

First print



New South Wales

Criminal Procedure Amendment (Sentences Adjustment) Bill 1996

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Criminal Procedure Act 1986* to enable the adjustment of any cumulative sentence of imprisonment when an earlier sentence is quashed or varied on appeal or otherwise. The cumulative sentence would have been set to commence at the end of the earlier sentence.

Under the Bill, the court that quashes or varies a sentence may adjust the date of commencement of the cumulative sentence.

Criminal Procedure Amendment (Sentences Adjustment) Bill 1996

Explanatory note

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

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

Clause 3 is a formal provision giving effect to the amendments to the *Criminal Procedure Act 1986* set out in Schedule 1. Schedule 1 contains the amendments that give effect to the object mentioned above.

First print

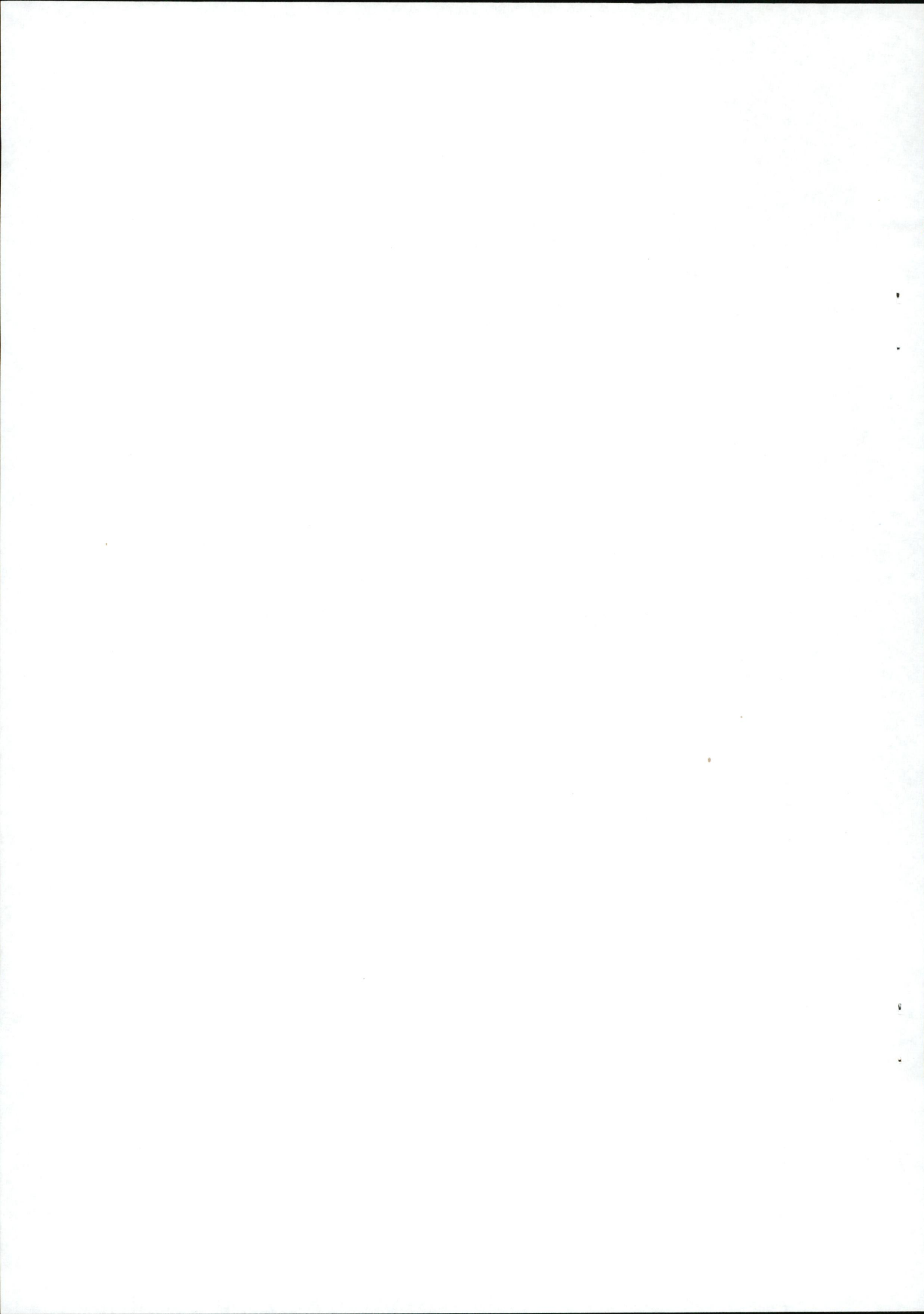


New South Wales

Criminal Procedure Amendment (Sentences Adjustment) Bill 1996

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New South Wales

Criminal Procedure Amendment (Sentences Adjustment) Bill 1996

No. , 1996

A Bill for

An Act to amend the *Criminal Procedure Act 1986* to enable the adjustment of cumulative sentences when sentences are quashed or varied.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Criminal Procedure Amendment (Sentences Adjustment) Act 1996*.

2 Commencement

5

This Act commences on the date of assent.

3 Amendment of Criminal Procedure Act 1986 No 209

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

Schedule 1 Amendments

(Section 3)

[1] Part 7, heading

Omit the heading.

Insert instead "**Part 7 Correction and adjustment of sentences**".

5

[2] Section 23F

