

CRIMES (HOME INVASION) AMENDMENT ACT 1994 No. 84

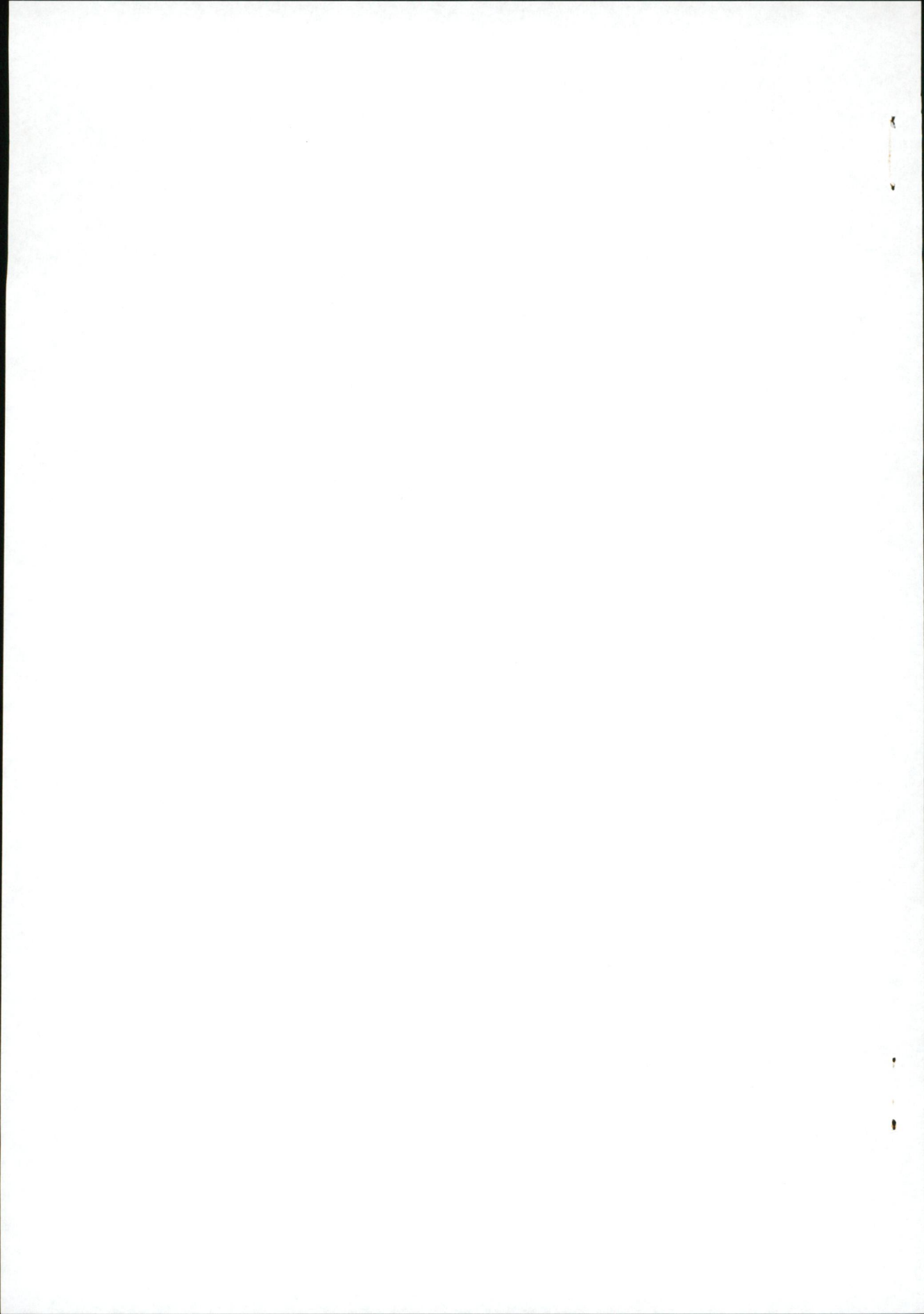
NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Crimes Act 1900 No. 40

SCHEDULE 1—AMENDMENTS



CRIMES (HOME INVASION) AMENDMENT ACT 1994 No. 84

NEW SOUTH WALES



Act No. 84, 1994

An Act to amend the Crimes Act 1900 in relation to housebreaking, robbery and associated crimes. [Assented to 12 December 1994]

Crimes (Home Invasion) Amendment Act 1994 No. 84

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Crimes (Home Invasion) Amendment Act 1994.

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.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 1 (**Short title and contents of Act**):

From the matter relating to Chapter 1 of Part 4, omit "106–115", insert instead "105A–115A".

(2) Section 4 (**Definitions**):

(a) In section 4 (1), insert in alphabetical order:

"Armed", in relation to a weapon, or instrument, or an offensive weapon, or instrument, that is a dangerous weapon, includes bearing or having the immediate physical possession of the weapon, or instrument.

