

FIRST PRINT

**CRIMINAL PROCEDURE (SENTENCE INDICATION)  
AMENDMENT BILL 1992**

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 Criminal Procedure Act 1986 to enable a sentence indication hearings pilot scheme to be conducted by the District Court between 1 February 1993 and 31 January 1995 (both dates inclusive) at such place or places and subject to such conditions (if any) as the Chief Judge of the District Court may determine and notify by publication of a practice note. The proposed amendment applies only to a pilot scheme notified in this manner. The proposed amendment applies to offences committed before or after the commencement of the amendments.

The pilot scheme will enable an accused person, on or before being called on to plead, to apply for a sentence indication hearing. At the sentence indication hearing, the presiding judge may indicate to the accused person what sentence the person is likely to receive from the judge if, when called on to plead, the person were to plead guilty to the offence charged or to another, or a lesser, offence arising out of the same circumstances. In giving a sentence indication, the judge is entitled to have regard to such material as would be available to the judge when passing sentence on an accused person who has pleaded guilty.

The Bill also enables the judge who conducts a sentence indication hearing to make certain orders directed at suppressing premature publication of matter that might identify the accused person or of other matter, disclosed at the hearing, that might prejudice the right of the accused person to a fair trial, should the accused person plead not guilty to the offence charged. A suppression order may be limited to apply only until such time as the accused person has pleaded guilty, or a jury has returned its verdict, in relation to the offence concerned.

A breach of a suppression order may be dealt with as if it were a contempt committed in the face or hearing of the District Court.

The Bill provides that the proposed provisions are not to be taken as limiting powers that the District Court, or judges of that Court, otherwise possess.

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*Criminal Procedure (Sentence Indication) Amendment 1992*

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Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on assent.

Clause 3 amends the Criminal Procedure Act 1986 to give effect to the object referred to above.

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FIRST PRINT

**CRIMINAL PROCEDURE (SENTENCE INDICATION)  
AMENDMENT BILL 1992**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

1. Short title
  2. Commencement
  3. Amendment of Criminal Procedure Act 1986 No. 209
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**CRIMINAL PROCEDURE (SENTENCE INDICATION)  
AMENDMENT BILL 1992**

NEW SOUTH WALES



No. , 1992

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**A BILL FOR**

An Act to confer power on the District Court to conduct sentence indication hearings on a trial basis and to make suppression orders in relation to those hearings; and for other purposes.

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*Criminal Procedure (Sentence Indication) Amendment 1992*

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

**Short title**

1. This Act may be cited as the Criminal Procedure (Sentence Indication) Amendment Act 1992.

**5 Commencement**

2. This Act commences on the date of assent.

**Amendment of Criminal Procedure Act 1986 No. 209**

3. The Criminal Procedure Act 1986 is amended by inserting after Part 11 the following Part:

**10 PART 12—SENTENCE INDICATION HEARINGS PILOT SCHEME**

**Application**

15 52. (1) The Chief Judge of the District Court may, by publication of a practice note, give notice of the conduct by the District Court of a sentence indication hearings pilot scheme between 1 February 1993 and 31 January 1995 (both dates inclusive) and may determine the place or places at which and the conditions (if any) subject to which the pilot scheme is to be conducted.

20 (2) This Part applies only to a sentence indication hearing pilot scheme so notified.

(3) This Part applies to an offence whether committed before or after the commencement of this Part.

**Sentence indication hearings**

25 53. (1) A judge of the District Court may, on or before the arraignment of an accused person and on that person's application, indicate at a sentence indication hearing what sentence the judge might give the person if, on arraignment, the person were to plead guilty to the offence with which the person has been charged or to another, or a lesser, offence arising out of the same circumstances.

30 (2) For the purpose of conducting a sentence indication hearing, a judge is entitled to consider such material as would be available to the judge if the accused person had pleaded guilty and the judge were passing sentence on that person.