Insert before section 24:

23F Definitions

In this Part:

court means:

10

(a) the Court of Criminal Appeal, the Supreme Court, the Land and Environment Court, the Industrial Relations Commission, the District Court or a Local Court, or

(b) any other court which, or person who, exercises criminal jurisdiction.

15

cumulative sentence means a sentence of imprisonment that is imposed so as to commence at the end of another sentence to which the same person is subject, or at the end of the minimum term of any such other sentence.

20

sentence of imprisonment includes sentence of penal servitude.

[3] Section 24 Court may reopen proceedings to correct sentencing errors

Omit the definition of *court* in section 24 (7).

25

[4] Section 24A

Insert after section 24:

24A Court may adjust commencement of cumulative sentence on quashing or variation of earlier sentence

- (1) A court that quashes or varies a sentence of imprisonment imposed on a person (on appeal or otherwise) may adjust the date of commencement of any cumulative sentence that has been imposed on that person by that or any other court. 5
- (2) If a person is subject to more than one cumulative sentence, this section applies to each such sentence. 10
- (3) A court may adjust a cumulative sentence under this section on its own motion or on the application of a party to the proceedings on the quashing or variation of the other sentence. 15
- (4) An appeal does not lie merely because of an adjustment of the date of commencement of a cumulative sentence under this section. This subsection does not affect the operation of section 24.
- (5) The length of a sentence, or the minimum term of a sentence, cannot be adjusted under this section. 20
- (6) This section applies to sentences imposed whether before or after the commencement of this section.

