

FIRST PRINT

**CRIMINAL PROCEDURE (COMMITTAL PROCEEDINGS)
AMENDMENT BILL 1990**

NEW SOUTH WALES



EXPLANATORY NOTE

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

The Miscellaneous Acts (Committal Proceedings) Amendment Bill 1990 is cognate with this Bill.

The object of this Bill is to amend the Criminal Procedure Act 1986 to replace the present committal proceedings for persons charged with indictable offences with new pre-trial procedures and to make other changes to criminal procedure.

PRELIMINARY MATTERS

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 appointed by proclamation.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the Criminal Procedure Act 1986.

Schedule 1 (1) makes consequential changes to the defined expressions used in the Principal Act.

Schedule 1 (2) gives effect to a Schedule of savings and transitional provisions.

Schedule 1 (3) makes a consequential amendment.

Schedule 1 (4) inserts Parts 9-15 and Schedules 1-3 into the Principal Act.

**PROCEEDINGS RELATING TO INDICTABLE OFFENCES
WHICH MAY BE DEALT WITH SUMMARILY**

(Proposed Part 9 - clauses 30-40)

The proposed Part revises the procedure (at present contained in sections 476, 495 etc. of the Crimes Act 1900 and in other Acts) for certain indictable offences to be dealt with summarily by a Local Court.

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Under the proposed procedures any indictable offence which at present may be dealt with summarily is to be so dealt with unless the Director of Public Prosecutions (DPP) elects to have the matter dealt with on indictment (that is, by jury trial) or unless (in the case of indictable offences which require the consent of the accused to be dealt with summarily) the accused elects to have the matter dealt with on indictment. Any discretion of the court in the matter is removed.

The proposed Part provides time limits for the making of elections.

If an indictable offence is dealt with summarily the maximum penalty on indictment is reduced. The proposed Part reproduces the current reduced penalties.

PRE-TRIAL DISCLOSURE OF INFORMATION BY PROSECUTION

(Proposed Part 10 - clauses 41-50)

The proposed Part requires the prosecution to disclose information about the prosecution case to the defendant before the trial or hearing. At present a limited form of disclosure applies in the paper-committals system for indictable offences. Disclosure is to be made in the case of indictable offences and in the case of summary offences (disclosure in minor summary offences will only be required if required by the regulations or directed by the Local Court). The documents to be disclosed to the accused generally comprise the prosecution brief (the documents concerned are set out in clauses 43 and 44). To assist the prosecution to disclose relevant documents, police officers will be under an obligation to refer the necessary documents to the DPP.

PRE-TRIAL EXAMINATIONS AND COMMITTAL FOR TRIAL FOR INDICTABLE OFFENCES

(Proposed Part 11 - clauses 51-76)

The proposed Part applies to pre-trial proceedings for indictable offences in which the accused pleads not guilty. Under the existing committal system there is a hearing of the evidence (including written statements under the paper-committals system) by a Magistrate and, on the basis of that evidence, a decision is made by the Magistrate to commit the defendant to trial before the Supreme Court or District Court or to discharge the defendant. After committal the DPP may decide not to proceed further or after discharge the DPP may decide to file an ex-officio indictment.

Under the proposed system, the decision on whether the defendant should be put on trial or discharged is to be made by the DPP. The prosecutor and the defendant are to be given an opportunity to test the evidence and to clarify the issues at the trial by a pre-trial examination of witnesses held before the Magistrate. At any such hearing, the defendant has a limited right of cross-examination of prosecution witnesses. The proposed limitations are set out in clause 62.

If the DPP decides to proceed with the matter, a committal for trial notice will be given to the Local Court and the proceedings will be duly transferred to the trial court. If the DPP decides not to proceed with the matter, a no bill notice will be filed in the Local Court and the Court will discharge the defendant. The proposed Part specifies various time limits for disposing of pre-trial proceedings. Clause 75 will enable the Supreme Court or District Court to require the presentation of an indictment if a person has been committed for trial and will remove the unrestricted

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right of the prosecution to force an adjournment of a trial by failing to present the indictment on the date of the trial.

**PROCEDURES RELATING TO OFFENCES DEALT WITH
ON INDICTMENT WHERE DEFENDANT PLEADS GUILTY**

(Proposed Part 12 - clauses 77-84)

The proposed Part applies where a person pleads guilty before a Local Court to an offence which is being dealt with on indictment. In any such case, the Local Court may terminate the pre-trial proceedings and commit the accused to the Supreme Court or District Court for sentence.

A Supreme or District Court Judge may sentence the accused for the indictable offence or (if the accused changes the plea to not guilty or if the Judge is not satisfied that the facts support the charge or considers it is otherwise appropriate) direct that the person be put on trial before a jury. The Judge also has the option (if a pre-trial examination has not been held) to remit the matter to the Local Court for a pre-trial examination. The procedure generally follows the present procedure in section 51A of the Justices Act 1902 which is being repealed as part of the general revision of committal proceedings.

TRIAL BY JURY ON INDICTMENT

(Proposed Part 13 - clauses 85-88)

The proposed Part sets out the right to jury trial for criminal proceedings in the Supreme Court or District Court in which the accused is prosecuted on indictment. The right to jury trial is at present contained in section 19 of the Jury Act 1977. However, provision has been included to enable an accused person to elect to be tried by a Judge alone. An election to be tried without a jury must be supported by the prosecutor and any other accused persons in the proceedings. Any such election may be changed at any time up to the start of the trial.

**SUPERIOR COURTS MAY DEAL WITH SUMMARY OFFENCES
RELATED TO INDICTABLE OFFENCES**

(Proposed Part 14 - clauses 89-92)

The proposed Part applies when the Supreme Court or District Court is dealing with an indictable offence.

Accused persons who are charged with indictable offences may also be charged with other summary offences (relating to the same matter). Such charges are commonly called "back-up" charges and may be proceeded with after the indictable offence has been dealt with.

The proposed Part enables the Supreme Court or District Court, at the end of the trial for the indictable offence, to dispose of any related summary offence without the jury (but only if both the prosecution and the accused person consent). The Supreme Court or District Court is to deal with such a related summary offence as if it were a Local Court.

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**MISCELLANEOUS MATTERS RELATED TO PROCEDURE
FOR INDICTABLE OFFENCES**

(Proposed Part 15 - clauses 93-98)

The proposed Part enacts a number of miscellaneous provisions relating to criminal procedure.

Clause 93 declares that a Judge is not required to summarise the evidence given in a criminal trial before a jury if it is unnecessary to do so.

Clause 94 precludes judicial review of the exercise of the prosecution powers of the Attorney General or the DPP. Rights of appeal are not affected.

Clause 95 preserves the powers of the Attorney General and the DPP not to proceed with criminal proceedings (even if a person has been committed for trial) or to proceed by ex-officio indictment.