"Dangerous weapon" means:

(a) a firearm (within the meaning of the Firearms Act 1989); or

(b) a prohibited weapon or prohibited article (within the meaning of the Prohibited Weapons Act 1989); or

(c) a spear gun.

SCHEDULE 1—AMENDMENTS—*continued*

- (b) In the definitions of “Offensive weapon” and “Offensive weapon, or instrument” in section 4 (1), before “include”, insert “, include a dangerous weapon and also”.
 - (c) In the definitions of “Weapon” and “Weapon, or instrument” in section 4 (1), omit “includes”, insert instead “include a dangerous weapon and also include”.
- (3) Section 95 (**Same in circumstances of aggravation**):
- (a) Omit “and immediately before, or at the time of, or immediately after such robbery, assault, or larceny from the person, strikes, or uses any other corporal violence to any person”, insert instead “in circumstances of aggravation”.
 - (b) At the end of section 95, insert:
 - (2) In this section, “**circumstances of aggravation**” means circumstances that (immediately before, or at the time of, or immediately after the robbery, assault or larceny) involve any one or more of the following:
 - (a) the alleged offender uses corporal violence on any person;
 - (b) the alleged offender maliciously inflicts actual bodily harm on any person;
 - (c) the alleged offender deprives any person of his or her liberty.
- (4) Section 96 (**Same (robbery) with wounding**):
- After “wounds”, insert “or inflicts grievous bodily harm on”.
- (5) Section 97 (**Robbery etc. or stopping a mail, being armed or in company**):
- At the end of section 97, insert:
- (2) **Aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (1) when armed with a dangerous weapon. A person convicted of an offence under this subsection is liable to penal servitude for 25 years.

SCHEDULE 1—AMENDMENTS—*continued*

(3) **Alternative verdict.** If on the trial of a person for an offence under subsection (2) the jury is not satisfied that the accused is guilty of the offence charged, but is satisfied on the evidence that the accused is guilty of an offence under subsection (1), it may find the accused not guilty of the offence charged but guilty of the latter offence, and the accused is liable to punishment accordingly.

(6) Section 98 (**Robbery with arms etc. and wounding**):
Omit “so armed”.

(7) Section 105A:

Before section 106, insert:

Definitions

105A. (1) In sections 106–115A:

“**circumstances of aggravation**” means circumstances involving any one or more of the following:

- (a) the alleged offender is armed with an offensive weapon, or instrument;
- (b) the alleged offender is in the company of another person or persons;
- (c) the alleged offender uses corporal violence on any person;
- (d) the alleged offender maliciously inflicts actual bodily harm on any person;
- (e) the alleged offender deprives any person of his or her liberty;

“**circumstances of special aggravation**” means circumstances involving either or both of the following:

- (a) the alleged offender wounds or maliciously inflicts grievous bodily harm on any person;
- (b) the alleged offender is armed with a dangerous weapon.

SCHEDULE 1—AMENDMENTS—*continued*

(2) The matters referred to in:

- (a) paragraph (c), (d) or (e) of the definition of “circumstances of aggravation”; or
- (b) paragraph (a) of the definition of “circumstances of special aggravation”,

can occur immediately before, or at the time of, or immediately after any of the elements of the offence concerned occurred.

(3) The definitions in subsection (1) are not mutually exclusive.

- (8) Section 106 (**Breaking and entering place of Divine worship and committing felony**):

Omit the last sentence, insert instead:

(2) **Aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (1) in circumstances of aggravation. A person convicted of an offence under this subsection is liable to penal servitude for 20 years.

(3) **Specially aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (2) in circumstances of special aggravation. A person convicted of an offence under this subsection is liable to penal servitude for 25 years.

- (9) Section 107 (**The like with intent to commit felony**):

Omit the last sentence, insert instead:

(2) **Aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (1) in circumstances of aggravation. A person convicted of an offence under this subsection is liable to penal servitude for 14 years.

(3) **Specially aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (2) in circumstances of special

SCHEDULE 1—AMENDMENTS—*continued*

aggravation. A person convicted of an offence under this subsection is liable to penal servitude for 20 years.

(10) Section 109 (**Entering with intent, or stealing etc. in dwelling-house and breaking out**):

Omit the last sentence, insert instead:

(2) **Aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (1) in circumstances of aggravation. A person convicted of an offence under this subsection is liable to penal servitude for 20 years.

(3) **Specially aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (2) in circumstances of special aggravation. A person convicted of an offence under this subsection is liable to penal servitude for 25 years.

(11) Section 111 (**Entering dwelling-house**):

(a) Omit “in the night”.

(b) Omit the last sentence, insert instead:

(2) **Aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (1) in circumstances of aggravation. A person convicted of an offence under this subsection is liable to penal servitude for 14 years.

(3) **Specially aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (2) in circumstances of special aggravation. A person convicted of an offence under this subsection is liable to penal servitude for 20 years.

