



New South Wales

District Court Amendment Act 1997 No 58

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New South Wales

District Court Amendment Act 1997 No 58

Act No 58, 1997

An Act to amend the *District Court Act 1973* with respect to the jurisdiction of the District Court; to amend certain other Acts consequentially; and for other purposes. [Assented to 2 July 1997]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *District Court Amendment Act 1997*.

2 Commencement

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

3 Amendment of District Court Act 1973 No 9

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

4 Consequential amendment of other Acts

Each Act specified in Schedule 2 is amended as set out in that Schedule.

Schedule 1 Amendment of District Court Act 1973

(Section 3)

[1] Section 4 Definitions: general

Insert in alphabetical order in section 4 (1)

motor accident claim means an action for an award of damages to which Part 6 of the *Motor Accidents Act 1988* applies.

[2] Section 44 Actions

Omit section 44 (1) (a). Insert instead:

- (a) any personal action at law (other than a motor accident claim) in which the amount claimed does not exceed \$750,000, whether on a balance of account or after an admitted set-off or otherwise,

[3] Sections 44 (1) (b), 48 (2) and (3), 49 (2), 51 (2) and 134A

Omit "\$250,000" wherever occurring. Insert instead "\$750,000".

[4] Section 44 (1) (d)

Insert after section 44 (1) (c):

- (d) any motor accident claim, irrespective of the amount claimed.

[5] Section 79 Motor accident cases

Omit all words after "vehicle" from section 79 (2) (a) (i).

[6] Section 79 (3), definition of "public street"

Omit the definition.

[7] Section 134 Jurisdiction in equity proceedings

Insert after section 134 (1) (f):

, or

- (g) any application under the *De Facto Relationships Act 1984*, or
- (h) any equitable claim or demand for recovery of money or damages, whether liquidated or unliquidated (not being a claim or demand of a kind to which any other paragraph of this subsection applies), in an amount not exceeding \$750,000.

[8] Section 134 (2)

Omit "\$20,000". Insert instead "\$250,000".

[9] Section 134 (3)

Insert after section 134 (2):

- (3) In any proceedings pursuant to subsection (1) (g), the Court has no power to make an order for financial adjustment under Part 3 of the *De Facto Relationships Act 1984* that will or may result in the amount of the adjustment so made exceeding \$250,000.

[10] Section 143 Transfer of proceedings from Supreme Court

Insert "(as though that limitation had been in force at the time the proceedings were commenced in the Supreme Court)" after "made" in section 143 (3).

[11] Section 143 (4) and (5)

Insert after section 143 (3):

- (4) If the plaintiff in the proceedings applies for a transfer of the proceedings under this section, the defendant is not permitted to oppose the application. The Supreme Court, however, for any reason appearing to it sufficient (but having due regard to the provisions of section 145), may decline to make the order sought.

- (5) Without limiting any power of the Supreme Court under this section, the Supreme Court may, at any time after the commencement and before the hearing of the action, consider any action for damages in respect of personal injury or death, in order to determine whether an order under this section transferring the proceedings ought to be made. Having considered the action, the Supreme Court is to make such an order unless:
- (a) in the case of a motor accident claim, the Supreme Court is satisfied that the amount to be awarded to the plaintiff in the case, if successful, would be likely to exceed \$1,000,000 and that the case involves complex legal issues or issues of general public importance, or
 - (b) in any other case, the Supreme Court is satisfied that the amount to be awarded to the plaintiff in the case, if successful, would be likely to exceed \$750,000 or that there is other sufficient reason for trying the action in the Supreme Court.

[12] Section 145 Transfer of proceedings to Supreme Court

Insert at the end of section 145:

- (2) An action for damages in respect of personal injury or death (other than a motor accident claim) may be so removed only if the Supreme Court is satisfied that the amount to be awarded to the plaintiff in the case, if successful, would be likely to exceed \$750,000 or that there is other sufficient reason for trying the action in the Supreme Court.
- (3) A motor accident claim may be so removed only if the Supreme Court is satisfied that the amount to be awarded to the plaintiff in the case, if successful, would be likely to exceed \$1,000,000 and that the case involves complex legal issues or issues of general public importance.

[13] Section 183C

Insert at the end of Division 1 of Part 6:

183C Provision consequent on enactment of other amendments

Schedule 3 has effect in respect of enactments amending this Act.

[14] Schedule 3

Insert after Schedule 2:

Schedule 3 Savings and transitional provisions consequent on amendments to this Act

Part 1 Preliminary

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

District Court Amendment Act 1997

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Provision consequent on enactment of District Court Amendment Act 1997

2 Definition

In this Part, *the amending Act* means the *District Court Amendment Act 1997*.

3 Causes of action generally

Sections 44, 48, 49, 51, 79, 134 and 134A, as amended by the amending Act, extend to apply in respect of any cause of action that accrued before their amendment by that Act.

4 Motor accident claims

The Court may, on the application of the plaintiff in a motor accident claim that was pending at the time the amendment of section 44 (1) by the amending Act took effect, by order determine that the amount recoverable by the plaintiff is not limited to any amount claimed in the pleadings.

5 Transfer of proceedings to or from the Court

Sections 143 and 145, as amended by the amending Act, extend to apply to proceedings instituted before their amendment by that Act.

Schedule 2 Consequential amendment of other Acts

(Section 4)

2.1 De Facto Relationships Act 1984 No 147

[1] Section 12 Transfer of proceedings from Local Courts in certain cases

Omit “Supreme Court” from section 12 (1).
Insert instead “District Court or the Supreme Court, as may be appropriate”.

[2] Section 12 (3)

Insert “District Court or” before “Supreme Court”.

[3] Section 12 (4)

Omit “to the Supreme Court”.

[4] Section 12 (4)

Omit “the Supreme Court” where secondly occurring.
Insert instead “the District Court or Supreme Court, as the case may be,”.

2.2 Family Provision Act 1982 No 160

Section 6 Definitions

Omit the definition of *Court* from section 6 (1). Insert instead:

Court means:

- (a) in relation to a matter in which the District Court has jurisdiction in accordance with section 134 of the *District Court Act 1973*—the District Court, or
- (b) in relation to any other matter—the Supreme court.

2.3 Supreme Court Act 1970 No 52

[1] Section 124 Rule-making power

Insert “and for the co-ordination or expedition of any such transfers,” after “inferior court,” in section 124 (1) (d).

[2] Section 124 (1) (j)

Insert “and, in particular, prescribing, limiting or otherwise affecting the costs recoverable in any action or proceedings that the Court considers might properly have been dealt with in an inferior court” after “Court”.

2.4 Testator’s Family Maintenance and Guardianship of Infants Act 1916 No 41

Section 2 Definitions

Omit the definition of *Court*. Insert instead:

Court means:

- (a) in relation to a matter in which the District Court has jurisdiction in accordance with section 134 of the *District Court Act 1973*—the District Court, or
- (b) in relation to any other matter—the Supreme court.

[Minister’s second reading speech made in—
Legislative Assembly on 18 June 1997
Legislative Council on 26 June 1997]