

Crimes (Appeal and Review) Act 2001 No 120

Current version for 28 November 2018 to date (accessed 5 August 2019 at 14:56)

Status information



New South Wales

Status information

Currency of version

Current version for 28 November 2018 to date (accessed 5 August 2019 at 14:56)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced. See Historical Notes

Formerly known as

Crimes (Local Courts Appeal and Review) Act 2001

Does not include amendments by:

Government Sector Finance Legislation (Repeal and Amendment) Act 2018 No 70 (not commenced)

See also:

Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2019 [Non-government Bill: Mr David Shoebridge, MLC]

Responsible Minister

Attorney General, and Minister for the Prevention of Domestic Violence

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the *Interpretation Act 1987*.

File last modified 30 May 2019.

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Part 7 > Division 2 > Section 76

76 Petitions to Governor

A petition for a review of a conviction or sentence or the exercise of the Governor's pardoning power may be made to the Governor by the convicted person or by another person on behalf of the convicted person.

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Part 7 > Division 2 > Section 77

77 Consideration of petitions

- (1) After the consideration of a petition:
 - (a) the Governor may direct that an inquiry be conducted by a judicial officer into the conviction or sentence, or
 - (b) the Minister may refer the whole case to the Court of Criminal Appeal, to be dealt with as an appeal under the *Criminal Appeal Act 1912*, or
 - (c) the Minister may request the Court of Criminal Appeal to give an opinion on any point arising in the case.
- (2) Action under subsection (1) may only be taken if it appears that there is a doubt or question as to the convicted person's guilt, as to any mitigating circumstances in the case or as to any part of the evidence in the case.
- (3) The Governor or the Minister may refuse to consider or otherwise deal with a petition. Without limiting the foregoing, the Governor or the Minister may refuse to consider or otherwise deal with a petition if:
 - (a) it appears that the matter:
 - (i) has been fully dealt with in the proceedings giving rise to the conviction or sentence (or in any proceedings on appeal from the conviction or sentence), or
 - (ii) has previously been dealt with under this Part or under the previous review provisions, or
 - (iii) has been the subject of a right of appeal (or a right to apply for leave to appeal) by the convicted person but no such appeal or application has been made, or
 - (iv) has been the subject of appeal proceedings commenced by or on behalf of the convicted person (including proceedings on an application for leave to appeal) where the appeal or application has been withdrawn or the proceedings have been allowed to lapse, and
 - (b) the Governor or the Minister is not satisfied that there are special facts or special circumstances that justify the taking of further action.
- (3A) The Governor or the Minister may defer consideration of a petition if:
 - (a) the time within which an appeal may be made against the conviction or sentence (including an application for leave to appeal) is yet to expire, or
 - (b) the conviction or sentence is the subject of appeal proceedings (including proceedings on an application for leave to appeal) that are yet to be finally determined, or

- (c) the petition fails to disclose sufficient information to enable the conviction or sentence to be properly considered.
- (4) The Minister must cause a report to be given to the registrar of the Criminal Division of the Supreme Court as to any action taken by the Governor or the Minister under this section (including a refusal to consider or otherwise deal with a petition).
- (5) A petition (however described) that does not expressly seek a review of a conviction or sentence or the exercise of the Governor's pardoning power may be dealt with as if it did if the Minister is of the opinion that it should be so dealt with.

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Part 7 > Division 5 > Section 86

86 Reference to Court under section 77 (1) (b) or 79 (1) (b) following petition to Governor or application to Supreme Court

On receiving a reference under section 77 (1) (b) or 79 (1) (b), the Court is to deal with the case so referred in the same way as if the convicted person had appealed against the conviction or sentence under the *Criminal Appeal Act 1912*, and that Act applies accordingly.