(12) Section 112 (**Breaking etc. into any house etc. and committing felony**):

Omit the last sentence, insert instead:

(2) **Aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (1) in circumstances of

SCHEDULE 1—AMENDMENTS—*continued*

aggravation. A person convicted of an offence under this subsection is liable to penal servitude for 20 years.

(3) **Specially aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (2) in circumstances of special aggravation. A person convicted of an offence under this subsection is liable to penal servitude for 25 years.

- (13) Section 113 (**Breaking etc. into any house etc. with intent to commit felony**):

Omit the last sentence, insert instead:

(2) **Aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (1) in circumstances of aggravation. A person convicted of an offence under this subsection is liable to penal servitude for 14 years.

(3) **Specially aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (2) in circumstances of special aggravation. A person convicted of an offence under this subsection is liable to penal servitude for 20 years.

- (14) Section 115A:

After section 115, insert:

Alternative verdicts

115A. (1) **Aggravated offence reduced to basic offence.** If on the trial of a person for an offence under section 106 (2), 107 (2), 109 (2), 111 (2), 112 (2) or 113 (2) the jury is not satisfied that the accused is guilty of the offence charged, but is satisfied on the evidence that the accused is guilty of an offence under section 106 (1), 107 (1), 109 (1), 111 (1), 112 (1) or 113 (1) as appropriate, it may find the accused not guilty of the offence charged but guilty of the latter offence, and the accused is liable to punishment accordingly.

SCHEDULE 1—AMENDMENTS—*continued*

(2) **Specially aggravated offence reduced to aggravated offence.** If on the trial of a person for an offence under section 106 (3), 107 (3), 109 (3), 111 (3), 112 (3) or 113 (3) the jury is not satisfied that the accused is guilty of the offence charged, but is satisfied on the evidence that the accused is guilty of an offence under section 106 (2), 107 (2), 109 (2), 111 (2), 112 (2) or 113 (2) as appropriate, it may find the accused not guilty of the offence charged but guilty of the latter offence, and the accused is liable to punishment accordingly.

(3) **Specially aggravated offence reduced to basic offence.** If on the trial of a person for an offence under section 106 (3), 107 (3), 109 (3), 111 (3), 112 (3) or 113 (3) the jury is not satisfied that the accused is guilty of the offence charged, but is satisfied on the evidence that the accused is guilty of an offence under section 106 (1), 107 (1), 109 (1), 111 (1), 112 (1) or 113 (1) as appropriate, it may find the accused not guilty of the offence charged but guilty of the latter offence, and the accused is liable to punishment accordingly. This subsection does not apply to an offence if the jury proceeds under subsection (2) in relation to it.

(15) Section 476 (**Indictable offences punishable summarily with consent of accused**):

(a) Section 476 (6) (ea):

Omit “109”, insert instead “109 (1)”.

(b) Section 476 (6) (f):

Omit “112”, insert instead “112 (1)”.

(c) Section 476 (6) (g):

Omit “111 or 113”, insert instead “111 (1) or 113 (1)”.

SCHEDULE 1—AMENDMENTS—*continued*

(16) Eleventh Schedule (**Savings and Transitional Provisions**):