Clause 97 requires a Local Court to advise an unrepresented accused of the new committal procedures and certain other matters.

SAVINGS AND TRANSITIONAL PROVISIONS

(Proposed Schedule 3)

Proposed Schedule 3 contains savings and transitional provisions. Generally speaking, the proposed new criminal procedures are not to apply to proceedings for charges laid before the commencement of the proposed Act.

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NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Criminal Procedure Act 1986 No. 209

SCHEDULE 1 - AMENDMENTS

**CRIMINAL PROCEDURE (COMMITTAL PROCEEDINGS)
AMENDMENT BILL 1990**

NEW SOUTH WALES



No. , 1990

A BILL FOR

An Act to amend the Criminal Procedure Act 1986 to replace the present committal proceedings for persons charged with indictable offences with new pre-trial procedures; and for other purposes.

See also Miscellaneous Acts (Committal Proceedings) Amendment Bill 1990.

Criminal Procedure (Committal Proceedings) Amendment 1990

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Criminal Procedure (Committal Proceedings) Amendment Act 1990.

Commencement

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

Amendment of Criminal Procedure Act 1986 No. 209

3. The Criminal Procedure Act 1986 is amended as set out in Schedule 1.

SCHEDULE 1 - AMENDMENTS

(Sec. 3)

(1) Section 3 (**Definitions**):

(a) From section 3 (1), omit the definition of "committal proceedings".

(b) In section 3 (1), insert in alphabetical order:

"pre-trial examination" means a pre-trial examination under Part 11 in connection with an indictable offence;

"pre-trial proceedings" means proceedings (including any pre-trial examination) for an offence to be dealt with on indictment, being proceedings:

(a) after the laying of an information before a justice in respect of the offence; and

(b) before the transfer of the proceedings to the Supreme Court or District Court for the trial or sentencing of the accused or before the discharge of the defendant;

"prosecutor" includes an informant;

SCHEDULE 1 - AMENDMENTS - *continued*

(2) Section 3C:

Before Part 2, insert:

Savings and transitional provisions

3C. Schedule 3 has effect.

(3) Section 6 (**Certain matters not affected**):

From section 6 (b), omit "committal proceedings", insert instead "pre-trial proceedings".

(4) Parts 9-15, Schedules 1-3:

After Part 8, insert:

**PART 9 - PROCEEDINGS RELATING TO
INDICTABLE OFFENCES WHICH MAY BE
DEALT WITH SUMMARILY**

Indictable offences to which this Part applies

30. (1) This Part applies to:

- (a) indictable offences listed in Schedule 1 (Indictable offences which may be dealt with summarily unless accused otherwise elects); and
- (b) indictable offences listed in Schedule 2 (Indictable offences which may be dealt with summarily without any election by accused); and
- (c) indictable offences authorised by any other Act to be dealt with summarily by a Local Court.

(2) A reference in any other section of this Part to an indictable offence listed in Schedule 1 includes a reference to an indictable offence authorised by any other Act to be dealt with summarily by a Local Court with the consent of the accused.

SCHEDULE 1 - AMENDMENTS - *continued*

Offences to be dealt with summarily unless summary disposal is rejected by DPP or (if applicable) by accused

31. An indictable offence to which this Part applies must be dealt with summarily by a Local Court unless:

- (a) in the case of any indictable offence - the Director of Public Prosecutions; or
- (b) in the case of an indictable offence listed in Schedule 1 - the person charged with the offence, elects to have the offence dealt with on indictment.

Procedure for dealing with offences which DPP or accused elects to be dealt with on indictment

32. An indictable offence to which this Part applies is, if any such election is duly made, to be dealt with on indictment in accordance with this Act and any other relevant law.

Notification by DPP of manner in which offence is to be dealt with

33. (1) If any person is charged with an indictable offence to which this Part applies, the Director of Public Prosecutions may, within 14 days after the first appearance of the person before a Local Court, notify the Local Court as to whether the Director elects to have the offence dealt with summarily or on indictment.

(2) If the Director of Public Prosecutions fails to give the notification within that period of 14 days, the Director is to be taken to have elected to have the offence dealt with summarily.

(3) The Local Court may extend that period of 14 days in any particular case.

(4) The Director of Public Prosecutions is required to give a copy of a notification under this section to the person charged with the offence, unless the person has absconded.

(5) Regulations may be made with respect to elections and notifications under this section.

SCHEDULE 1 - AMENDMENTS - *continued*

Notification by accused of manner in which offence to be dealt with (Schedule 1 offences)

34. (1) A person charged with an indictable offence listed in Schedule 1 may, within 14 days after the first appearance of the person before a Local Court, notify the Local Court as to whether the person elects to have the offence dealt with summarily or on indictment.

(2) If the person charged fails to give the notification within that period of 14 days, the person is to be taken to have elected to have the offence dealt with summarily.

(3) The Local Court may extend that period of 14 days in any particular case.

(4) The person charged is required to give a copy of a notification under this section to the Director of Public Prosecutions.

(5) Regulations may be made with respect to elections and notifications under this section.

Change of election as to whether offence to be dealt with summarily or on indictment

35. (1) The Director of Public Prosecutions may, with the leave of the Local Court and by a notification under section 33, change the Director's election as to whether an indictable offence is to be dealt with summarily or on indictment.

(2) A person charged with an indictable offence listed in Schedule 1 may, with the leave of the Local Court and by a notification under section 34, change the person's election as to whether the offence is to be dealt with summarily or on indictment.

(3) An election for an offence to be dealt with summarily may not be changed after the Local Court has commenced the summary hearing of the matter, that is, the commencement of the taking of evidence for the prosecution for the purpose of determining whether the person charged is guilty of the offence.

SCHEDULE 1 - AMENDMENTS - *continued*

(4) An election for an offence to be dealt with on indictment may not be changed after the commencement of the pre-trial examination or (if no such examination is held) after the proceedings are transferred to the Supreme Court or District Court.

Maximum penalties for offences that are dealt with summarily

36. (1) This section prescribes the maximum penalty that may be imposed for an offence dealt with summarily under this Part in any case where the maximum penalty for the offence when dealt with summarily is not prescribed by any law (other than this section).

(2) The maximum term of imprisonment that a Local Court may impose for any offence listed in Schedule 1 is, subject to this section, 2 years or the maximum term imposed by law, whichever is the shorter term.

(3) The maximum fine that a Local Court may impose for an offence listed in Schedule 1 is 100 penalty units or the maximum fine imposed by law, whichever is the smaller fine.

(4) The maximum term of imprisonment that a Local Court may impose for any one offence referred to in section 52A or 52B of the Crimes Act 1900 is 18 months.

(5) The maximum term of imprisonment that a Local Court may impose for any one offence referred to in section 53 or 54 of the Crimes Act 1900 is 12 months.

(6) A Local Court may, instead of imposing a term of imprisonment, impose a fine not exceeding 100 penalty units for an offence listed in Schedule 1.

