



New South Wales

Courts and Crimes Legislation Amendment Bill 2010

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Child Protection (Offenders Registration) Act 2000* to make new Commonwealth offences relating to child sex tourism registrable offences under that Act,
- (b) to amend the *Criminal Procedure Act 1986* to extend the circumstances in which an alleged victim of an offence involving violence is not required to attend committal hearings,
- (c) to amend the *District Court Act 1973* so that a person who is or has been an associate Judge of the Supreme Court of New South Wales may be appointed as an Acting Judge of the District Court, even if that person has reached the age of 72 years but only if he or she has not yet reached the age of 75 years,
- (d) to amend the *Solicitor General Act 1969* to ensure that the Attorney General may delegate his or her power to intervene in proceedings to the Solicitor General, regardless of whether the power is conferred on the Attorney General in his or her capacity as Attorney General or as a Minister administering an Act,

- (e) to amend the *Trustee Act 1925* to allow the regulations made under that Act to prescribe a class of insurers that may insure the repayment of a loan to a trustee for the purposes of that Act.

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 to the proposed Act.

Schedule 1 Amendment of Child Protection (Offenders Registration) Act 2000 No 42

Schedule 1 [1] and [2] amend the definitions of *Class 1 offence* and *Class 2 offence* to reflect the transferral of provisions relating to offences involving child sex tourism from the *Crimes Act 1914* of the Commonwealth to the *Criminal Code* of the Commonwealth. The amendments also insert new sex offences dealt with by the *Criminal Code*. As a consequence of the amendments, the reporting obligations provided for by the Act will apply to a person sentenced in respect of such an offence.

Schedule 1 [3] inserts a regulation-making power for matters of a savings and transitional nature. **Schedule 1 [4]** makes a transitional provision which ensures that the amendments extend to offences in respect of which a sentence was imposed before the amendments commence. The provision also makes adjustments to the reporting obligations of persons who were sentenced in respect of such offences before the amendments take effect.

Schedule 2 Amendment of Criminal Procedure Act 1986 No 209

Schedule 2 [1] extends the definition of *offence involving violence* so that it includes an offence the elements of which include the commission of, or intention to commit, any offence that is already defined as an offence involving violence. Consequently, an alleged victim of such an offence will not be required to attend a committal hearing unless the court is satisfied that there are special reasons why the alleged victim should attend to give oral evidence.

Schedule 2 [2] ensures that the amendment to the definition of *offence involving violence* only applies in committal proceedings that a Magistrate first starts to hear after the commencement of the amendment.

Schedule 3 Amendment of District Court Act 1973 No 9

Schedule 3 extends the kind of qualified person who may be appointed as an Acting Judge of the District Court from a retired Judge to include a person who is or has been

an associate Judge of the Supreme Court of New South Wales. Such a person may be appointed as an acting judge even though that person has reached the age of 72 years (or will have reached that age before their appointment as acting judge expires). However, a qualified person cannot be appointed as an acting judge for any period that extends beyond the day on which that person reaches the age of 75 years.

Schedule 4 Amendment of Solicitor General Act 1969 No 80

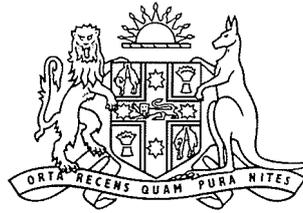
Schedule 4 allows any power, authority, duty or function of the Attorney General to intervene in proceedings (whether personally or by agent) to be delegated by the Attorney General, whether the power, authority, duty or function to be delegated is conferred on the Attorney General in his or her capacity as Attorney General or in his or her capacity as the Minister administering an Act.

Schedule 5 Amendment of Trustee Act 1925 No 14

Schedule 5 [1] clarifies that it is not necessary to prescribe an individual insurer for the purposes of a definition of *prescribed insurer* in the *Trustee Act 1925*. Rather, a class of insurers can be prescribed. A prescribed insurer is an insurer who can insure a loan repayment to a trustee under the provisions of the Act that specify the maximum ratio of the amount of the loan to the value of the property that secures the loan.

Schedule 5 [2] saves the existing regulation.

First print



New South Wales

Courts and Crimes Legislation Amendment Bill 2010

Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of Child Protection (Offenders Registration) Act 2000 No 42	3
Schedule 2 Amendment of Criminal Procedure Act 1986 No 209	5
Schedule 3 Amendment of District Court Act 1973 No 9	6
Schedule 4 Amendment of Solicitor General Act 1969 No 80	7
Schedule 5 Amendment of Trustee Act 1925 No 14	8



New South Wales

Courts and Crimes Legislation Amendment Bill 2010

No. , 2010

A Bill for

An Act to make miscellaneous amendments to legislation relating to crimes, court proceedings and other matters.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Courts and Crimes Legislation Amendment Act 2010</i> .	3
2 Commencement	4
This Act commences on the date of assent to this Act.	5