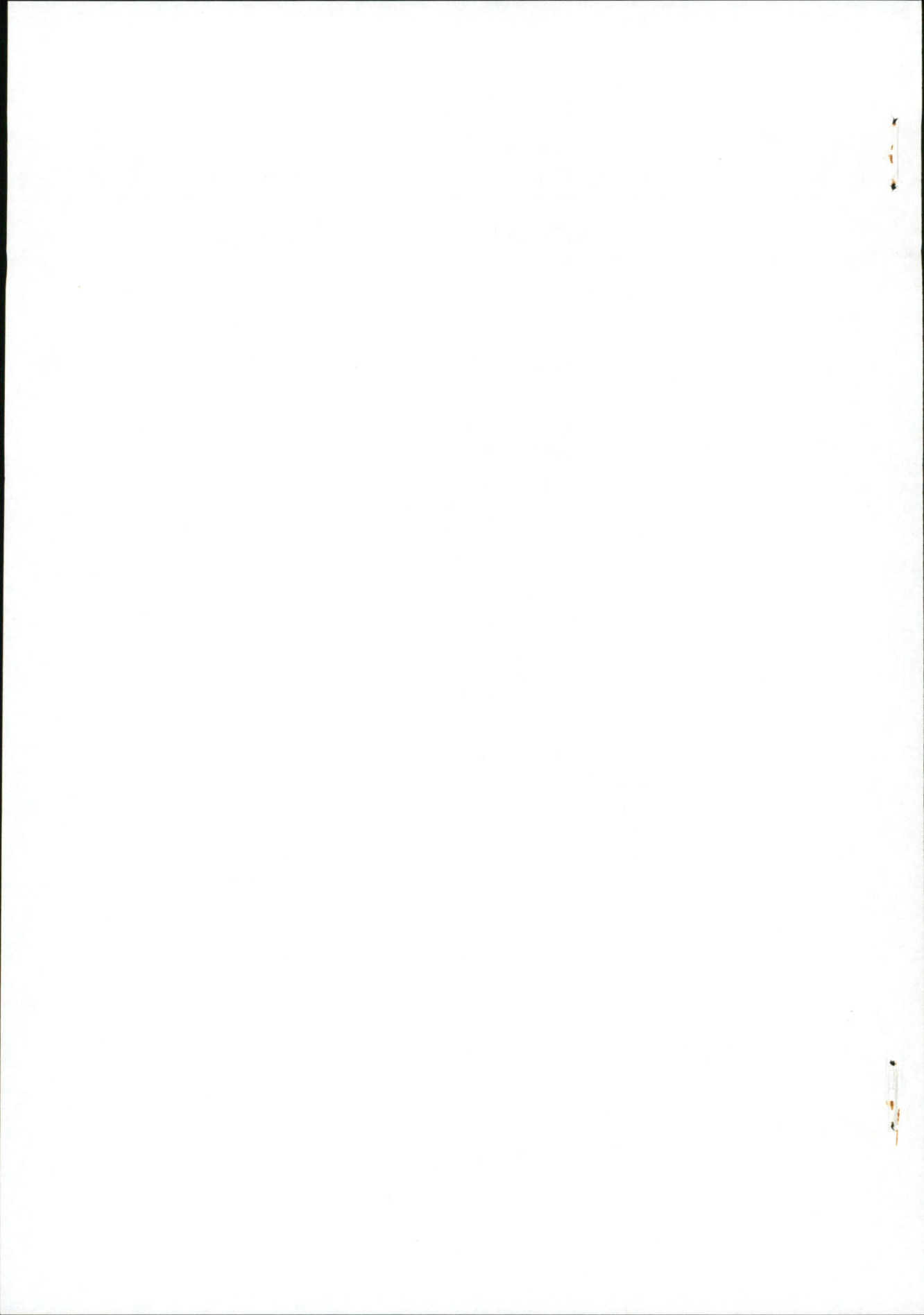
After Part 5 of the Eleventh Schedule, insert:

**Part 6—Crimes (Home Invasion) Amendment Act
1994**

**Section 476 (indictable offences punishable summarily
with consent of accused)**

14. A reference in section 476 (6) (ea), (f) or (g) to an offence mentioned in section 109 (1), 111 (1), 112 (1) or 113 (1) of the kind described in the paragraph concerned is taken to include a reference to an offence mentioned in section 109, 111, 112 or 113 (as in force before the commencement of the amendment made to that paragraph by the Crimes (Home Invasion) Amendment Act 1994) of that kind and committed before that commencement.

[*Minister's second reading speech made in—
Legislative Council on 16 November 1994
Legislative Assembly on 23 November 1994*]



FIRST PRINT

CRIMES (HOME INVASION) 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 Crimes Act 1900 in relation to housebreaking (including burglary), robbery and associated crimes. The Bill creates additional offences (and increased penalties) when crimes of these kinds involve invasive or violent activities.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will commence on a day or days appointed by the Governor by proclamation published in the Gazette.

Clause 3 is a formal provision giving effect to the Schedule of amendments.

SCHEDULE 1—AMENDMENTS

Aggravated housebreaking (including burglary) and associated crimes

The Bill creates a series of aggravated offences that parallel existing offences of housebreaking (including burglary), and breaking and entering certain other premises, including places of worship. An aggravated offence occurs when the offence is committed in "circumstances of aggravation". These circumstances involve any of the following:

- (a) being armed with an offensive weapon or instrument;
- (b) being in the company of another person or persons;
- (c) using corporal violence;
- (d) inflicting actual bodily harm;
- (e) depriving a person of liberty.

Crimes (Home Invasion) Amendment 1994

An aggravated offence attracts a maximum penalty of 14 years penal servitude if the basic offence attracts a maximum penalty of 10 years, or a maximum penalty of 20 years penal servitude if the basic offence attracts a maximum penalty of 14 years.

See Schedule 1 (7), (8), (9), (10), (11) (b), (12), (13).

Specially aggravated housebreaking (including burglary) and associated crimes

The Bill creates a series of specially aggravated offences that parallel the aggravated offences of housebreaking (including burglary), and breaking and entering certain other premises, including places of worship. A specially aggravated offence occurs when the offence is committed in "circumstances of special aggravation". These circumstances involve either of the following:

- (a) wounding or inflicting grievous bodily harm;
- (b) being armed with a firearm or other dangerous weapon.

A specially aggravated offence attracts a maximum penalty of 20 years penal servitude if the aggravated offence attracts a maximum penalty of 14 years, or a maximum penalty of 25 years penal servitude if the aggravated offence attracts a maximum penalty of 20 years.

See Schedule 1 (7), (8), (9), (10), (11) (b), (12), (13).

Entering dwellings

The Bill removes the night element of the offence under section 111 of the Crimes Act 1900 of entering a dwelling at night (ie between 9pm and 6am) with intent to commit felony.