(7) The maximum penalty that a Local Court may impose for an offence under section 56, 61 or 61N of the Crimes Act 1900 is imprisonment for 12 months or a fine of 20 penalty units, or both.

(8) The maximum penalty that a Local Court may impose for an offence under section 58, 59, 61L or 61O (1)

SCHEDULE 1 - AMENDMENTS - *continued*

of the Crimes Act 1900 is imprisonment for 2 years or a fine of 50 penalty units, or both.

(9) The maximum penalty that a Local Court may impose for an offence listed in Part 2 of Schedule 2 is imprisonment for 12 months (or 2 years in the case of an offence under section 154A of the Crimes Act 1900) or a fine of 50 penalty units, or both. However, the maximum fine that a Local Court may impose where the amount of money or the value of the property concerned does not exceed \$2,000 is (except in the case of an offence under section 154A of the Crimes Act 1900) 20 penalty units.

(10) The maximum penalty that a Local Court may impose for an offence listed in Part 3 of Schedule 2 is imprisonment for 2 years or a fine of 50 penalty units, or both.

(11) Nothing in this section affects section 444 of the Crimes Act 1900.

Constitution of Local Court

37. The jurisdiction of a Local Court under this Part may be exercised only by a Local Court constituted by a Magistrate sitting alone.

Offences by children

38. Nothing in this Part confers jurisdiction on a Local Court in respect of an offence if the Children's Court would otherwise have exclusive jurisdiction to hear and determine the matter.

No time limit for summary matters under this Part

39. The provisions of section 56 of the Justices Act 1902 or any other Act limiting the time within which proceedings for summary offences may be instituted do not apply to summary proceedings under this Part.

SCHEDULE 1 - AMENDMENTS - *continued*

Effect of conviction

40. The conviction of a person on a charge dealt with summarily under this Part has the same effect as a conviction on an indictment would have had.

**PART 10 - PRE-TRIAL DISCLOSURE OF
INFORMATION BY PROSECUTION**

**Prosecution brief etc. for indictable offences to be
forwarded to DPP**

41. (1) The prosecutor must, as soon as practicable after a person is charged with an indictable offence, forward to the Director of Public Prosecutions the following documents:

- (a) copies of any written statements or records of conversations that the defendant gave to or had with the police or prosecutor in relation to the alleged offence;
- (b) copies of written statements of all persons interviewed by or on behalf of the police or prosecutor during the investigation of the alleged offence (being statements that are relevant to the alleged offence);
- (c) a document containing details of any potential evidentiary exhibits;
- (d) a copy of any report (such as a blood test, drug analysis or similar report) which has been prepared by or on behalf of any prosecution witness for use in the proceedings;
- (e) a document containing the name and address (if known) of any person from whom a written statement was not taken by the police or prosecutor, but who disclosed information to the police or prosecutor which may exculpate the defendant (together with a brief description of the information);

SCHEDULE 1 - AMENDMENTS - *continued*

(f) a copy of the criminal record, if any, of the defendant.

(2) A prosecutor is not required to comply with this section to the extent that the prosecutor is not aware of the relevant document or information or does not have control over the relevant document. However, a member of the Police Force in charge of investigating the offence concerned (if not the prosecutor) is required to ensure that all such relevant documents or information are made available to the prosecutor.

(3) Documents are not required to be forwarded to the Director of Public Prosecutions in connection with indictable offences listed in Schedule 2 unless the offence is to be dealt with on indictment or is to be prosecuted summarily by the Director.

(4) The Director of Public Prosecutions may, in any guidelines furnished under section 14 of the Director of Public Prosecutions Act 1986 include provision with respect to the documents to be furnished under this section, including the time within which documents are to be forwarded to the Director and any exceptions.

Court to set timetable for pre-trial disclosure by prosecutor

42. (1) A Local Court must, on or as soon as practicable after the first appearance before the Local Court of a defendant, specify the period within which any disclosure of information to the defendant under this Part is required to be made.

(2) The disclosure is required to be made before any pre-trial examination for the indictable offence or before the summary hearing, as the case requires.

(3) The functions of the Local Court under this section may be exercised by a justice employed in the Attorney General's Department, being a person of a class authorised by the regulations for the purposes of this section.

SCHEDULE 1 - AMENDMENTS - *continued*

Pre-trial disclosure of information by prosecutor in the case of proceedings on indictment

43. (1) The prosecutor in proceedings in which a defendant is charged with an indictable offence that is to be dealt with on indictment must, within the period specified by the Local Court, cause the following documents to be served on the defendant:

- (a) a document setting out the form of the indictment that the prosecutor expects to be presented if the defendant is put on trial;
- (b) copies of any written statements or records of conversations that the defendant gave to or had with the police or prosecutor in relation to the alleged offence;
- (c) copies of written statements of all persons interviewed by or on behalf of the police or prosecutor during the investigation of the alleged offence (being statements that are relevant to the alleged offence), whether or not it is intended to call those persons at the pre-trial examination or trial;
- (d) a list of witnesses the prosecutor intends to call at the pre-trial examination;
- (e) a copy of the criminal record, if any, of the defendant;
- (f) a copy of any proposed exhibit intended to be used by the prosecutor in the trial or, if it is not possible or is impracticable to copy the proposed exhibit, a notice specifying a time and place at which the proposed exhibit may reasonably be inspected;
- (g) a copy of any report on evidence (such as a blood test, drug analysis or similar report) to be presented in the trial prepared by or on behalf of a witness;
- (h) a document containing the name and address (if known) of any person from whom a written statement was not taken by the police or prosecutor, but who disclosed information to the police or prosecutor which may exculpate the

SCHEDULE 1 - AMENDMENTS - *continued*

defendant (together with a brief description of the information).

(2) The defendant may, at any time before the trial, request a copy of the criminal record of any victim of the offence or any witness or other person interviewed by or on behalf of the police or prosecutor during the investigation of the offence. The prosecutor is required to supply copies of any such criminal record only if the record is relevant, or may be relevant, to the defendant's case.

(3) A prosecutor is not required to comply with this section to the extent that the prosecutor is not aware of the relevant document or information or does not have control over the relevant document or that the disclosure of the document or information may not be compelled in legal proceedings.

(4) This section does not apply where disclosure has been made under section 44 or disclosure has been dispensed with under section 46.

Pre-trial disclosure of information by prosecutor in the case of certain summary proceedings

44. (1) This section applies to:

- (a) indictable offences which are to be dealt with summarily by the Local Court; or
- (b) summary offences prescribed by the regulations; or
- (c) any other summary offence if the Local Court dealing with the matter considers that it is in the interests of justice that information should be disclosed to the defendant under this section.

