

Legislation update for prosecuting agencies

Sentencing practice: the return of jail as a last resort

September 2016

The Youth Justice and Other Legislation Amendment Act (No.1) 2016 commenced on 1 July 2016 and brought a significant change to the sentencing guidelines set out in section 9 of the *Penalties and Sentences Act 1992 (PSA)*.

Under section 9(2) PSA the principle that “a sentence of imprisonment should only be imposed as a last resort” must now, once again, be taken into account by a court when imposing a sentence on an offender.

This provision had been in force in Queensland since 1992, but was removed for the period between 28 March 2014 and 30 June 2016. It has now been reinstated. The amendment applies to the sentencing of an offender after 1 July 2016 regardless of whether the offence or conviction happened before or after the commencement¹.

There are of course exceptions to this principle; for instance, the principle does not apply for violent offences or sexual offences against a child².

For further inquiries or assistance, please contact Glen Cranny, Principal, Gilshenan & Luton Legal Practice on 3361 0240 or gcranny@gnl.com.au

¹ s240 *Youth Justice and Other Legislation Amendment Act (No.1) 2016*

² ss9(2A), (4), (6A) *Penalties and Sentences Act 1992*