



New South Wales

Land and Environment Court Amendment Regulation 1998

under the

Land and Environment Court Act 1979

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Land and Environment Court Act 1979*.

J W Shaw
Attorney General

Explanatory note

The object of this Regulation is to amend the *Land and Environment Court Regulation 1994* to provide that, where:

- (a) an order to pay costs has been made by the court under section 52 of the *Land and Environment Court Act 1979*, and
- (b) the prosecutor and defendant cannot agree on the determination of those costs,

the prosecutor or defendant may apply to the proper officer of the Supreme Court to assess those costs. The costs are then to be assessed in accordance with the provisions of Division 6 of Part 11 of the *Legal Profession Act 1987* (which relate to assessment of legal costs).

This Regulation also makes a consequential amendment of a savings and transitional nature.

This Regulation is made under the *Land and Environment Court Act 1979*, including sections 52 and 78 (the general regulation-making power).

1998 No 580

Clause 1 Land and Environment Court Amendment Regulation 1998

Land and Environment Court Amendment Regulation 1998

1 Name of Regulation

This Regulation is the *Land and Environment Court Amendment Regulation 1998*.

2 Commencement

This Regulation commences on 2 October 1998.

3 Amendment of Land and Environment Court Regulation 1994

The *Land and Environment Court Regulation 1994* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 3)

[1] Clause 7A Determination of costs if no agreement between prosecutor and defendant: section 52

Omit clause 7A (2)–(9). Insert instead:

- (2) The prosecutor or the defendant may apply to the proper officer of the Supreme Court in accordance with section 202 of the *Legal Profession Act 1987* for an assessment of the whole of, or any part of, the costs referred to in a direction under section 52 of the Act.
- (3) The costs are to be assessed in accordance with the provisions of Division 6 of Part 11 of the *Legal Profession Act 1987*.

[2] Clause 9

Insert after clause 8:

9 Savings and transitional

- (1) An application for assessment of costs that has been made to the registrar under clause 7A, as in force immediately before the commencement of the amending Regulation, is to be referred to the proper officer of the Supreme Court and is to be treated as if it were an application for assessment of costs duly made to that officer under section 202 of the *Legal Profession Act 1987* if the assessment has not been completed before that commencement by the issue of a certificate by the registrar.
- (2) Before dealing with an application referred to in subclause (1), the proper officer may require the applicant to supply such information and pay such fees as would be required of any other application for assessment of costs made under section 202 of the *Legal Profession Act 1987*.
- (3) In this clause, *amending Regulation* means the *Land and Environment Court Amendment Regulation 1998*.