(2) The prosecutor in proceedings in which a defendant is charged with an offence to which this section applies must, within the period specified by the Local Court, cause the following documents to be served on the defendant:

- (a) a document setting out the offences with which the defendant is charged;

SCHEDULE 1 - AMENDMENTS - *continued*

- (b) the documents referred to in section 43 (1) (b), (c) and (e)-(h);
- (c) a list of witnesses the prosecutor intends to call at the hearing of the matter.

(3) A prosecutor is not required to comply with this section to the extent that the prosecutor is not aware of the relevant document or information or does not have control over the relevant document or that the disclosure of the document or information may not be compelled in legal proceedings.

(4) The defendant may, at any time before the trial or summary hearing, request a copy of the criminal record of any victim of the offence or any witness or other person interviewed by or on behalf of the police or prosecutor during the investigation of the offence. The prosecutor is required to supply copies of any such criminal record only if the record is relevant, or may be relevant, to the defendant's case.

(5) This section does not apply where disclosure has been made under section 43 or disclosure has been dispensed with under section 46.

Continuing requirement to disclose information

45. (1) The prosecutor in any proceedings must (as soon as practicable) serve on the defendant copies of any documents which would have been required to be served on the defendant under section 43 or 44 if those documents (or information to prepare those documents) had been available to the prosecutor at the time of disclosure under that section.

(2) The obligation to disclose documents created by this section continues until the end of the trial or summary hearing but does not apply if compliance has been dispensed with under section 46.

SCHEDULE 1 - AMENDMENTS - *continued*

Disclosure by prosecutor may be dispensed with

46. (1) The prosecutor and the defendant may agree to dispense with the requirement that the prosecutor serve on the defendant all or any class of documents under this Part.

(2) If the defendant absconds, the Local Court or other trial court is required, on the application of the prosecutor, to dispense with the requirement that the prosecutor serve on the defendant any documents under this Part.

Effect of failure to disclose information

47. (1) A court may, if it is of the opinion that any document has not been served on the defendant by the prosecutor in accordance with this Part in proceedings before the court, take any one or more of the following actions:

- (a) order that the prosecutor disclose the document and that evidence relating to the document not be given, or adjourn the proceedings, until it is disclosed;
- (b) in the case of indictable proceedings, discharge the jury;
- (c) exclude evidence relating to the document, but only if the court is satisfied that the contravention cannot be remedied by any action referred to in paragraph (a) or (b) and it would be unfair to the defendant to admit the evidence.

(2) The court is not required to take any such action on the matter.

Address and telephone numbers not to be disclosed

48. (1) A document served on a defendant by the prosecutor under this Part must not disclose the address or telephone number of a witness or any other living person unless:

- (a) the address or telephone number is a materially relevant part of the evidence; or

SCHEDULE 1 - AMENDMENTS - *continued*

(b) the court makes an order, on the application of the prosecutor or the defendant, permitting the disclosure.

(2) The court may make such an order only if satisfied that disclosure is not likely to present a risk to the welfare or protection of any person or interfere with the administration of justice or be prejudicial to the public interest.

(3) For the purpose of complying with this section, the prosecutor may delete information from a document served on the defendant under this Part.

(4) A document is not inadmissible as evidence on the ground that it either does or does not disclose an address or telephone number as is mentioned in this section.

(5) In this section:

"address" includes a private, business or official address;

"telephone number" includes a private, business or official telephone number.

Circumstances in which disclosure may not be made

49. (1) The prosecutor must not serve on a defendant any document required by this Part to be so served, if to do so would present a risk to the welfare or protection of any person or interfere with the administration of justice or be prejudicial to the public interest.

(2) For the purpose of complying with this section, the prosecutor may delete information from a document served on the defendant under this Part.

(3) The prosecutor must disclose to the defendant the fact that, pursuant to this section, documents have not been served on the defendant or that information has been deleted from documents served on the defendant.

SCHEDULE 1 - AMENDMENTS - *continued*

Court to determine disputes under this Part

50. The court dealing with any proceedings may determine any dispute as to whether the prosecutor is required to serve a document on, or supply a document to, the defendant under this Part in connection with those proceedings.

**PART 11 - PRE-TRIAL EXAMINATIONS AND
COMMITTAL FOR TRIAL FOR INDICTABLE
OFFENCES**

Division 1 - Application

Application

51. This Part applies to proceedings relating to an indictable offence, other than proceedings dealt with summarily or proceedings in which the defendant pleads guilty and to which Part 12 applies.

**Division 2 - Pre-trial examinations
for indictable offences**

Purpose of pre-trial examination

52. The purpose of a pre-trial examination is to enable the presentation of evidence, and the examination and cross-examination of witnesses, in order to:

- (a) more fully inform the prosecution and the defendant about the evidence in connection with the alleged offence; and
- (b) clarify the issues at the trial for the alleged offence; and
- (c) assist the prosecution to determine whether a bill of indictment should be found and the defendant put on trial.

SCHEDULE 1 - AMENDMENTS - *continued*

Request for pre-trial examination by defendant

53. (1) A defendant may, within 14 days after disclosure is made to the defendant or dispensed with under Part 10, give the Local Court notice as to whether the defendant does or does not require a pre-trial examination.

(2) The Local Court may extend the time within which the notice is to be given.

(3) The defendant may require a pre-trial examination even though the prosecutor has given notice that the prosecutor does not require the examination.

(4) The notice is to be in writing.

(5) A copy of the notice is to be given by the defendant to the Director of Public Prosecutions.

(6) If a pre-trial examination is required, the notice is to indicate the prosecution witnesses (if any) that the defendant wishes to cross-examine at the pre-trial examination.

(7) The regulations may make provision for or with respect to notices under this section.

Request for pre-trial examination by prosecutor

54. (1) The prosecutor may, after disclosure is made to the defendant or dispensed with under Part 10, give the Local Court notice as to whether the prosecutor does or does not require a pre-trial examination.

(2) The prosecutor may require a pre-trial examination even though the defendant has given notice that the defendant does not require the examination.

(3) A copy of the notice is to be given to the defendant by the prosecutor.

(4) The notice is to be in writing.

(5) If a pre-trial examination is required, the notice is to indicate the witnesses (if any) that the prosecutor intends to call at the pre-trial examination.

SCHEDULE 1 - AMENDMENTS - *continued*

(6) The regulations may make provision for or with respect to notices under this section.

Pre-trial examination to be listed

55. (1) If notice is duly given to a Local Court that a pre-trial examination is required, the examination is to be held at a time and place determined by the Local Court.

(2) The functions of the Local Court under this section may be exercised by a justice employed in the Attorney General's Department, being a person of a class authorised by the regulations for the purposes of this section.

Pre-trial examinations to be conducted by Local Courts

56. (1) A pre-trial examination is to be conducted by a Local Court constituted by a Magistrate sitting alone.

(2) A pre-trial examination is part of the pre-trial proceedings in connection with the charge for the alleged offence concerned.

