * Compassing etc. deposition of the Sovereign - overawing Parliament etc.
- * Manslaughter
- * Conspiring to commit murder
- * Acts done to the person with intent to murder
- * Acts done to property with intent to murder
- * Certain other attempts to murder
- * Attempts to murder by other means
- * Impeding endeavours to escape shipwreck
- * Wounding etc. with intent to do bodily harm or resist arrest
- * Attempts to choke etc. (garrotting)
- * Using chloroform etc. to commit an offence
- * Causing bodily injury by gunpowder etc.
- * Using etc. explosive substance or corrosive fluid etc.
- * Homosexual intercourse with male under 10
- * Robbery with wounding
- * Robbery with arms etc. and wounding
- * Breaking, entering and assaulting with intent to murder etc.
- * Maliciously destroying or damaging property with the intention of endangering life
- * Destruction of, or damage to, an aircraft or vessel with intent or reckless indifference
- * Threatening to destroy etc. an aircraft, vessel or vehicle
- * Criminal acts relating to railways
- * Punishment of accessories after the fact to murder etc.

SCHEDULE 2 - AMENDMENT OF DRUG MISUSE AND TRAFFICKING ACT 1985

Schedule 2 amends the Drug Misuse and Trafficking Act 1985 to provide that the existing penalty of life imprisonment for certain offences involving commercial quantities of drugs is to be a sentence for the term of the offender's natural life. As in the case of murder, the amendment preserves the discretion of the sentencing court to impose a lesser sentence and the prerogative of mercy.