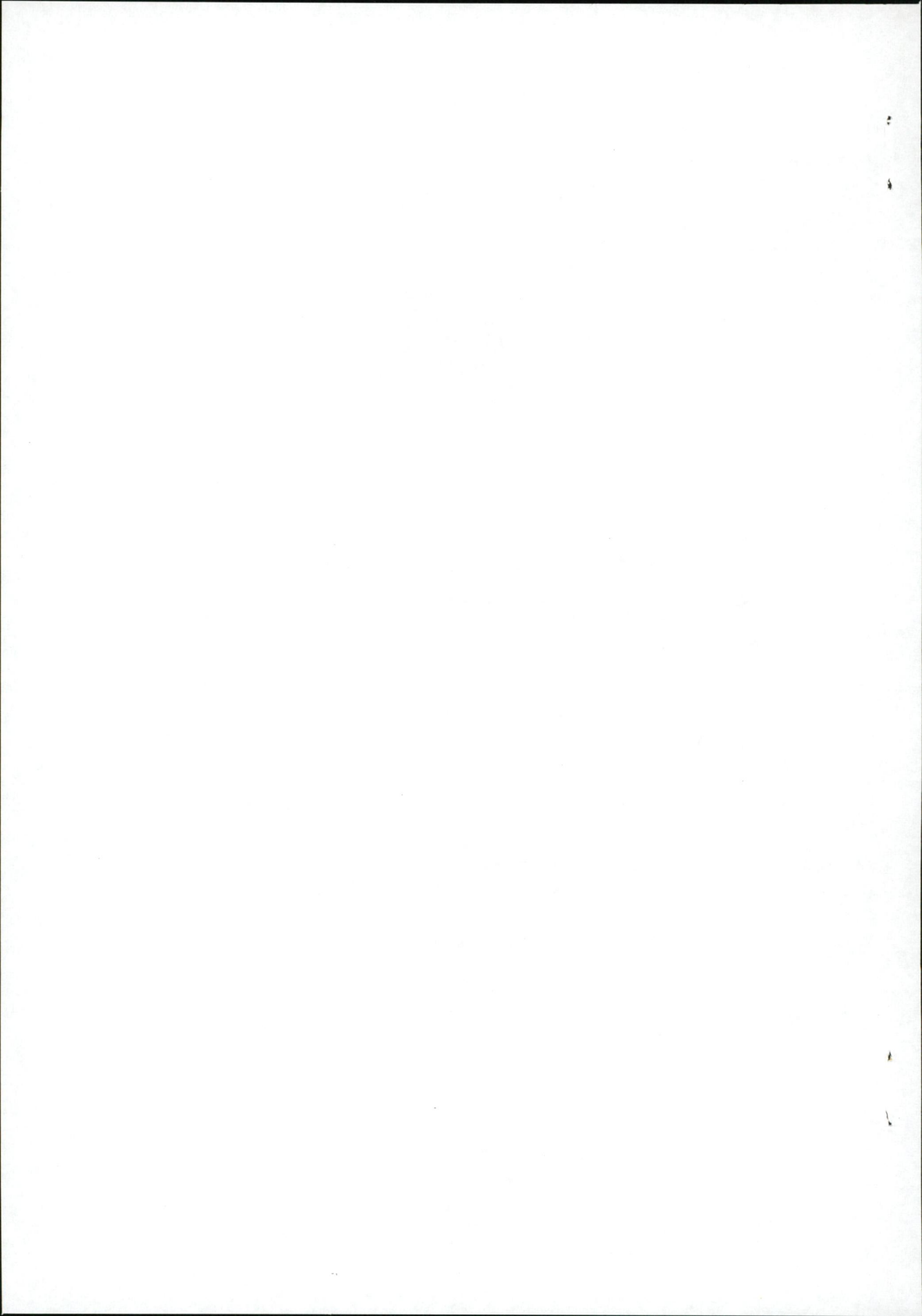


New South Wales

Criminal Procedure Amendment (Sentences Adjustment) Act 1996 No 117

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New South Wales

Criminal Procedure Amendment (Sentences Adjustment) Act 1996 No 117

Act No 117, 1996

An Act to amend the *Criminal Procedure Act 1986* to enable the adjustment of cumulative sentences when sentences are quashed or varied. [Assented to 3 December 1996]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Criminal Procedure Amendment (Sentences Adjustment) Act 1996*.

2 Commencement

This Act commences on the date of assent.

3 Amendment of Criminal Procedure Act 1986 No 209

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

Schedule 1 Amendments

(Section 3)

[1] **Part 7, heading**

Omit the heading.

Insert instead "**Part 7 Correction and adjustment of sentences**".

[2] **Section 23F**

Insert before section 24:

23F Definitions

In this Part:

court means:

- (a) the Court of Criminal Appeal, the Supreme Court, the Land and Environment Court, the Industrial Relations Commission, the District Court or a Local Court, or
- (b) any other court which, or person who, exercises criminal jurisdiction.

cumulative sentence means a sentence of imprisonment that is imposed so as to commence at the end of another sentence to which the same person is subject, or at the end of the minimum term of any such other sentence.

sentence of imprisonment includes sentence of penal servitude.

[3] **Section 24 Court may reopen proceedings to correct sentencing errors**

Omit the definition of *court* in section 24 (7).

[4] Section 24A

Insert after section 24:

24A Court may adjust commencement of cumulative sentence on quashing or variation of earlier sentence

- (1) A court that quashes or varies a sentence of imprisonment imposed on a person (on appeal or otherwise) may adjust the date of commencement of any cumulative sentence that has been imposed on that person by that or any other court.
- (2) If a person is subject to more than one cumulative sentence, this section applies to each such sentence.
- (3) A court may adjust a cumulative sentence under this section on its own motion or on the application of a party to the proceedings on the quashing or variation of the other sentence.
- (4) An appeal does not lie merely because of an adjustment of the date of commencement of a cumulative sentence under this section. This subsection does not affect the operation of section 24.
- (5) The length of a sentence, or the minimum term of a sentence, cannot be adjusted under this section.
- (6) This section applies to sentences imposed whether before or after the commencement of this section.

[Minister's second reading speech made in—
Legislative Council on 20 November 1996
Legislative Assembly on 27 November 1996]

BY AUTHORITY