(3) A pre-trial examination may not be conducted in the absence of the defendant, except in accordance with an order of the Local Court.

(4) A pre-trial examination may not be conducted in relation to a matter that is, by virtue of Part 9 or any other Act, to be dealt with summarily.

(5) Regulations may be made with respect to procedures at, or in connection with, pre-trial examinations.

Pre-trial examinations may be heard by more than one Magistrate

57. (1) A pre-trial examination that is adjourned may be reconvened before a different Magistrate.

(2) However, all evidence given by a witness must be heard before the same Magistrate. Any evidence of such a witness that has been partly heard before a Magistrate who

SCHEDULE 1 - AMENDMENTS - *continued*

dies or becomes unavailable is to be re-heard before the new Magistrate.

Functions of Local Court in pre-trial examinations

58. (1) It is the function of the Local Court in relation to a pre-trial examination to determine, where necessary, whether a witness may be cross-examined and whether a question may be asked of, or is required to be answered by, a witness.

(2) The Local Court may not reject evidence introduced by the prosecution except at the request of the defendant, and the Local Court may not reject evidence introduced by the defendant except at the request of the prosecutor.

(3) A Local Court has, in relation to a pre-trial examination, such other functions as are conferred on the Local Court by or under this or any other Act.

Evidence for prosecution may be given orally or by written statement

59. (1) In a pre-trial examination, evidence in chief for the prosecution may be given orally or by means of the tender of written statements of a witness, or both, as the prosecutor thinks fit.

(2) However, a written statement may not be tendered by the prosecutor unless it was disclosed in accordance with Part 10 or its disclosure was dispensed with under that Part.

Witnesses for prosecution at pre-trial examination

60. The evidence of a witness for the prosecution may not be given at a pre-trial examination unless:

- (a) the prosecutor indicated, in the request for the examination, that the prosecutor intended to call the witness; or
- (b) the defendant consents to the evidence being given; or

SCHEDULE 1 - AMENDMENTS - *continued*

- (c) the Local Court gives leave for the evidence to be given.

Witnesses for defendant at pre-trial examination

61. (1) The defendant may give evidence, and may call any witnesses to give evidence, on his or her behalf at a pre-trial examination.

(2) The prosecutor may cross-examine the defendant (if the defendant gave evidence) and any witness called by the defendant.

Witnesses who may be cross-examined by defendant and limitations on cross-examination

62. (1) A defendant at a pre-trial examination may cross-examine the following witnesses and no other witnesses:

- (a) a witness who is to give, or gives, evidence as to identification of the defendant (being cross-examination only in respect of that identification);
- (b) a witness who is alleged to have been an accomplice of the defendant or has been given an indemnity in relation to the proceedings (being cross-examination in respect of any matter);
- (c) a witness who is to give, or gives, evidence of an opinion based on scientific or medical examination (being cross-examination only in respect of that opinion or the method used to arrive at that opinion);
- (d) a witness who is orally examined in chief by the prosecution (being cross-examination in respect of any matter);
- (e) a witness whose cross-examination is likely to affect adversely the assessment of the witness's reliability or likely to adduce further material to support a defence (being cross-examination only in respect of reliability or that further material);

SCHEDULE 1 - AMENDMENTS - *continued*

(f) any witness to whose cross-examination the prosecutor consents (being cross-examination only in respect of the matter to which that consent relates).

(2) A witness may be cross-examined at a pre-trial examination even though the witness has not been examined in chief by the prosecutor.

(3) The prosecutor may re-examine a witness cross-examined by the defendant even though the witness has not been examined in chief by the prosecutor.

Disallowance of questions in cross-examination

63. (1) A Local Court is to disallow or forbid a question during the cross-examination of a witness in a pre-trial examination if it appears to the Local Court:

- (a) that the question is remote from, or not sufficiently related to, any matter as to which the witness may be cross-examined under this Part; or
- (b) that the question will have the effect of intimidating or otherwise harassing the witness without justification.

(2) The power conferred on a Local Court by this section is in addition to and not in derogation of any other discretion or power of the Local Court conferred by any other law.

Adjournments

64. (1) A pre-trial examination may be adjourned under the Justices Act 1902 to a time and place appointed by the Local Court.

(2) After the completion of a pre-trial examination, the pre-trial proceedings are (until the transfer of the proceedings to the Supreme Court or District Court or the discharge of the defendant) to be adjourned under the Justices Act 1902 to a time and place appointed by the Local Court.

(3) This section is subject to the Bail Act 1978.

SCHEDULE 1 - AMENDMENTS - *continued*

Cases may be conducted by parties or counsel etc.

65. (1) The prosecutor may, at a pre-trial examination, conduct his or her case personally or by his or her counsel or attorney, or with the leave of the court, by any police prosecutor.

(2) The defendant may, at a pre-trial examination, conduct his or her case personally or by his or her counsel or attorney.

Failure of defendant to appear

66. The Local Court conducting a pre-trial examination may, if the defendant fails to appear at the hearing, take any one or more of the following actions:

- (a) issue a warrant under the Justices Act 1902 for the apprehension of the defendant;
- (b) conduct the examination in the absence of the defendant;
- (c) adjourn the examination;
- (d) terminate the examination.

Termination of pre-trial examination when defendant requests trial or pleads guilty

67. (1) The Local Court is to terminate a pre-trial examination if the defendant advises the Director of Public Prosecutions in writing that the defendant wishes the matter to go to trial and the Director advises the Local Court that the pre-trial examination is no longer required.

(2) The Local Court is to terminate a pre-trial examination if the defendant changes his or her plea to guilty.

DPP to take over police or private prosecutions before pre-trial examination

68. A pre-trial examination may not be conducted in respect of a prosecution instituted by a person other than the Director of Public Prosecutions unless the Director has taken over the matter and carries on the prosecution.

SCHEDULE 1 - AMENDMENTS - *continued*

Failure to comply with provisions

69. A Local Court may award costs against the prosecutor or defendant, or refuse an adjournment or extension of time to the prosecutor or defendant, or both, if the prosecutor or defendant fails to comply with a requirement of this Part.

Division 3 - Transfer of proceedings for trial or discharge

Prosecution to decide whether accused is to be put on trial

70. (1) A person charged with an indictable offence which is being dealt with on indictment before a Local Court is, by operation of this section, committed for trial if the Attorney General, Director of Public Prosecutions or Crown Prosecutor finds a bill of indictment in respect of that or some other indictable offence and gives a committal for trial notice to the Local Court.

(2) A committal for trial notice is to set out the form of the indictment that is proposed to be presented in relation to the defendant and whether it is to be presented in the Supreme Court or District Court.

(3) A committal for trial notice is to be given to the Local Court during proceedings before that Court on the matter.

(4) The regulations may make provision for or with respect to a committal for trial notice under this section.

