

FELONS (CIVIL PROCEEDINGS) ACT, 1981, No. 84

New South Wales



ANNO TRICESIMO

ELIZABETHÆ II REGINÆ

Act No. 84, 1981.

An Act to provide that a person convicted of, or found to have committed, a felony shall not be incapable of instituting and maintaining civil proceedings in any court. [Assented to, 9th June, 1981.]

Felons (Civil Proceedings).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Felons (Civil Proceedings) Act, 1981".

Commencement.

2. (1) Except as provided in subsection (2), this Act shall commence on the date of assent to this Act.

(2) Sections 3–8 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Felon may sue.

3. Subject to this Act, a person shall not, by reason of his having been convicted of, or found to have committed, a felony, be incapable of instituting and maintaining any civil proceedings in any court.

Leave required in certain cases.

4. A person who is in custody as a result of his having been convicted of, or found to have committed, a felony may not institute any civil proceedings in any court except by the leave of that court granted on his application.

Grant of leave.

5. A court shall not, under section 4, grant leave to a person to institute proceedings unless the court is satisfied that the proceedings are not an abuse of process and that there is *prima facie* ground for the proceedings.

Felons (Civil Proceedings).

Refusal of leave—appeal.

6. (1) Subject to subsection (2), a person to whom leave referred to in section 4 has been refused may appeal against the refusal as if the decision to refuse the leave were a decision on a point of law.

(2) An appeal shall not lie to the Court of Appeal (within the meaning of the Supreme Court Act, 1970) from an order refusing leave referred to in section 4 except by the leave of the Court of Appeal.

Right of appearance.

7. At the hearing or determination of an application or appeal under this Act, except by the leave of the court to which the application or appeal is made—

- (a) the applicant or appellant, as the case may be, is not entitled to appear in person; and
- (b) the person who would, if the proceedings to the institution of which the application or appeal relates were instituted, be the defendant in those proceedings, is not entitled to appear or be represented.

Rules of court.

8. Rules of court may be made for or with respect to the practice and procedure to be followed in relation to applications or appeals under this Act.