See Schedule 1 (11) (a).

Aggravated robbery

The Bill extends the existing crime of robbery with striking (section 95 of the Crimes Act 1900) to cover the infliction of actual bodily harm and the deprivation of liberty.

See Schedule 1 (3).

Robbery with wounding

The Bill specifically extends the existing crime of robbery with wounding (under section 96 of the Crimes Act 1900) to cover the infliction of grievous bodily harm.

See Schedule 1 (4).

Aggravated robbery with firearms and certain other weapons

The Bill creates an aggravated offence of robbery while armed with a firearm or other dangerous weapon, which parallels an existing offence (under section 97 of the Crimes Act 1900). The aggravated offence attracts a maximum penalty of 25 years penal servitude.

See Schedule 1 (5).

Crimes (Home Invasion) Amendment 1994

Robbery in company

The Bill alters the existing crime of robbery in company with a person armed with an offensive weapon or instrument (under section 98 of the Crimes Act 1900) so that it covers robbery in company with any person (whether or not armed).

See Schedule 1 (6).

Firearms and other dangerous weapons

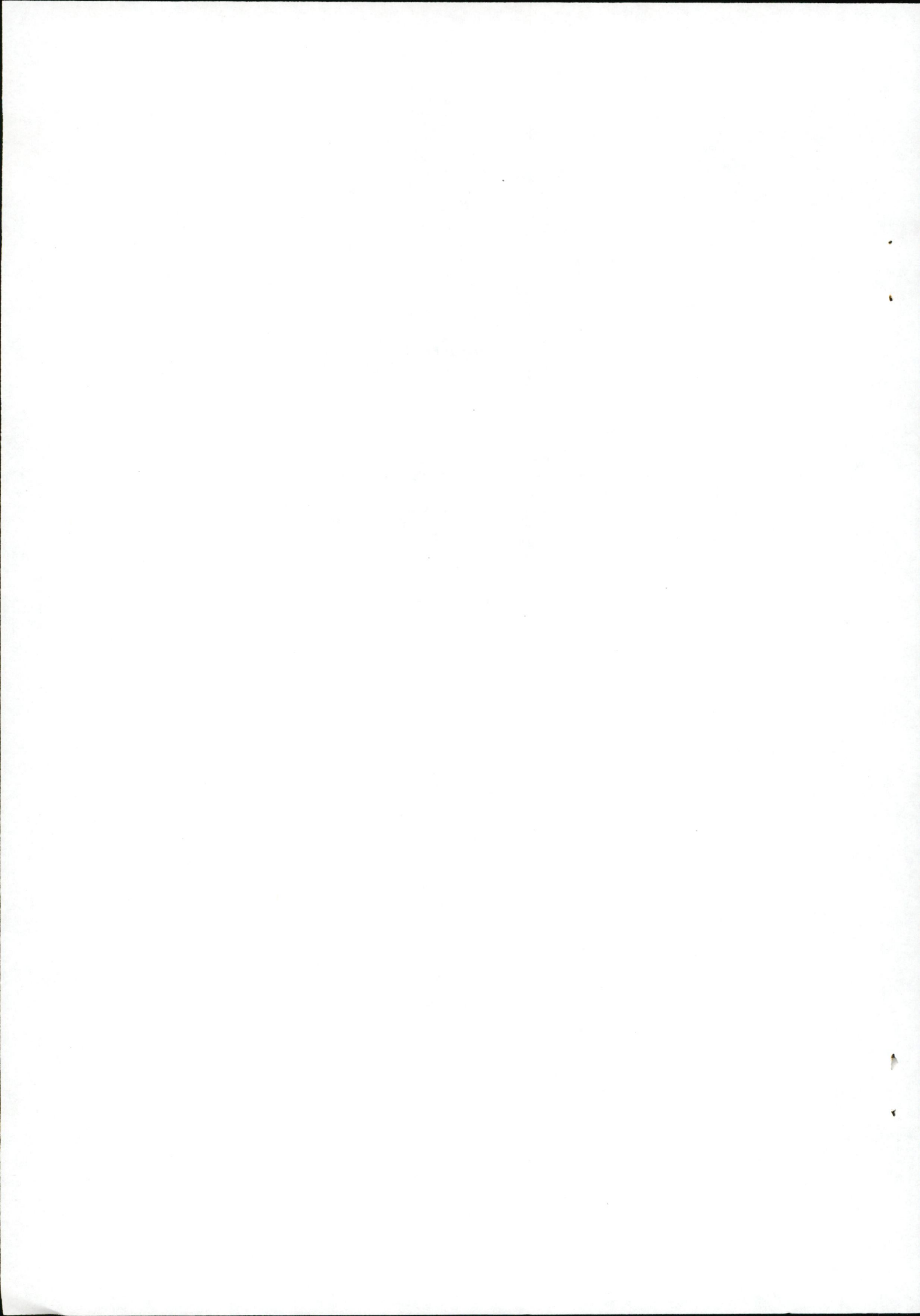
The Bill inserts a definition of "dangerous weapon", which means a firearm (as defined in the Firearms Act 1989), or a prohibited weapon or prohibited article (within the meaning of the Prohibited Weapons Act 1989), or a spear gun. This definition is used in provisions being inserted by the Bill. Amendments are also made to ensure that existing references in the Crimes Act 1900 to weapons or offensive weapons extend to dangerous weapons as so defined.