Transfer of proceedings by Local Court if accused committed for trial

71. (1) If a person charged with an indictable offence is committed for trial by the operation of section 70, the Local Court must, on that committal, order that the proceedings before the court be transferred to an appropriate sitting of the court in which the indictment is to be presented.

SCHEDULE 1 - AMENDMENTS - *continued*

(2) At that time, the Local Court may, subject to the Bail Act 1978, remand the defendant to a prison or lock-up until the sittings of the court before which the trial is set down or until the defendant is lawfully released.

(3) At that time, the Local Court may also deal with any bail application by the defendant and make any other ancillary orders authorised by law.

Discharge of accused if no bill found

72. (1) A Local Court is required to discharge a person charged with an indictable offence (and make any necessary ancillary orders) if the Attorney General or the Director of Public Prosecutions determines that no bill of indictment be found in respect of the alleged indictable offence and gives to the Local Court a no bill notice setting out that determination.

(2) A no bill notice is to be given to the Local Court during proceedings before that Court on the matter.

(3) The regulations may make provision for or with respect to no bill notices under this section.

Time within which decision on committal for trial to be made

73. The filing of a committal for trial notice or a no bill notice in the Local Court should be made as far as practicable within 30 days after the end of the pre-trial examination or, if no pre-trial examination is held, within 30 days after the Director of Public Prosecutions or prosecutor becomes aware that a pre-trial examination will not be held.

Jurisdiction of Supreme Court and District Court on committal

74. If a person charged with an indictable offence is committed for trial before the Supreme Court or District Court, that Court has jurisdiction to deal with the person and the offence on and from the time that the Local Court

SCHEDULE 1 - AMENDMENTS - *continued*

orders the proceedings concerned to be transferred to that Court.

Supreme Court or District Court may require indictment to be presented

75. (1) In this section, "court" means the Supreme Court or District Court.

(2) A court may order an indictment to be presented on the day on which the trial of a person for an indictable offence is set down for hearing before the court, or on or before some other later day.

(3) The court may order the presentation of the indictment whether or not the prosecutor is ready to proceed with the case.

(4) The court may, if an indictment is not presented in accordance with its order, adjourn the proceedings or take such other action as it thinks appropriate in the circumstances of the case.

(5) The prosecutor has no right to an adjournment merely because the indictment has not been presented. However, the court must have regard to the fact that the Crown does not have a right of appeal if the defendant is acquitted.

(6) This section does not affect the powers of the court under section 365 of the Crimes Act 1900.

Release of accused if Attorney General or DPP decides not to proceed

76. (1) This section applies in any case where the Attorney General or Director of Public Prosecutions determines that no bill of indictment be found in respect of an indictable offence or that no further proceedings be taken against a person who has been committed for trial or sentence in respect of an indictable offence.

(2) The Attorney General or Director of Public Prosecutions may, in any case to which this section applies,

SCHEDULE 1 - AMENDMENTS - *continued*

issue a warrant for the release of the defendant from custody in respect of the indictable offence mentioned in the warrant.

(3) The person to whom the warrant is directed is required to comply with the warrant on receiving it, unless the defendant is also in custody in respect of another matter.

(4) This section does not limit the power of a court to order the release from custody of a defendant whom it discharges.

**PART 12 - PROCEDURES RELATING TO
OFFENCES DEALT WITH ON INDICTMENT
WHERE DEFENDANT PLEADS GUILTY**

Application of Part

77. This Part applies to a person who pleads guilty before a Local Court to an indictable offence that may only be dealt with on indictment or that is to be dealt with on indictment (instead of summarily).

**Rejection of plea or failure to plead or change of plea
before Local Court**

78. (1) The Local Court may reject a plea of guilty by a person charged with an indictable offence. In that case the proceedings are to continue as if the plea had not been made.

(2) A person who has pleaded neither guilty nor not guilty to an indictable offence is, for the purposes of this Part, to be taken to have pleaded not guilty to the offence concerned.

(3) If the defendant at any stage of the proceedings in the Local Court (including at any stage after a pre-trial examination is held) changes a plea of not guilty to an indictable offence to a plea of guilty, the provisions of this Part apply to the defendant.

SCHEDULE 1 - AMENDMENTS - *continued*

Defendant who pleads guilty to be committed for sentence to District Court or Supreme Court

79. (1) The Local Court is to commit a defendant to whom this Part applies for sentence to such sittings of the Supreme Court or District Court as the Local Court may direct, and order that the proceedings before the court be transferred accordingly.

(2) If the Local Court commits a defendant for sentence, a committal for sentence notice setting out the indictable offence to which the defendant pleads guilty is to be prepared by the Local Court and transmitted to the court to which the defendant is committed.

(3) The regulations may make provision for or with respect to committal for sentence notices under this section.

Judge to sentence or otherwise deal with defendant

80. The Judge of the Supreme Court or District Court before whom a defendant committed for sentence is brought has jurisdiction to sentence or otherwise deal with the defendant, and to finally dispose of the charge and all incidental matters.

Judge may direct that defendant be put on trial

81. (1) The Judge of the Supreme Court or District Court before whom a defendant committed for sentence is brought:

- (a) may direct that the defendant be put on trial for the offence charged if it appears to the Judge from the information or evidence given to or before the Judge that the facts in respect of which the defendant was charged do not support the charge to which the defendant pleaded guilty or that it is otherwise appropriate to do so; or
- (b) must direct that the defendant be put on trial for the offence charged if the defendant changes to not guilty the plea to the charge on which the defendant

SCHEDULE 1 - AMENDMENTS - *continued*

was brought before the Judge and the Judge is of the opinion that it is not appropriate to make an order directing that the pre-trial proceedings be continued for the purposes of a pre-trial examination.

(2) A direction under this section that a defendant be put on trial for the offence charged is to be taken to be a committal of the defendant for trial for that offence.

(3) A Judge who directs that the defendant be put on trial for the offence charged may also make any orders and do any other things that a Local Court could have made or done on a committal for trial and may give such directions as to matters preliminary to the trial as to the Judge seems to be just.

Proceedings remitted to Local Court for pre-trial examination

82. (1) The Judge of the Supreme Court or District Court before whom a defendant committed for sentence is brought may, if authorised to direct that the defendant be put on trial, order instead that the pre-trial proceedings before the Local Court be continued for the purpose of a pre-trial examination.

(2) The Judge may do so only if:

(a) the defendant consents; and

(b) a pre-trial examination was not previously held.

(3) A Judge who makes an order under this section that pre-trial proceedings be continued before a Local Court has the same powers to make orders as to the custody of the defendant and other ancillary matters as a Local Court has on an adjournment during a pre-trial examination.

Plea of guilty to be disregarded if plea changed

83. If a defendant changes to not guilty the plea to the charge on which the defendant was brought before the Judge of the Supreme Court or District Court for sentence,

SCHEDULE 1 - AMENDMENTS - *continued*

the admission of guilt is not admissible in evidence in any subsequent trial of the defendant for the offence concerned.