*Criminal Procedure (Sentence Indication) Amendment 1992*

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**Suppression orders**

54. (1) The judge who conducts a sentence indication hearing may make one or more of the following orders:

- (a) an order directing that no matter that might identify an accused person making an application for a sentence indication hearing be published; 5
- (b) an order prohibiting publication of any other matter disclosed to the judge during a sentence indication hearing that might, in the judge's opinion, prejudice the right of the accused person to a fair trial, including prejudice of a potential jury; 10
- (c) an order limiting the time during which an order made under this section operates until such time as the accused person has pleaded guilty to the offence concerned or a jury has returned its verdict in the matter.

(2) Such an order may be made at or following a sentence indication hearing. 15

**Breach of suppression orders**

55. A breach of a suppression order may be dealt with by the District Court in accordance with the District Court Act 1973 as if it were a contempt of the Court committed in the face, or in the hearing, of the Court. 20

**Existing powers of District Court not limited**

56. Nothing in this Part is taken to limit the powers that the District Court or a judge of the District Court has apart from this Part.

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**CRIMINAL PROCEDURE (SENTENCE INDICATION)  
AMENDMENT ACT 1992 No. 98**

**NEW SOUTH WALES**



**TABLE OF PROVISIONS**

1. Short title
  2. Commencement
  3. Amendment of Criminal Procedure Act 1986 No. 209
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**CRIMINAL PROCEDURE (SENTENCE INDICATION)  
AMENDMENT ACT 1992 No. 98**

**NEW SOUTH WALES**



**Act No. 98, 1992**

An Act to confer power on the District Court to conduct sentence indication hearings on a trial basis and to make suppression orders in relation to those hearings; and for other purposes. [Assented to 3 December 1992]

*Criminal Procedure (Sentence Indication) Amendment Act 1992 No. 98*

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

**Short title**

1. This Act may be cited as the Criminal Procedure (Sentence Indication) Amendment Act 1992.

**Commencement**

2. This Act commences on the date of assent.

**Amendment of Criminal Procedure Act 1986 No. 209**

3. The Criminal Procedure Act 1986 is amended by inserting after Part 11 the following Part:

**PART 12—SENTENCE INDICATION HEARINGS PILOT  
SCHEME**

**Application**

52. (1) The Chief Judge of the District Court may, by publication of a practice note, give notice of the conduct by the District Court of a sentence indication hearings pilot scheme between 1 February 1993 and 31 January 1995 (both dates inclusive) and may determine the place or places at which and the conditions (if any) subject to which the pilot scheme is to be conducted.

(2) This Part applies only to a sentence indication hearing pilot scheme so notified.

(3) This Part applies to an offence whether committed before or after the commencement of this Part.

**Sentence indication hearings**

53. (1) A judge of the District Court may, on or before the arraignment of an accused person and on that person's application, indicate at a sentence indication hearing what sentence the judge might give the person if, on arraignment, the person were to plead guilty to the offence with which the person has been charged or to another, or a lesser, offence arising out of the same circumstances.

(2) For the purpose of conducting a sentence indication hearing, a judge is entitled to consider such material as would be available to the judge if the accused person had pleaded guilty and the judge were passing sentence on that person.



*Criminal Procedure (Sentence Indication) Amendment Act 1992 No. 98*

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**Suppression orders**

54. (1) The judge who conducts a sentence indication hearing may make one or more of the following orders:

- (a) an order directing that no matter that might identify an accused person making an application for a sentence indication hearing be published;
- (b) an order prohibiting publication of any other matter disclosed to the judge during a sentence indication hearing that might, in the judge's opinion, prejudice the right of the accused person to a fair trial, including prejudice of a potential jury;
- (c) an order limiting the time during which an order made under this section operates until such time as the accused person has pleaded guilty to the offence concerned or a jury has returned its verdict in the matter.

(2) Such an order may be made at or following a sentence indication hearing.

**Breach of suppression orders**

55. A breach of a suppression order may be dealt with by the District Court in accordance with the District Court Act 1973 as if it were a contempt of the Court committed in the face, or in the hearing, of the Court.

**Existing powers of District Court not limited**

56. Nothing in this Part is taken to limit the powers that the District Court or a judge of the District Court has apart from this Part.

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*[Minister's second reading speech made in—  
Legislative Council on 18 November 1992  
Legislative Assembly on 24 November 1992]*