See Schedule 1 (2).

Machinery and consequential amendments

The Bill makes machinery and consequential amendments, including provisions enabling the jury to convict of a lesser offence in cases where circumstances of aggravation are alleged.

See Schedule 1 (1), (5), (14), (15), (16).



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CRIMES (HOME INVASION) AMENDMENT BILL 1994

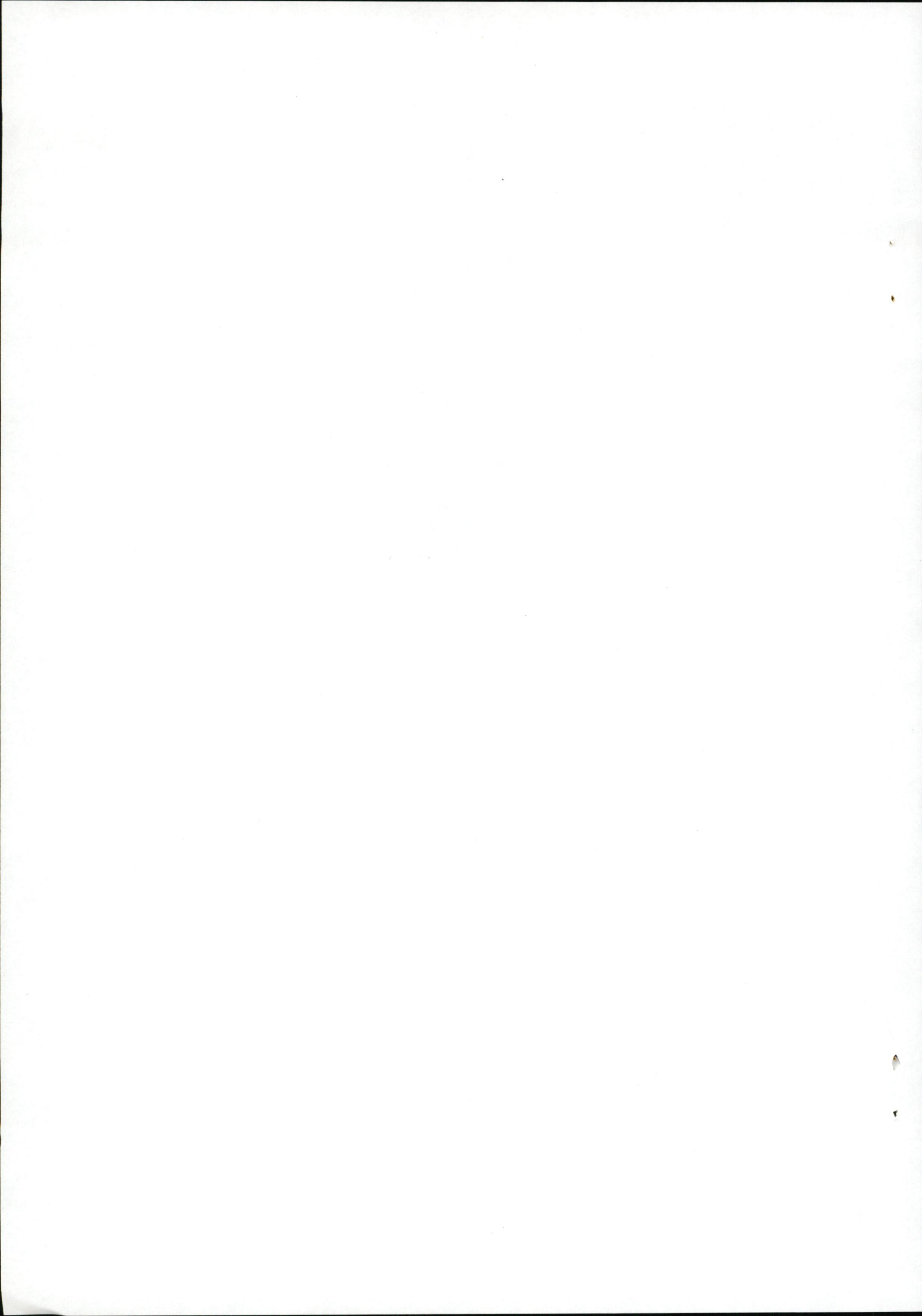
NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Crimes Act 1900 No. 40

SCHEDULE 1—AMENDMENTS



CRIMES (HOME INVASION) AMENDMENT BILL 1994

NEW SOUTH WALES



No. , 1994

A BILL FOR

An Act to amend the Crimes Act 1900 in relation to housebreaking,
robbery and associated crimes.

