



New South Wales

# Courts and Other Legislation Further Amendment Bill 2011

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Civil Procedure Act 2005* to defer the application of Part 2A of that Act to civil proceedings,
- (b) to amend the *Guardianship Act 1987* to allow for the delegation of the Attorney General's power to approve the place in which a person may be placed in the care of the Director-General under that Act,
- (c) to amend the *Land and Environment Court Act 1979* to confirm that certain appeals brought by Aboriginal Land Councils are within Class 3 of the Land and Environment Court's jurisdiction,
- (d) to limit the types of conviction in respect of which a victims compensation levy is payable under the *Victims Support and Rehabilitation Act 1996*.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act.

## **Schedule 1      Amendment of Civil Procedure Act 2005 No 28**

**Schedule 1** provides for the newly inserted Part 2A (Steps to be taken before the commencement of proceedings) of the *Civil Procedure Act 2005* to apply only to civil proceedings commenced on or after the day that is 18 months after the date of assent to the proposed Act or such earlier day as the Governor may appoint by proclamation.

## **Schedule 2      Amendment of Guardianship Act 1987 No 257**

**Schedule 2** allows the Attorney General to delegate to the Director-General within the meaning of the *Guardianship Act 1987* or to any other person the exercise of the Attorney General's function under that Act to approve the place at which a person may be put in the care of the Director-General following the removal of that person from premises pursuant to a guardianship order or a search warrant. If the power is delegated to the Director-General, the Director-General may also delegate the exercise of that function to any other person.

## **Schedule 3      Amendment of Land and Environment Court Act 1979 No 204**

**Schedule 3** confirms that any appeals made under section 36 (7) of the *Aboriginal Land Rights Act 1983* (being appeals arising out of claims made by an Aboriginal Land Council with respect to Crown land) fall within Class 3 of the Court's jurisdiction.

## **Schedule 4      Amendment of Victims Support and Rehabilitation Act 1996 No 115**

**Schedule 4 [1]** ensures that the provisions relating to the payment of a compensation levy under the *Victims Support and Rehabilitation Act 1996* do not apply to orders made under the *Crimes (Sentencing Procedure) Act 1999* which direct the charge for an offence to be dismissed if the offence to which the order relates is not punishable by imprisonment (whether or not the offence is also punishable by some other penalty).

**Schedule 4 [3]** makes it clear that the amendment made by **Schedule 4 [1]** applies to a person convicted of an offence after the commencement of the amendment, even if the offence was committed prior to that commencement. **Schedule 4 [2]** enables regulations of a savings and transitional nature to be made consequent on the enactment of the proposed Act.

First print



New South Wales

# Courts and Other Legislation Further Amendment Bill 2011

## Contents

---

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of Civil Procedure Act 2005 No 28	3
Schedule 2 Amendment of Guardianship Act 1987 No 257	4
Schedule 3 Amendment of Land and Environment Court Act 1979 No 204	5
Schedule 4 Amendment of Victims Support and Rehabilitation Act 1996 No 115	6





New South Wales

# Courts and Other Legislation Further Amendment Bill 2011

No. , 2011

---

## **A Bill for**

An Act to make further miscellaneous amendments to legislation relating to courts and certain other legislation administered by the Attorney General.

---

<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Courts and Other Legislation Further Amendment Act 2011</i> .	3 4
<b>2 Commencement</b>	5
(1) This Act commences on the date of assent to this Act, except as provided by subsection (2).	6 7
(2) Schedule 4 commences on a day to be appointed by proclamation.	8

---

<b>Schedule 1</b>	<b>Amendment of Civil Procedure Act 2005</b>	1
	<b>No 28</b>	2
	<b>Schedule 6 Savings, transitional and other provisions</b>	3
	Omit clause 19. Insert instead:	4
	<b>19 Application of Part 2A</b>	5
(1)	Part 2A (as inserted by the <i>Courts and Crimes Legislation Further Amendment Act 2010</i> ) applies only to civil proceedings commenced on or after the application day (regardless of whether the civil dispute to which any such proceedings relate arose before, on or after that day).	6 7 8 9 10
(2)	The <b><i>application day</i></b> for the purposes of this clause is:	11
(a)	the day that is 18 months after the day on which Schedule 1 to the <i>Courts and Other Legislation Further Amendment Act 2011</i> commences, or	12 13 14
(b)	such earlier day as the Governor may appoint by proclamation published on the NSW legislation website.	15 16
(3)	Subject to the regulations, Part 2A (as inserted by the <i>Courts and Crimes Legislation Further Amendment Act 2010</i> ) is taken not to have applied to any civil proceedings commenced before the application day. However, any purported compliance with the provisions of that Part before that day does not affect the validity or prevent the continuation of any civil proceedings that have otherwise been duly commenced.	17 18 19 20 21 22 23

---

<b>Schedule 2</b>	<b>Amendment of Guardianship Act 1987</b>	1
	<b>No 257</b>	2
	<b>Section 13 Care of persons pending proceedings</b>	3
	Insert after section 13 (1):	4
	(1A) The Minister may delegate to the Director-General, or to any other person, the exercise of the Minister's function to approve the place in which a person may be placed in the care of the Director-General under this section.	5 6 7 8
	(1B) The Director-General may delegate to any person the exercise of a function delegated to the Director-General by the Minister under subsection (1A).	9 10 11



---

<b>Schedule 3</b>	<b>Amendment of Land and Environment Court Act 1979 No 204</b>	1
		2
<b>[1]</b>	<b>Section 19 Class 3—land tenure, valuation, rating and compensation matters</b>	3
	Insert “36 (7) or” after “appeals under section” in section 19 (g2).	4
		5
<b>[2]</b>	<b>Schedule 3 Savings, transitional and other provisions</b>	6
	Insert at the end of clause 1A (1):	7
	<i>Courts and Other Legislation Further Amendment Act 2011</i> (but only to the extent it amends this Act)	8
		9

---

<b>Schedule 4</b>	<b>Amendment of Victims Support and Rehabilitation Act 1996 No 115</b>	1
		2
<b>[1] Section 78 Application of Part</b>		3
Insert after section 78 (2):		4
(3) In this Part, <i>conviction</i> does not include an order made under section 10 (1) (a) of the <i>Crimes (Sentencing Procedure) Act 1999</i> in relation to an offence that is not punishable by imprisonment (whether or not it is also punishable by some other penalty).		5 6 7 8
<b>[2] Schedule 3 Savings, transitional and other provisions</b>		9
Insert at the end of clause 1 (1):		10
<i>Courts and Other Legislation Further Amendment Act 2011</i> (but only to the extent it amends this Act)		11 12
<b>[3] Schedule 3</b>		13
Insert at the end of the Schedule (with appropriate Part and clause numbering):		14
<b>Part</b>	<b>Provision consequent on enactment of Courts and Other Legislation Further Amendment Act 2011</b>	15 16 17
	<b>Application of amendment</b>	18
	Part 5 of this Act (as amended by the <i>Courts and Other Legislation Further Amendment Act 2011</i> ) applies to a person convicted of an offence (within the meaning of that Part as amended) after the commencement of the amendment even if the offence was committed before that commencement.	19 20 21 22 23