

CLAUSE NOTES

Sentencing Amendment (Assaults on Police Officers) Bill 2014

- Clause 1:** Short Title
- Clause 2:** Commencement on Royal Assent
- Clause 3:** Principal Act
- Clause 4:** New section 16A inserted in the Principal Act

The new section provides for the imposition of a mandatory sentence of 6 months imprisonment on a person convicted of an offence committed in relation to an on-duty police officer that results in the officer suffering serious bodily harm unless there are exceptional circumstances.

The section also clarifies the inter-relationship of the new section with other provisions of the Principal Act.

- Subsection (2) states that, even if the provision creating the offence does not permit the imposition of a sentence of 6 months' imprisonment, s 16(1) will apply, except that the sentence may only be one for 6 months' imprisonment exactly.
- Subsection (3) clarifies that a person who does not have a conviction recorded by the court under section 7 is not subject to the mandatory sentence by virtue of the operation of section 10(2)(b)(v). Section 10(2)(b)(v) states that a finding of guilt without recording a conviction has the same effect as if a conviction had been recorded for the purpose of

“enactments providing for any other kind of mandatory penalty on conviction..”. Since the proposed s 16A imposes a “mandatory penalty on conviction”, subsection (3) is necessary to ensure that section 10(2)(b)(v) does not operate to convert a finding of guilt into a conviction to which the mandatory minimum of 6 months’ imprisonment will apply.

- Subsection (4) clarifies that the Court may still impose single, general or mixed sentences when the offender has been convicted of more than one offence.
- Subsection (5) clarifies that, despite subsection (2) and s 11(2), the sentence imposed, in a general or mixed sentence, may be for more than 6 months’ imprisonment where the sentence is imposed in respect of multiple offences. Subsection (2) indicates that the sentence imposed is to be for exactly 6 months’ imprisonment. Section 11(2) states that “in imposing a single sentence on an offender for more than one offence, a court may not impose a penalty exceeding the sum of the maximum penalties that could otherwise have been imposed for those offences”. Subsection (5) is to the effect that neither s 11(2) or s 16A(2) are to be taken to prevent a longer sentence being imposed, when that sentence is for multiple offences, even though the “maximum penalty” to which s 16(2) refers is a term of imprisonment of exactly 6 months

Clause 5:

Provides for the automatic repeal of the amending Act after the amendments are incorporated into the Principal Act.