Schedule 1	Amendment of Child Protection (Offenders Registration) Act 2000 No 42	1 2
[1] Section 3 Definitions		3
	Omit paragraph (d) from the definition of <i>Class 1 offence</i> in section 3 (1).	4
	Insert instead:	5
	(d) an offence against section 272.8, 272.10 (if it relates to an underlying offence against section 272.8) or 272.11 of the <i>Criminal Code</i> of the Commonwealth, or an offence against section 272.18, 272.19 or 272.20 of the <i>Criminal Code</i> of the Commonwealth if it relates to another Class 1 offence as elsewhere defined in this section, or	6 7 8 9 10 11
[2] Section 3 (1), definition of “Class 2 offence”		12
	Omit paragraph (g). Insert instead:	13
	(g) an offence against section 272.9, 272.10 (if it relates to an underlying offence against section 272.9), 272.14 or 272.15 of the <i>Criminal Code</i> of the Commonwealth, or an offence against section 272.18, 272.19 or 272.20 of the <i>Criminal Code</i> of the Commonwealth if it relates to another Class 2 offence as elsewhere defined in this section, or	14 15 16 17 18 19 20
[3] Schedule 2 Savings, transitional and other provisions		21
	Insert at the end of clause 1 (1):	22
	<i>Courts and Crimes Legislation Amendment Act 2010</i>	23
[4] Schedule 2		24
	Insert after Part 7:	25
Part 8	Provisions consequent on enactment of Courts and Crimes Legislation Amendment Act 2010	26 27 28
20	Application of amendments	29
	(1) The amendments made to the definitions of <i>Class 1 offence</i> and <i>Class 2 offence</i> in section 3 (1) by the amending Act extend to any offence referred to in those amendments (a <i>new registrable offence</i>) in respect of which a sentence was imposed before the commencement of the amendments.	30 31 32 33 34

-
- (2) Sections 4 and 5 do not apply in respect of a sentence imposed, or a supervised sentence commenced, before the commencement of the amending Act in respect of a new registrable offence. 1
2
3
- (3) A person who becomes a registrable person on the commencement of the amending Act merely because of having committed a new registrable offence, and who is not in government custody, must, within the appropriate period, report the person's relevant personal information to the Commissioner of Police. 4
5
6
7
8
9
- (4) The *appropriate period* is: 10
- (a) in relation to a person who is in New South Wales on the commencement of the amending Act—21 days after that commencement or before the person leaves New South Wales, whichever period ends first, or 11
12
13
14
- (b) in relation to a person who is not in New South Wales on that commencement—within 7 days after entering and remaining in New South Wales for 14 or more consecutive days. 15
16
17
18
- (5) The report must be made in the manner in which an initial report must be made under this Act. 19
20
- (6) For the purposes of calculating the period for which a person must continue to comply with the person's reporting obligations in respect of a new registrable offence, the reporting period for the new registrable offence is taken to have commenced: 21
22
23
24
- (a) when the person was sentenced for the new registrable offence, or 25
26
- (b) when the person ceases to be in government custody in relation to the offence, 27
28
- whichever is the later. 29
- (7) A reference in this Act to the reporting obligations of a registrable person includes a reference to the reporting obligations imposed under this Part. 30
31
32
- (8) In this clause, the *amending Act* means the *Courts and Crimes Legislation Amendment Act 2010*. 33
34

Schedule 2	Amendment of Criminal Procedure Act 1986 No 209	1 2
[1]	Section 94 Meaning of “offence involving violence”	3
	Insert after section 94 (1) (f):	4
	(f1) an offence the elements of which include the commission of, or an intention to commit, an offence referred to in any of the above paragraphs,	5 6 7
[2]	Schedule 2 Savings, transitional and other provisions	8
	Insert after Part 20:	9
	Part 21 Provision consequent on enactment of Courts and Crimes Legislation Amendment Act 2010	10 11 12
67	Changes to the definition of “offence involving violence”	13
	The amendment made by the <i>Courts and Crimes Legislation Amendment Act 2010</i> to the definition of <i>offence involving violence</i> in section 94 applies in respect of committal proceedings that a Magistrate first starts to hear after the commencement of the amendment.	14 15 16 17 18

**Schedule 4 Amendment of Solicitor General Act
 1969 No 80**

1

2

Section 4 Delegation of powers

3

Insert after section 4 (1):

4

- (1A) This section extends to any power, authority, duty or function of the Attorney General to intervene in any proceedings before a court or tribunal, whether personally or by agent, including a power, authority, duty or function conferred on the Attorney General as the Minister administering an Act.

5

6

7

8

9

Schedule 5	Amendment of Trustee Act 1925 No 14	1
[1]	Section 18 Ratio of loan to value	2
	Insert after section 18 (6):	3
	(7) In this section, a <i>prescribed insurer</i> means an insurer or an insurer of a class prescribed by the regulations.	4 5
[2]	Schedule 2 Savings and transitional provisions	6
	Insert after Part 2:	7
Part 3	Provision consequent on enactment of Courts and Crimes Legislation Amendment Act 2010	8 9 10
6	Saving of existing regulation	11
	A regulation made for the purposes of section 18 (3) of the Act that is in force on the commencement of this clause is taken to be a regulation made for the purposes of section 18 (7) of the Act.	12 13 14