FIRST PRINT

CRIMES (LIFE SENTENCES) AMENDMENT BILL 1989

NEW SOUTH WALES

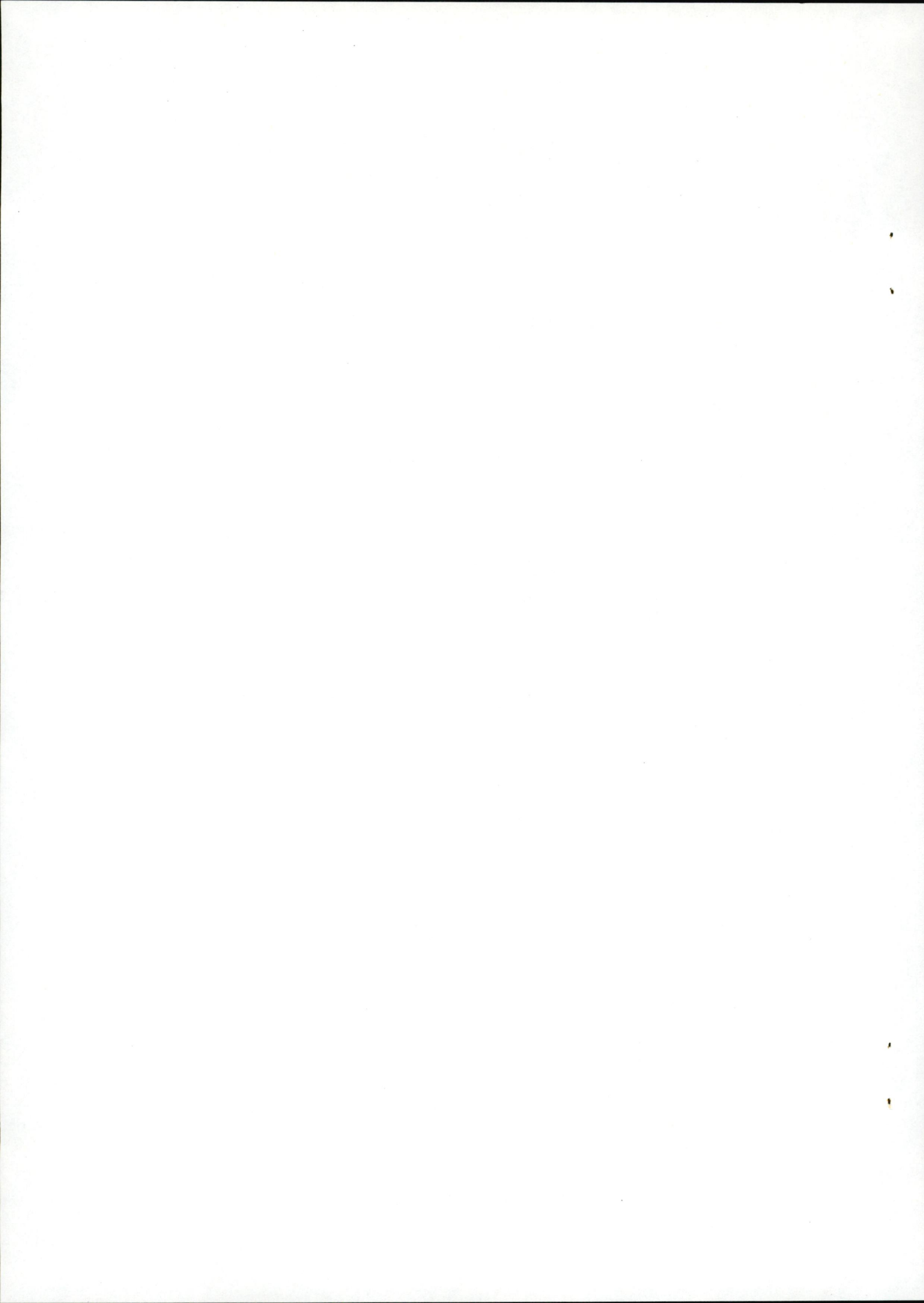


TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Crimes Act 1900 No. 40
4. Amendment of Drug Misuse and Trafficking Act 1985 No. 226

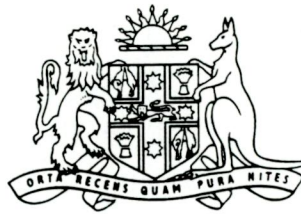
SCHEDULE 1 - AMENDMENT OF CRIMES ACT 1900

SCHEDULE 2 - AMENDMENT OF DRUG MISUSE AND TRAFFICKING
ACT 1985



CRIMES (LIFE SENTENCES) AMENDMENT BILL 1989

NEW SOUTH WALES



No. , 1989

A BILL FOR

An Act to amend the Crimes Act 1900 and the Drug Misuse and Trafficking Act 1985 in relation to the imposition of life sentences; and for other purposes.

See also Prisons (Serious Offenders Review Board) Amendment Bill 1989; Sentencing (Life Sentences) Amendment Bill 1989.

Crimes (Life Sentences) Amendment 1989

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Crimes (Life Sentences) Amendment Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Crimes Act 1900 No. 40

3. The Crimes Act 1900 is amended as set out in Schedule 1.

Amendment of Drug Misuse and Trafficking Act 1985 No. 226

4. The Drug Misuse and Trafficking Act 1985 is amended as set out in Schedule 2.

SCHEDULE 1 - AMENDMENT OF CRIMES ACT 1900

(Sec. 3)

- (1) **Section 12 (Compassing etc. deposition of the Sovereign - overawing Parliament etc.):**

Omit "life", insert instead "25 years".

- (2) **Section 18 (Murder and manslaughter defined):**

In section 18 (1) (a), after "life" where lastly occurring, insert "or for 25 years".

- (3) **Section 19 (Murder - punishment):**

Omit the section.

- (4) **Section 19A:**

Before section 20, insert:

SCHEDULE 1 - AMENDMENT OF CRIMES ACT 1900 - *continued*

Punishment for murder

19A (1) A person who commits the crime of murder is liable to penal servitude for life.

(2) A person sentenced to penal servitude for life for the crime of murder is to serve that sentence for the term of the person's natural life.

(3) Nothing in this section affects the operation of section 442 (which authorises the passing of a lesser sentence than penal servitude for life).

(4) This section applies to murder committed before or after the commencement of this section.

(5) However, this section does not apply where committal proceedings (or proceedings by way of ex officio indictment) for the murder were instituted against the convicted person before the commencement of this section. In such a case, section 19 as in force before that commencement continues to apply.

(6) Nothing in this section affects the prerogative of mercy.

(5) Section 24 (**Manslaughter - punishment**):

Omit "life", insert instead "25 years".

(6) Section 26 (**Conspiring to commit murder**):

Omit "life", insert instead "25 years".

(7) Section 27 (**Acts done to the person with intent to murder**):

Omit "life", insert instead "25 years".

(8) Section 28 (**Acts done to property with intent to murder**):

Omit "life", insert instead "25 years".

(9) Section 29 (**Certain other attempts to murder**):

Omit "life", insert instead "25 years".

