

DISTRICT COURT (AMENDMENT) ACT 1990 No. 103

NEW SOUTH WALES



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DISTRICT COURT (AMENDMENT) ACT 1990 No. 103

NEW SOUTH WALES



Act No. 103, 1990

An Act to amend the District Court Act 1973 with respect to appeals to the Supreme Court and dismissal of actions. [Assented to 13 December 1990]

*District Court (Amendment) 1990***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the District Court (Amendment) Act 1990.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of District Court Act 1973 No. 9

3. The District Court Act 1973 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 128 (Appeal to Supreme Court):

- (a) In section 128 (2A), after “action”, insert “(not being proceedings ancillary to an action, as referred to in subsection (5A))”.
- (b) Omit section 128 (3) (a), insert instead:
 - (a) if it is of the opinion that an order for the dismissal of the action, or of the action so far as concerns any cause or causes of action on which the action is brought, should have been made at the trial—may make such an order; or
- (c) After section 128 (5), insert:

(5A) With the leave of the Supreme Court, an appeal lies to the Supreme Court from any ruling, order, direction or decision of a Judge of the District Court (being a ruling, order, direction or decision made or given after the commencement of Schedule 1 (1) (c) to the District Court (Amendment) Act 1990) in respect of any proceedings ancillary to an action, unless subsection (5B) or section 129 prevents such an appeal.

(5B) An appeal may not be made under subsection (5A) from a ruling, order, direction or decision given or made after the hearing of the action concerned has

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SCHEDULE 1—AMENDMENTS—continued

commenced unless, by the ruling, order, direction or decision:

- (a) a judgment was set aside; or
 - (b) an application to set aside a judgment was refused.
 - (d) In section 128 (6), omit “or (2A)”, insert instead “, (2A) or (5A)”.
- (2) Section 129 (**Agreement not to appeal**):
- Omit “or (2A)”, insert instead “, (2A) or (5A)”.
- (3) Section 130 (**Whether application or appeal to Supreme Court is as of right**):
- Omit section 130 (1) (a) (ii) and (iii), insert instead:
- (ii) in the case of an action commenced on or after 1 April 1975 but before 1 April 1983—\$3,000 or upwards;
 - (iii) in the case of an action commenced on or after 1 April 1983 and in respect of which a verdict or judgment has been given before the commencement of Schedule 1 (3) to the District Court (Amendment) Act 1990—\$5,000 or upwards; or
 - (iv) in the case of an action commenced on or after 1 April 1983 and in respect of which a verdict or judgment has not been given before the commencement of Schedule 1 (3) to the District Court (Amendment) Act 1990—\$10,000 or upwards,

*[Minister’s second reading speech made in -
Legislative Assembly on 14 November 1990
Legislative Council on 5 December 1990]*