

**LAND AND ENVIRONMENT COURT (AMENDMENT) ACT,
1985, No. 63**

New South Wales



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ELIZABETHÆ II REGINÆ

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Act No. 63, 1985.

An Act to amend the Land and Environment Court Act, 1979, in relation to the jurisdiction of the Land and Environment Court and appeals from decisions of that Court; and for other purposes. [Assented to, 15th May, 1985.]

See also Sutors' Fund (Land and Environment Court) Amendment Act, 1985.

Land and Environment Court (Amendment) 1985

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 "Land and Environment Court (Amendment) Act, 1985".

Commencement.

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

(2) Schedule 1 (3) (b) and (4)–(8), and section 3 in its application to those provisions, 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.

Amendment of Act No. 204, 1979.

3. The Land and Environment Court Act, 1979, is amended in the manner set forth in Schedule 1.

Amendment of Act No. 93, 1983.

4. The Land and Environment Court (State Pollution Control Commission) Amendment Act, 1983, is amended by omitting Schedule 1 (2).

Savings and transitional provisions.

5. (1) The amendments made by Schedule 1 (3) (b) and (4)–(8) apply in relation to acts and omissions occurring, causes of action arising, and orders or decisions made, before the day appointed and notified under section 2 (2) as well as on or after that day.

(2) Notwithstanding subsection (1), nothing in this Act affects any proceedings commenced in the Supreme Court before the day appointed and notified under section 2 (2), nor does it have the effect of extending the operation of section 71 of the Land and Environment Court Act, 1979, in such a way as to affect any such proceedings so commenced.

Land and Environment Court (Amendment) 1985

SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE LAND AND ENVIRONMENT COURT ACT, 1979.

(1) Section 3—

Omit the section.

(2) (a) Section 9 (2)—

Before “the same remuneration”, insert “, except as provided by subsection (2A),”.

(b) Section 9 (2A)—

After section 9 (2), insert:—

(2A) The Chief Judge shall have the same remuneration as the President of the Industrial Commission of New South Wales.

(3) (a) Section 20 (1) (ca)—(cc)—

After section 20 (1) (c), insert:—

(ca) proceedings under section 57 of the Environmentally Hazardous Chemicals Act, 1985;

(cb) proceedings referred to in section 32 (5) of the New Darling Harbour Authority Act, 1984;

(cc) proceedings under section 50 of the New Darling Harbour Authority Act, 1984;

(b) Section 20 (3) (a)—

Omit the paragraph, insert instead:—

(a) any of the following Acts or provisions:—

Aboriginal Land Rights Act, 1983;

Bush Fires Act, 1949;

Clean Air Act, 1961;

Clean Waters Act, 1970;

Coastal Protection Act, 1979;

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE LAND AND ENVIRONMENT COURT ACT, 1979—
continued.

Environmental Planning and Assessment Act, 1979;
Environmentally Hazardous Chemicals Act, 1985;
Heritage Act, 1977;
Part VII, XI, XII, XIIA or XII B of the Local
Government Act, 1919;
Schedule 3 to the Miscellaneous Acts (Planning)
Repeal and Amendment Act, 1979;
National Parks and Wildlife Act, 1974;
New Darling Harbour Authority Act, 1984;
Noise Control Act, 1975;
State Pollution Control Commission Act, 1970;
Waste Disposal Act, 1970; or

(4) Section 56A—

Before section 57, insert:—

Class 1, 2 and 3 proceedings—appeals to the Court against decisions of assessors.

56A. (1) A party to proceedings in Class 1, 2 or 3 of the Court's jurisdiction may appeal to the Court against an order or a decision of the Court on a question of law, being an order or a decision made by an assessor or assessors.

(2) On the hearing of an appeal under subsection (1), the Court shall—

- (a) remit the matter to the assessor or assessors for determination by the assessor or assessors in accordance with the decision of the Court; or
- (b) make such other order in relation to the appeal as seems fit.

(3) Notwithstanding subsection (1), an appeal shall not lie to the Court under that subsection in respect of a question of law that has been referred to, and determined by, a Judge pursuant to section 36.

(5) Section 57 (3)—

After section 57 (2), insert:—

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE LAND AND ENVIRONMENT COURT ACT, 1979—
continued.

(3) Notwithstanding subsection (1), an appeal shall not lie to the Supreme Court under that subsection—

- (a) against an order or decision of the Court that was made by an assessor or assessors (other than an appeal in respect of a question of law referred to in paragraph (c));
- (b) except by leave of the Supreme Court, against an order or decision of the Court that was made on an appeal under section 56A; or
- (c) except by leave of the Supreme Court, in respect of a question of law that has been referred to, and determined by, a Judge pursuant to section 36.

(6) Section 59 (2)—

At the end of section 59, insert:—

(2) Where an appeal is made to the Court under this Division, the Court may suspend the operation of any relevant order or decision until the Court makes its decision.

(7) (a) Section 60—

Omit “59”, insert instead “59 (1)”.

(b) Section 60 (2)—

At the end of section 60, insert:—

(2) Where, under section 59 (2), the Court has suspended the operation of an order or a decision, the Court may terminate the suspension.

(8) Section 61—

Omit the section, insert instead:—

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE LAND AND ENVIRONMENT COURT ACT, 1979—
continued.

Rules.

61. (1) An appeal to the Supreme Court under this Division shall be made in such manner, and be subject to such conditions, as are prescribed by rules of court of the Supreme Court.

(2) An appeal to the Court under this Division shall be made in such manner, and be subject to such conditions, as are prescribed by the rules.

(9) Section 78 (aa)—

After section 78 (a), insert:—

(aa) the leave which may be granted to assessors;

(10) (a) Schedule 1, clause 1 (2)—

After “shall”, insert “, except as the Minister may otherwise approve.”.

(b) Schedule 1, clause 2A—

After clause 2, insert:—

Leave entitlements.

2A. Subject to this Act and the regulations, the leave which may be granted to assessors shall be as determined by the Minister from time to time.
