



New South Wales

# Courts Legislation Amendment Act 1997 No 47

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New South Wales

# Courts Legislation Amendment Act 1997 No 47

Act No 47, 1997

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An Act to make miscellaneous amendments to the *Compensation Court Act 1984*, the *Coroners Act 1980*, the *District Court Act 1973*, the *Land and Environment Court Act 1979* and the *Supreme Court Act 1970*. [Assented to 2 July 1997]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Courts Legislation Amendment Act 1997*.

**2 Commencement**

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

**3 Amendment of Compensation Court Act 1984 No 89**

The *Compensation Court Act 1984* is amended as set out in Schedule 1.

**4 Amendment of Coroners Act 1980 No 27**

The *Coroners Act 1980* is amended as set out in Schedule 2.

**5 Amendment of District Court Act 1973 No 9**

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

**6 Amendment of Land and Environment Court Act 1979 No 204**

The *Land and Environment Court Act 1979* is amended as set out in Schedule 4.

**7 Amendment of Supreme Court Act 1970 No 52**

The *Supreme Court Act 1970* is amended as set out in Schedule 5.

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## **Schedule 1    Amendment of Compensation Court Act 1984**

(Section 3)

### **[1]    Section 39 Costs of operation of the Court**

Omit “May in each year”.

Insert instead “December in each year (or, if some other month is prescribed by the regulations, that other month)”.

### **[2]    Section 39**

Omit “for the next following year”.

Insert instead “for the year commencing on the next following 1 July”.

## **Schedule 2 Amendment of Coroners Act 1980**

(Section 4)

### **Section 6 Age qualification for coroners and assistant coroners**

Insert at the end of section 6:

- (2) However, a person of or above the age of 70 years may be appointed as a coroner if the Minister recommends to the Governor that the appointment of that person as a coroner is appropriate. In that case:
  - (a) the appointment is to be made for such term (not exceeding 3 years) as is specified in the instrument of appointment of that coroner, and
  - (b) section 6A does not apply to that coroner.
- (3) A coroner appointed under subsection (2) is eligible for reappointment under that subsection from time to time.

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## **Schedule 3 Amendment of District Court Act 1973**

(Section 5)

### **[1] Section 126 Order of the Court for new trial**

Insert at the end of section 126 (1) (b):

, or

(c) the action is tried without a jury and a party to the action:

(i) in the presence of the other party and on the day on which judgment in the action is given, or

(ii) in the absence of the other party but after such notice as the Court thinks reasonable has been given to the other party and, in any case, within 21 days after judgment in the action is given,

makes application for the order.

### **[2] Section 127 Right of appeal to Supreme Court**

Omit section 127 (2) (c). Insert instead:

(c) an appeal from a final judgment or order, being a judgment or order for the payment of a sum of money, where the appeal seeks a variation of that sum and the amount by which that sum is sought to be varied is less than \$100,000 or, if some other amount is prescribed by the regulations, that other amount.

**[3] Section 183B**

Insert after section 183A:

**183B Provisions consequent on enactment of Courts  
Legislation Amendment Act 1997**

- (1) Section 126, as amended by the *Courts Legislation Amendment Act 1997*, applies to judgments given before the commencement of Schedule 3 [1] to that Act in the same way as it applies to judgments given after that commencement.
- (2) Section 127, as amended by the *Courts Legislation Amendment Act 1997*, applies to judgments and orders given or made before the commencement of Schedule 3 [2] to that Act in the same way as it applies to judgments and orders given or made after that commencement.

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## **Schedule 4 Amendment of Land and Environment Court Act 1979**

(Section 6)

### **[1] Section 52 Judge may order payment of costs**

Omit “such costs as to the Judge seem just and reasonable”.

Insert instead “costs of such amount as are specified in the conviction or order or, if the conviction or order so directs, as may be determined under subsection (2)”.

### **[2] Section 52 (2)**

Omit the subsection. Insert instead:

- (2) The costs payable by a prosecutor or defendant in accordance with a direction under this section are to be determined:
  - (a) by agreement between the prosecutor and defendant, or
  - (b) if no such agreement can be reached, in accordance with the regulations.

### **[3] Section 79**

Insert after section 78:

#### **79 Savings, transitional and other provisions**

Schedule 3 has effect.



**[4] Schedule 3**

Insert after Schedule 2:

**Schedule 3 Savings, transitional and other provisions**

(Section 79)

**1 Provisions consequent on enactment of Courts Legislation Amendment Act 1997**

Section 52, as amended by the *Courts Legislation Amendment Act 1997*, does not apply to or in respect of any conviction or order arising out of proceedings determined before the commencement of Schedule 4 to that Act.

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## **Schedule 5 Amendment of Supreme Court Act 1970**

(Section 7)

### **[1] Section 46A Certain appeals may be heard by 2 Judges of Appeal**

Insert “and to an appeal from an award of compensation made by the Compensation Court” after “person” in section 46A (1).

### **[2] Section 101 Appeal in proceedings before the Court**

Insert at the end of section 101 (2):

- (q) a judgment or order in proceedings of the Court with respect to the taxation or assessment of costs, or
- (r) a final judgment or order in proceedings of the Court, being a judgment or order for the payment of a sum of money, where the appeal seeks a variation of that sum and the amount by which that sum is sought to be varied is less than \$100,000 or, if some other amount is prescribed by the regulations, that other amount.

### **[3] Fourth Schedule Savings and transitional provisions**

Insert after clause 3:

#### **4 Courts Legislation Amendment Act 1997**

- (1) Section 46A, as amended by the *Courts Legislation Amendment Act 1997*, applies to awards of compensation made by the Compensation Court before the commencement of Schedule 5 [1] to that Act in the same way as it applies to awards of compensation made after that commencement.

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Schedule 5 Amendment of Supreme Court Act 1970

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- (2) Section 101, as amended by the *Courts Legislation Amendment Act 1997*, applies to judgments and orders given or made before the commencement of Schedule 5 [2] to that Act in the same way as it applies to judgments and orders given or made after that commencement.

[Minister's second reading speech made in—  
Legislative Council on 16 June 1997  
Legislative Assembly on 27 June 1997 p.m.]