



New South Wales

# **Criminal Procedure Amendment (Sexual Offence Case Management) Act 2005 No 102**

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New South Wales

# **Criminal Procedure Amendment (Sexual Offence Case Management) Act 2005 No 102**

Act No 102, 2005

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An Act to amend the *Criminal Procedure Act 1986* to provide that a pre-trial order made in proceedings relating to a prescribed sexual offence is binding on the trial Judge. [Assented to 1 December 2005]

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

**1 Name of Act**

This Act is the *Criminal Procedure Amendment (Sexual Offence Case Management) Act 2005*.

**2 Commencement**

This Act commences on the date of assent to this Act.

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

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

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## Schedule 1 Amendments

(Section 3)

### [1] Section 130A

Insert after section 130:

#### 130A Pre-trial orders bind trial Judge in sexual offence proceedings

- (1) A pre-trial order made by a Judge in sexual offence proceedings is binding on the trial Judge in those proceedings unless, in the opinion of the trial Judge, it would not be in the interests of justice for the order to be binding.
- (2) If, on an appeal against a conviction for a prescribed sexual offence, a new trial is ordered, a pre-trial order made by a Judge in relation to the sexual offence proceedings from which the conviction arose is binding on the trial Judge hearing the fresh trial proceedings unless:
  - (a) the pre-trial order is inconsistent with an order made on appeal, or
  - (b) in the opinion of the trial Judge, it would not be in the interests of justice for the order to be binding.
- (3) If sexual offence proceedings before a trial Judge are discontinued for any reason, a pre-trial order made by a Judge in respect of those proceedings is binding on a trial Judge hearing any subsequent trial proceedings relating to the same offence as the discontinued proceedings unless, in the opinion of the trial Judge, it would not be in the interests of justice for the order to be binding.
- (4) For the purposes of this section:

*pre-trial order* means any order made after the indictment is first presented but before the empanelment of a jury for a trial.

*sexual offence proceedings* means proceedings on indictment in respect of a prescribed sexual offence.

*trial Judge* means the Judge before whom the trial proceedings, following empanelment of a jury, are heard.
- (5) For the purposes of this section, a reference to the *empanelment of a jury* is, in the case of a trial by a Judge alone, taken to be a reference to the point in time when the Judge first assumes the role of the tribunal of fact.

**[2] Schedule 2 Savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Criminal Procedure Amendment (Sexual Offence Case Management) Act 2005*

**[3] Schedule 2**

Insert at the end of the Schedule with appropriate Part and clause numbers:

**Part Provisions consequent on enactment of  
Criminal Procedure Amendment (Sexual  
Offence Case Management) Act 2005**

**Application of section 130A**

- (1) Section 130A, as inserted by the amending Act, applies only to pre-trial orders made after the commencement of that section (irrespective of when the relevant sexual offence proceedings commenced).
- (2) In this clause, **amending Act** means the *Criminal Procedure Amendment (Sexual Offence Case Management) Act 2005*.

[Second reading speech made in—  
Legislative Assembly on 16 November 2005  
Legislative Council on 29 November 2005]

BY AUTHORITY