*Crimes (Home Invasion) Amendment 1994***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Crimes (Home Invasion) Amendment Act 1994.

5 **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.

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SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 1 (**Short title and contents of Act**):

From the matter relating to Chapter 1 of Part 4, omit "106–115", insert instead "105A–115A".

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(2) Section 4 (**Definitions**):

(a) In section 4 (1), insert in alphabetical order:

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"Armed", in relation to a weapon, or instrument, or an offensive weapon, or instrument, that is a dangerous weapon, includes bearing or having the immediate physical possession of the weapon, or instrument.

"Dangerous weapon" means:

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(a) a firearm (within the meaning of the Firearms Act 1989); or

(b) a prohibited weapon or prohibited article (within the meaning of the Prohibited Weapons Act 1989); or

(c) a spear gun.

Crimes (Home Invasion) Amendment 1994

SCHEDULE 1—AMENDMENTS—*continued*

- (b) In the definitions of “Offensive weapon” and “Offensive weapon, or instrument” in section 4 (1), before “include”, insert “, include a dangerous weapon and also”.
- (c) In the definitions of “Weapon” and “Weapon, or instrument” in section 4 (1), omit “includes”, insert instead “include a dangerous weapon and also include”. 5
- (3) Section 95 (**Same in circumstances of aggravation**):
- (a) Omit “and immediately before, or at the time of, or immediately after such robbery, assault, or larceny from the person, strikes, or uses any other corporal violence to any person”, insert instead “in circumstances of aggravation”. 10
- (b) At the end of section 95, insert:
- (2) In this section, “**circumstances of aggravation**” means circumstances that (immediately before, or at the time of, or immediately after the robbery, assault or larceny) involve any one or more of the following: 15
- (a) the alleged offender uses corporal violence on any person; 20
- (b) the alleged offender maliciously inflicts actual bodily harm on any person;
- (c) the alleged offender deprives any person of his or her liberty.
- (4) Section 96 (**Same (robbery) with wounding**): 25
- After “wounds”, insert “or inflicts grievous bodily harm on”.
- (5) Section 97 (**Robbery etc. or stopping a mail, being armed or in company**):
- At the end of section 97, insert: 30
- (2) **Aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (1) when armed with a dangerous weapon. A person convicted of an offence under this subsection is liable to penal servitude for 25 years. 35

Crimes (Home Invasion) Amendment 1994

SCHEDULE 1—AMENDMENTS—*continued*

5 (3) **Alternative verdict.** If on the trial of a person for an offence under subsection (2) the jury is not satisfied that the accused is guilty of the offence charged, but is satisfied on the evidence that the accused is guilty of an offence under subsection (1), it may find the accused not guilty of the offence charged but guilty of the latter offence, and the accused is liable to punishment accordingly.

10 (6) Section 98 (**Robbery with arms etc. and wounding**):

Omit “so armed”.

(7) Section 105A:

Before section 106, insert:

Definitions

105A. (1) In sections 106–115A:

15 “**circumstances of aggravation**” means circumstances involving any one or more of the following:

- 20 (a) the alleged offender is armed with an offensive weapon, or instrument;
- (b) the alleged offender is in the company of another person or persons;
- (c) the alleged offender uses corporal violence on any person;
- (d) the alleged offender maliciously inflicts actual bodily harm on any person;
- 25 (e) the alleged offender deprives any person of his or her liberty;

“**circumstances of special aggravation**” means circumstances involving either or both of the following:

- 30 (a) the alleged offender wounds or maliciously inflicts grievous bodily harm on any person;
- (b) the alleged offender is armed with a dangerous weapon.

Crimes (Home Invasion) Amendment 1994

SCHEDULE 1—AMENDMENTS—*continued*

- (2) The matters referred to in:
- (a) paragraph (c), (d) or (e) of the definition of “circumstances of aggravation”; or
- (b) paragraph (a) of the definition of “circumstances of special aggravation”, 5
- can occur immediately before, or at the time of, or immediately after any of the elements of the offence concerned occurred.
- (3) The definitions in subsection (1) are not mutually exclusive. 10
- (8) Section 106 (**Breaking and entering place of Divine worship and committing felony**):
- Omit the last sentence, insert instead:
- (2) **Aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (1) in circumstances of aggravation. A person convicted of an offence under this subsection is liable to penal servitude for 20 years. 15
- (3) **Specially aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (2) in circumstances of special aggravation. A person convicted of an offence under this subsection is liable to penal servitude for 25 years. 20
- (9) Section 107 (**The like with intent to commit felony**): 25
- Omit the last sentence, insert instead:
- (2) **Aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (1) in circumstances of aggravation. A person convicted of an offence under this subsection is liable to penal servitude for 14 years. 30
- (3) **Specially aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (2) in circumstances of special

Crimes (Home Invasion) Amendment 1994

SCHEDULE 1—AMENDMENTS—*continued*

aggravation. A person convicted of an offence under this subsection is liable to penal servitude for 20 years.

