

Update Hall's Sentencing

Service 189 — May 2023

Legislation

The Criminal Investigations (Bodily Samples) Act 1995 has been amended by the Criminal Activity Intervention Legislation Act 2023 effective 5 April 2023.

The Criminal Proceeds (Recovery) Act 2009 has been amended by the Criminal Proceeds (Recovery) Amendment Act 2023 effective 1 April 2023.

The Sentencing Act 2002 has been amended by:

- the Land Transport (Drug Driving) Amendment Act 2022 effective 11 March 2023; and
- the Criminal Activity Intervention Legislation Act 2023 effective 5 April 2023.

Commentary

Sentencing

Introduction: Principles of Sentencing

Commentary has been updated in the following paragraphs:

- I.1 — Legislative guidance: see [I.1.2].
- I.2 — Appellate guidance: see [I.2.2]–[I.2.4].
- I.3 — The aims and objectives of sentencing: see [I.3.3], [I.3.5], [I.3.7].
- I.4 — Determining the appropriate sentence — uniformity of approach; consistency in sentencing: see [I.4.2].
- I.5 — The nature and gravity of the offence: see [I.5.2], [I.5.6], [I.5.7], [I.5.10].
- I.6 — Circumstances of the offender: see [I.6.1]–[I.6.3], [I.6.5], [I.6.9]–[I.6.12].
- I.7 — Behaviour or circumstances subsequent to the offence: see [I.7.1], [I.7.2], [I.7.4], [I.7.5], [I.7.11].
- I.8 — Factors not to be considered by the court as aggravating: see [I.8.7].

Sentencing Act

Commentary has been updated in the following paragraphs:

- Part 1 — Sentencing purposed and principles, and provisions of general application: see [SA1.15A], [SA1.19], [SA4.2], [SA6.1], [SA6.4], [SA8.3], [SA9.1], [SA9.3], [SA9.5], [SA9.7A], [SA9.17A], [SA10.1], [SA10.3], [SA10A.3], [SA10B.1], [SA10B.3], [SA11.1], [SA13.3], [SA24.8], [SA25.1], [SA25.3A], [SA26.8], [SA26.20], [SA26.22]–[SA26.24], [SA26.29], [SA26.32], [SA31.1].
- Part 2 — Sentences, orders, and related matters: see [SA32.1], [SA32.11], [SA33.1A], [SA35.3], [SA40.9], [SA80A.3], [SA80A.4], [SA86.1], [SA86.2], [SA87.12], [SA87.13], [SA102.1], [SA102.2], [SA103.2], [SA104.1].

[SA104.2], [SA104.2A], [SA106.2], [SA106.8], [SA107.2], [SA107.3], [SA107.8], [SA111A.1]–[SA111A.9], [SA123B.4], [SA128.6], [SA129.1].

Parole Act

Commentary has been updated in the following paragraphs:

- Part 1 — Parole and other release from detention: see [PA4.2], [PA7.6].

Criminal Procedure (Mentally Impaired Persons) Act

Commentary has been updated in the following paragraphs:

- Part 1 — Preliminary provisions: see [CPMIPA3.1]–[CPMIPA3.3], [CPMIPA4.1]–[CPMIPA4.4].
- Part 2 — Substantive provisions: see [CPMIPA7.4], [CPMIPA8A.1], [CPMIPA8A.3], [CPMIPA8A.5], [CPMIPA10.6], [CPMIPA20.1], [CPMIPA20.2], [CPMIPA24.5], [CPMIPA25.2], [CPMIPA30.1], [CPMIPA30.3], [CPMIPA31.1]–[CPMIPA31.3], [CPMIPA33.1], [CPMIPA34.1], [CPMIPA34.4], [CPMIPA34.5], [CPMIPA38.1A], [CPMIPA38.3]–[CPMIPA38.5], [CPMIPA40.2], [CPMIPA40.3].

Criminal Procedure Act

Commentary has been updated in the following paragraphs:

- Part 5 — General provisions: see [CPA196.1], [CPA196.3], [CPA199.1], [CPA200.1], [CPA208.1], [CPA211.1].

Practice Notes

The following practice note has been inserted:

- Solicitor-General's Guidelines for Prosecuting Sexual Violence (20 December 2022).

Child Protection (Child Sex Offender Government Agency Registration) Act

Commentary has been updated in the following paragraphs:

- Part 1 — Preliminary matters: see [CP(CSOGAR)A7.1], [CP(CSOGAR)A9.2].

Sentencing Levels

Commentary and notes have been updated for the following provisions:

- Arms Act 1983, s 45.
- Crimes Act 1961, ss 98AA, 98A, 98C(1), 98D(1), 109(1), 128(1)(a), 128(1)(b), 132(3), 134(1), 134(3), 135, 171, 173, 188(1), 188(2), 193, 194(b), 195A, 198(2), 200(2), 201, 209, 223(b), 226(1), 228, 231, 232(1), 235, 239(2), 241(a), 243(2), 267(1), 269, 306.
- Family Violence Act 2018, s 112.
- Films, Videos, And Publications Classification Act 1993, s 124.
- Harassment Act 1997, s 8.
- Misuse of Drugs Act 1975, Class A: s 6(1)(a), (c), (f); Class B: s 6(1)(a)–(c); Class C: ss 6(1)(e), (f) and 9(1).

Appendices

Commentary has been updated in the following paragraphs:

- Appendix I — The sentencing process: see [APPI.2.3], [APPI.2.5], [APPI.2.9], [APPI.2.11].
- Appendix II — Appeals against sentence: see [APPII.2.6], [APPII.4.9A], [APPII.5(e)], [APPII.5.1], [APPII.5.7], [APPII.6], [APPII.6.2].

- Appendix IV — Forfeiture: see [APPIV.1(c)], [APPIV.3].
- Appendix V — Costs: see [APPV.3(a)].
- Appendix VI — Bail: see [APPVI.9A.3].

Index

An updated consolidated index has been included in this service.

