

FIRST PRINT

**COURTS LEGISLATION (CROWN APPEALS) AMENDMENT  
BILL 1994**

NEW SOUTH WALES



**EXPLANATORY NOTE**

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

The object of this Bill is to amend the Children (Criminal Proceedings) Act 1987 and the Justices Act 1902 to enable the Crown to appeal to the District Court in relation to penalties imposed by the Children's Court.

Section 27 of the Children (Criminal Proceedings) Act 1987 provides that (subject to certain qualifications) the provisions of the Justices Act 1902 relating to criminal proceedings before Magistrates and Justices apply to proceedings before the Children's Court. However, section 42 (5) presently provides that Division 4A (Appeal to the District Court by Crown) of Part 5 of the Justices Act 1902 does not apply to a decision of the Children's Court.

The amendments to the Children (Criminal Proceedings) Act 1987 remove the bar in section 42 that prevents the application of Division 4A of Part 5 of the Justices Act 1902 to decisions of the Children's Court. They also make it clear that Part 5 of the Justices Act 1902 applies to appeals from decisions of the Children's Court in the same way as it applies to appeals from decisions of the Local Court. The amendments to the Justices Act 1902 ensure that a reference to "sentence" in Division 4A of Part 5 of that Act is read as including a decision in relation to penalties made by the Children's Court under the Children (Criminal Proceedings) Act 1987.

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**Clause 1** specifies the short title of the proposed Act.

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

**Clause 3** makes the amendments to the Children (Criminal Proceedings) Act 1987 described above.

**Clause 4** makes the amendments to the Justices Act 1902 described above.

**Clause 5** provides that the amendments apply only to decisions made by the Children's Court on or after the commencement of the amendments.

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**COURTS LEGISLATION (CROWN APPEALS) AMENDMENT  
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No.           , 1994

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**A BILL FOR**

An Act to amend the Children (Criminal Proceedings) Act 1987 and the Justices Act 1902 to enable the Crown to appeal to the District Court in relation to penalties imposed by the Children's Court.

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*Courts Legislation (Crown Appeals) Amendment 1994*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Courts Legislation (Crown Appeals) Amendment Act 1994.

**5 Commencement**

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

**Amendment of Children (Criminal Proceedings) Act 1987 No. 55, sec. 42**

3. The Children (Criminal Proceedings) Act 1987 is amended:

10 (a) by inserting before "In" in section 42 (1) the words "Subject to this Part, Part 5 of the Justices Act 1902 applies to appeals from decisions of the Children's Court in the same way as it applies to appeals from decisions of a Local Court."

(b) by omitting section 42 (5).

**15 Amendment of Justices Act 1902 No. 27, sec. 131AA**

4. The Justices Act 1902 is amended:

(a) by inserting after section 131AA (2) the following subsection:

20 (2A) Without limiting the definition of "sentence", for the purposes of this Division a decision within the meaning of section 42 (3) of the Children (Criminal Proceedings) Act 1987 made by the Children's Court in respect of an offence committed by a person is taken to be a sentence imposed on the conviction of the person, and the person is taken to have been convicted of the offence. This subsection does not affect the application of section 27 of the

25 Children (Criminal Proceedings) Act 1987.

(b) by inserting in section 131AA (3) after the matter "subsection (2)" the matter "or (2A)".

*Courts Legislation (Crown Appeals) Amendment 1994*

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**Application of Act**

5. The amendments made by this Act apply only to decisions (within the meaning of section 42 (3) of the Children (Criminal Proceedings) Act 1987) made by the Children's Court on or after the commencement of the amendments.

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