- 5 (10) Section 109 (**Entering with intent, or stealing etc. in dwelling-house and breaking out**):

Omit the last sentence, insert instead:

10 (2) **Aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (1) in circumstances of aggravation. A person convicted of an offence under this subsection is liable to penal servitude for 20 years.

15 (3) **Specially aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (2) in circumstances of special aggravation. A person convicted of an offence under this subsection is liable to penal servitude for 25 years.

- (11) Section 111 (**Entering dwelling-house**):

(a) Omit “in the night”.

(b) Omit the last sentence, insert instead:

20 (2) **Aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (1) in circumstances of aggravation. A person convicted of an offence under this subsection is liable to penal servitude for 14 years.

25 (3) **Specially aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (2) in circumstances of special aggravation. A person convicted of an offence under this subsection is liable to penal servitude for 20 years.

- 30 (12) Section 112 (**Breaking etc. into any house etc. and committing felony**):

Omit the last sentence, insert instead:

35 (2) **Aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (1) in circumstances of

Crimes (Home Invasion) Amendment 1994

SCHEDULE 1—AMENDMENTS—*continued*

aggravation. A person convicted of an offence under this subsection is liable to penal servitude for 20 years.

(3) **Specially aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (2) in circumstances of special aggravation. A person convicted of an offence under this subsection is liable to penal servitude for 25 years.

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- (13) Section 113 (**Breaking etc. into any house etc. with intent to commit felony**):

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Omit the last sentence, insert instead:

(2) **Aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (1) in circumstances of aggravation. A person convicted of an offence under this subsection is liable to penal servitude for 14 years.

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(3) **Specially aggravated offence.** A person is guilty of an offence under this subsection if the person commits an offence under subsection (2) in circumstances of special aggravation. A person convicted of an offence under this subsection is liable to penal servitude for 20 years.

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- (14) Section 115A:

After section 115, insert:

Alternative verdicts

115A. (1) **Aggravated offence reduced to basic offence.** If on the trial of a person for an offence under section 106 (2), 107 (2), 109 (2), 111 (2), 112 (2) or 113 (2) the jury is not satisfied that the accused is guilty of the offence charged, but is satisfied on the evidence that the accused is guilty of an offence under section 106 (1), 107 (1), 109 (1), 111 (1), 112 (1) or 113 (1) as appropriate, it may find the accused not guilty of the offence charged but

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*Crimes (Home Invasion) Amendment 1994*SCHEDULE 1—AMENDMENTS—*continued*

guilty of the latter offence, and the accused is liable to punishment accordingly.

5 (2) **Specially aggravated offence reduced to aggravated offence.** If on the trial of a person for an offence under section 106 (3), 107 (3), 109 (3), 111 (3), 112 (3) or 113 (3) the jury is not satisfied that the accused is guilty of the offence charged, but is satisfied on the evidence that the accused is guilty of an offence under
10 section 106 (2), 107 (2), 109 (2), 111 (2), 112 (2) or 113 (2) as appropriate, it may find the accused not guilty of the offence charged but guilty of the latter offence, and the accused is liable to punishment accordingly.

15 (3) **Specially aggravated offence reduced to basic offence.** If on the trial of a person for an offence under section 106 (3), 107 (3), 109 (3), 111 (3), 112 (3) or 113 (3) the jury is not satisfied that the accused is guilty of the offence charged, but is satisfied on the evidence that the accused is guilty of an offence under section 106 (1), 107
20 (1), 109 (1), 111 (1), 112 (1) or 113 (1) as appropriate, it may find the accused not guilty of the offence charged but guilty of the latter offence, and the accused is liable to punishment accordingly. This subsection does not apply to
25 an offence if the jury proceeds under subsection (2) in relation to it.

(15) Section 476 (**Indictable offences punishable summarily with consent of accused**):

(a) Section 476 (6) (ea):

Omit "109", insert instead "109 (1)".

30 (b) Section 476 (6) (f):

Omit "112", insert instead "112 (1)".

(c) Section 476 (6) (g):

Omit "111 or 113", insert instead "111 (1) or 113 (1)".

Crimes (Home Invasion) Amendment 1994

SCHEDULE 1—AMENDMENTS—*continued*

(16) Eleventh Schedule (**Savings and Transitional Provisions**):

After Part 5 of the Eleventh Schedule, insert:

**Part 6—Crimes (Home Invasion) Amendment Act
1994**

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**Section 476 (indictable offences punishable summarily
with consent of accused)**

14. A reference in section 476 (6) (ea), (f) or (g) to an offence mentioned in section 109 (1), 111 (1), 112 (1) or 113 (1) of the kind described in the paragraph concerned is taken to include a reference to an offence mentioned in section 109, 111, 112 or 113 (as in force before the commencement of the amendment made to that paragraph by the Crimes (Home Invasion) Amendment Act 1994) of that kind and committed before that commencement.

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