Effect of sentence under this Part

84. A person sentenced under this Part for an offence to which the person pleaded guilty is to be taken to be convicted on indictment of the offence.

PART 13 - TRIAL BY JURY ON INDICTMENT

Definition of "criminal proceedings"

85. In this Part:

"**criminal proceedings**" means proceedings for the prosecution of offenders on indictment.

Trial by jury in criminal proceedings

86. Criminal proceedings in the Supreme Court or District Court are to be tried by a jury, except as otherwise provided by this Part.

Trial by Judge in criminal proceedings

87. (1) An accused person in criminal proceedings in the Supreme Court or District Court must be tried by the Judge alone if the person makes an election in accordance with this section.

(2) An election must be made with the consent of all other accused persons in the proceedings and the prosecutor and in respect of all offences with which the accused persons in the proceedings are charged.

(3) An election must be made after the accused person is committed for trial and on or before a date is fixed for the person's trial in the Supreme Court or District Court.

SCHEDULE 1 - AMENDMENTS - *continued*

(4) An accused person who elects to be tried by the Judge alone may, at any time before the person's trial commences, subsequently elect to be tried by a jury.

(5) Rules of court may be made with respect to elections under this section.

Verdict of single Judge

88. (1) A Judge who tries criminal proceedings without a jury under this Part may make any decision that could have been made by a jury on the question of the guilt of the accused. Any such decision has, for all purposes, the same effect as a verdict of a jury.

(2) A judgment by a Judge in any such case must set out the principles of law applied by the Judge and the findings of fact on which the Judge relied.

(3) If any Act or law requires a warning to be given to a jury in any such case, the Judge is to take the warning into account in dealing with the matter.

**PART 14 - SUPERIOR COURTS MAY DEAL WITH
SUMMARY OFFENCES RELATED TO
INDICTABLE OFFENCES**

Definition of "court"

89. In this Part:

"court" means the Supreme Court or District Court.

**Superior courts may deal with certain summary offences
related to indictable offences**

90. (1) A court may, at the conclusion of the trial of a defendant for an indictable offence, deal with any related summary offence with which the defendant has been charged.

(2) A court may deal with a related summary offence of its own motion or on the application of the defendant or

SCHEDULE 1 - AMENDMENTS - *continued*

prosecutor but may not do so unless both the defendant and the prosecutor have consented to the offence being dealt with under this section.

(3) Nothing in this section requires a court to deal with a related summary offence under this Part.

(4) A court may deal with a related summary offence with which a defendant has been charged even though it is not doing so in relation to a related summary offence with which another defendant in the same proceedings is charged.

Procedures in determining related summary offences

91. (1) The court is to deal with a related summary offence under this Part without a jury and only on the basis of evidence given during the trial of the defendant for any indictable offence in the same proceedings and additional evidence under this section.

(2) In sentencing a person for a related summary offence, the court has the same functions, and is subject to the same restrictions and procedures, as the court which would otherwise have heard and determined the matter.

(3) The prosecutor or defendant may, with the leave of the court, call additional evidence in relation to the related summary offence.

(4) Rules of court may be made with respect to related summary offences dealt with under this Part.

Remission of related matter to lower court

92. A court which is dealing with a related summary offence under this Part may, at any time, remit the matter to the court by which it would otherwise have been heard and determined.

SCHEDULE 1 - AMENDMENTS - *continued*

**PART 15 - MISCELLANEOUS MATTERS RELATED
TO PROCEDURE FOR INDICTABLE
OFFENCES**

Summary by Judge

93. (1) A Judge of the Supreme Court or District Court need not (despite any rule of law or practice to the contrary) summarise the evidence given in a criminal trial before a jury at the end of the trial, if the Judge is of the opinion that, in all the circumstances of the trial, the summary is not necessary.

(2) Nothing in this section affects any aspect of a Judge's summing up function other than the summary of evidence in a trial.

Exclusion of judicial review

94. No proceedings for an order in the nature of prohibition, certiorari or mandamus or for a declaration or injunction or for any other relief, lie in respect of the exercise by the Attorney General or the Director of Public Prosecutions of any function under this Act relating to the prosecution of persons charged with offences.

Powers of Attorney General and DPP not to proceed, to find bill etc. unaffected

95. Nothing in this Act affects the power of the Attorney General or the Director of Public Prosecutions:

- (a) to direct that no further proceedings be taken against a person who has been committed for trial or sentence; or
- (b) to find a bill of indictment, or determine that no bill of indictment be found, in respect of an indictable offence (whether or not the person concerned has been committed for trial or has been charged before a Local Court); or

SCHEDULE 1 - AMENDMENTS - *continued*

- (c) to find a bill of indictment in respect of a different offence from that in respect of which a previous bill of indictment was found.

Submissions to Attorney General or DPP not precluded

96. Nothing in this Act precludes a person charged with an indictable offence from making submissions to the Attorney General or Director of Public Prosecutions in relation to the question of whether the person should be put on trial or whether no further proceedings should be taken against the person after the person's committal for trial or sentence.

Local Court to advise unrepresented accused

97. The Local Court must, at the first appearance of an unrepresented person who is charged with an indictable offence and at any subsequent appearance of any such person before the Local Court, ensure that the person is provided with information as to the following matters:

- (a) any relevant procedures under this Act relating to pre-trial examinations, and relevant time limits, with which the person must comply;
- (b) the desirability of obtaining legal advice and legal representation;
- (c) the availability of legal aid.

Service of documents on defendant and prosecutor

98. A document which is required by or under this Act to be served or given to the prosecutor or defendant is to be taken to have been served if it is served:

- (a) in the case of the prosecutor - on the counsel or attorney of the prosecutor or, if a police prosecutor appears for the informant, on the police prosecutor; or
 - (b) in the case of the defendant - on the counsel or attorney of the defendant.
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SCHEDULE 1 - AMENDMENTS - *continued*

**SCHEDULE 1 - INDICTABLE OFFENCES WHICH
MAY BE DEALT WITH SUMMARILY UNLESS
ACCUSED OTHERWISE ELECTS**

(Sec. 30 (a))

1. Any of the following offences:
 - (a) larceny, and any offence which under the Crimes Act 1900 is taken to be, or is made punishable as, larceny or stealing (other than an offence mentioned in section 154A); and
 - (b) the offence of stealing any chattel, money or valuable security from the person of another; and
 - (c) any offence mentioned in section 126, 131, 145, 146, 148, 150, 151, 152, 156, 157, 159, 160, 165, 166, 168, 169, 170, 178A, 178B, 178C, 179, 184, 186, 188, 189, 189A, 190, 192, 195, 196, 197, 201, 202, 210, 249B, 249D, 249E or 249F of the Crimes Act 1900,
where (except in the case of a conveyance as defined for the purposes of section 154A of the Crimes Act 1900) the value of the property, matter or thing the subject of the charge, the damage thereto, or the amount of money or reward the subject of the charge, does not exceed \$15,000.
2. Any offence mentioned in section 52A or 52B of the Crimes Act 1900 except an offence whereby death was occasioned.
3. Any offence mentioned in section 61E, 66C (1), 66D, 71, 72, 76 or 76A of the Crimes Act 1900, where the person on whom the offence was committed was at the time of the commission of the offence of or above the age of 14 years.
4. Any offence mentioned in section 61M or 61O (2) of the Crimes Act 1900.
5. Any offence mentioned in section 81 of the Crimes Act 1900 where the person on whom the assault was

SCHEDULE 1 - AMENDMENTS - *continued*

committed was at the time of the assault of or above the age of 14 years.