SCHEDULE 1 - AMENDMENT OF CRIMES ACT 1900 - *continued*

- (10) Section 30 (**Attempts to murder by other means**):
Omit "life", insert instead "25 years".
- (11) Section 32 (**Impeding endeavours to escape shipwreck**):
Omit "life" where lastly occurring, insert instead "25 years".
- (12) Section 33 (**Wounding etc. with intent to do bodily harm or resist arrest**):
Omit "life", insert instead "25 years".
- (13) Section 37 (**Attempts to choke etc. (garrotting)**):
Omit "life", insert instead "25 years".
- (14) Section 38 (**Using chloroform etc. to commit an offence**):
Omit "life", insert instead "25 years".
- (15) Section 46 (**Causing bodily injury by gunpowder etc.**):
Omit "life", insert instead "25 years".
- (16) Section 47 (**Using etc. explosive substance or corrosive fluid etc.**):
Omit "life", insert instead "25 years".
- (17) Section 78H (**Homosexual intercourse with male under 10**):
Omit "life", insert instead "25 years".
- (18) Section 96 (**Same (robbery) with wounding**):
Omit "life", insert instead "25 years".

Crimes (Life Sentences) Amendment 1989

SCHEDULE 1 - AMENDMENT OF CRIMES ACT 1900 - *continued*

- (19) Section 98 (**Robbery with arms etc. and wounding**):
Omit "life", insert instead "25 years".
- (20) Section 110 (**Breaking, entering and assaulting with intent to murder etc.**):
Omit "life", insert instead "25 years".
- (21) Section 198 (**Maliciously destroying or damaging property with the intention of endangering life**):
Omit "life" where lastly occurring, insert instead "25 years".
- (22) Section 204 (**Destruction of, or damage to, an aircraft or vessel with intent or reckless indifference**):
Omit "life" where lastly occurring, insert instead "25 years".
- (23) Section 208 (**Threatening to destroy etc. an aircraft, vessel or vehicle**):
From section 208 (3), omit "life", insert instead "25 years".
- (24) Section 211 (**Criminal acts relating to railways**):
From section 211 (1), omit "life", insert instead "25 years".
- (25) Section 349 (**Punishment of accessories after the fact to murder etc.**):
From section 349 (1), omit "life", insert instead "25 years".
- (26) Section 431 (**Convicted persons not to be liable to death penalty**):
From section 431 (3), omit "life", insert instead "25 years".

SCHEDULE 1 - AMENDMENT OF CRIMES ACT 1900 - *continued*

(27) Section 431A:

After section 431, insert:

Life sentences

431A. (1) This section applies to offences under:

- (a) an Act; or
- (b) an Imperial Act so far as it applies in New South Wales; or
- (c) a rule of law.

(2) A person is not liable to the punishment of penal servitude for life for any offence to which this section applies except for the offence of murder or for an offence carrying that punishment under the Drug Misuse and Trafficking Act 1985.

(3) Where, but for this subsection, no penalty would be provided for an offence to which this section applies that was formerly punishable by penal servitude for life, that offence is punishable by penal servitude for 25 years.

(4) This section applies to offences committed before or after the commencement of this section. However, this section does not apply where committal proceedings (or proceedings by way of ex officio indictment) for the offence were instituted against the convicted person before the commencement of this section.

(5) Any amendment made by the Crimes (Life Sentences) Amendment Act 1989 altering the penalty for an offence under this Act from penal servitude for life to penal servitude for 25 years applies to an offence committed before or after the commencement of the amendment. However, the amendment does not apply where committal proceedings (or proceedings by way of ex officio indictment) for the offence were instituted against the convicted person before the commencement of the amendment.

SCHEDULE 1 - AMENDMENT OF CRIMES ACT 1900 - *continued*

(6) A reference in this section to penal servitude includes a reference to imprisonment.

(28) Section 440B (**Imposition of fine on sentence being deferred or suspended**):

From section 440B (1), omit "homicide or other offence punishable by penal servitude for life", insert instead "murder".

**SCHEDULE 2 - AMENDMENT OF DRUG MISUSE AND
TRAFFICKING ACT 1985**

(Sec. 4)

Section 33A:

After section 33, insert:

Provisions relating to life sentences

33A (1) A person sentenced to imprisonment for life for an offence under this Division is to serve that sentence for the term of the person's natural life.

(2) Where a person is liable to imprisonment for life for an offence under this Division, the court may nevertheless pass a sentence of imprisonment of fixed duration.

(3) This section applies to offences under this Division committed before or after the commencement of this section. However, this section does not apply where committal proceedings (or proceedings by way of ex officio indictment) for the offence were instituted against the convicted person before the commencement of this section.

(4) Nothing in this section affects the prerogative of mercy.