6. Any offence mentioned in section 35 (a), 53, 54, 57, 78Q, 81A, 81B, 81C, 91A, 91B, 91D, 91E, 91F, 91G, 93B, 93C, 114, 132, 133, 154AA, 158, 172, 173, 174, 175, 176, 176A, 178BA, 178BB, 199, 200, 203, 207, 208 (4), 209, 212, 213, 249C, 249F (where no benefit is concerned), 300, 301, 302, 309 (2), (3) or (4) or 310 of the Crimes Act 1900.
7. Any offence mentioned in section 85 of the Crimes Act 1900 where the person charged is the mother of the child and is not charged with any other person.
8. Any offence mentioned in section 112 of the Crimes Act 1900 where the alleged offence is stealing, the value of the property stolen does not exceed \$15,000 and the person charged was neither armed with an offensive weapon or instrument, nor equipped with an implement of safe-breaking, nor in company with a person so armed or equipped.
9. Any offence mentioned in section 111 or 113 of the Crimes Act 1900 where the offence intended is stealing and the person charged was neither armed with an offensive weapon or instrument, nor equipped with an implement of safe-breaking, nor in company with a person so armed or equipped.
10. Any offence mentioned in section 316, 325, 335, 336 or 337 of the Crimes Act 1900.
11. Escape from lawful custody, except where the escape constitutes an offence against prison discipline within the meaning of Part 4 of the Prisons Act 1952.
12. Attempting to commit, where the offence is punishable by imprisonment for life or a term of more than 5 years, being an accessory before or after the fact or, where the offence is punishable by imprisonment for a term of less than 5 years, aiding,

SCHEDULE 1 - AMENDMENTS - *continued*

abetting, counselling or procuring the commission of, any offence mentioned in the preceding items.

13. An offence to which section 31 of the Drug Misuse and Trafficking Act 1985 applies.

**SCHEDULE 2 - INDICTABLE OFFENCES WHICH
MAY BE DEALT WITH SUMMARILY WITHOUT
ANY ELECTION BY ACCUSED**

(Sec. 30 (b))

PART 1 - ASSAULT OFFENCES

1. An offence under section 56, 58, 59, 61, 61L, 61N or 61O (1) of the Crimes Act 1900 or an attempt to commit any such offence.

PART 2 - LARCENCY OFFENCES ETC.

1. Any of the following offences:
 - (a) larceny;
 - (b) stealing any chattel, money or valuable security from the person of another;
 - (c) any offence mentioned in section 125, 126, 131, 132, 133, 139, 140, 144, 148, 150, 151, 152, 156, 157, 158, 159, 160, 178A, 178B, 178BA, 178BB, 178C, 179, 184, 185, 185A, 186, 188, 189, 189A, 190, 192, 247, 249B, 249D, 249E or 249F of the Crimes Act 1900;
 - (d) an attempt to commit any offence mentioned in the preceding items of this Part,
where the amount of money or value of the property in respect of which the offence is charged, or of the reward, does not exceed \$5,000.
2. An offence under section 154A of the Crimes Act 1900.

SCHEDULE 1 - AMENDMENTS - *continued*

PART 3 - FIREARMS AND DANGEROUS WEAPONS OFFENCES

1. An offence under section 93G or 93H of the Crimes Act 1900 or an attempt to commit any such offence.
2. An offence under the Firearms Act 1989 or Prohibited Weapons Act 1989 for which a penalty is provided by that Act if a conviction is obtained on indictment.

PART 4 - DRUG TRAFFICKING OFFENCES

1. An offence to which section 30 of the Drug Misuse and Trafficking Act 1985 applies.

PART 5 - LISTENING DEVICES OFFENCES

1. An offence under Part 2 of the Listening Devices Act 1984.

SCHEDULE 3 - SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 3C)

PART 1 - REGULATIONS

Regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the Criminal Procedure (Committal Proceedings) Amendment Act 1990 and the Miscellaneous Acts (Committal Proceedings) Amendment Act 1990.

(2) Any provision of a regulation made under this section may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

SCHEDULE 1 - AMENDMENTS - *continued*

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

PART 2 - CRIMINAL PROCEDURE (COMMITTAL PROCEEDINGS) AMENDMENT ACT 1990

Continued application of s.476 of the Crimes Act 1900 etc.

2. The provisions of sections 476, 480, 481 and 495-500 of the Crimes Act 1900, and of any other Act or instrument referring to those provisions, apply:

- (a) to proceedings for offences for which the person was charged before the commencement of Part 9; and
- (b) to persons dealt with in those proceedings, as if those provisions had not been repealed, or amended or affected, as the case may be, by the Miscellaneous Acts (Committal Proceedings) Amendment Act 1990 or this Schedule.

Application of Part 9

3. Part 9 applies to proceedings for offences for which the person was charged on or after (but not before) the commencement of that Part.

Application of new pre-trial disclosure procedure

4. Part 10 applies to persons charged with an offence on or after (but not before) the commencement of that Part.

SCHEDULE 1 - AMENDMENTS - *continued*

Continued application of committal provisions of Justices Act 1902

5. The provisions of Division 1 of Part 4 of the Justices Act 1902, and of any other Act or instrument referring to those provisions, apply:

(a) to proceedings for offences for which the person was charged before the commencement of Parts 11 and 12; and

(b) to persons dealt with in those proceedings, as if those provisions had not been repealed, or amended or affected, as the case may be, by the Miscellaneous Acts (Committal Proceedings) Amendment Act 1990 or this Schedule.

Application of Parts 11 and 12

6. Parts 11 and 12 apply to proceedings for offences for which the person was charged on or after (but not before) the commencement of those Parts.

Trial by Judge in criminal proceedings

7. Part 13 extends to criminal proceedings commenced before the commencement of that Part.

Related summary offences

8. Part 14 extends to trials commenced but not concluded before the commencement of that Part.

Summary by Judge

9. Section 93 extends to trials commenced but not concluded before the commencement of that section.

Evidence by Police

10. Section 418 of the Crimes Act 1900 does not apply to trials commenced before the commencement of that section.
