



New South Wales

Courts Legislation Amendment Bill 2007

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 *Administrative Decisions Tribunal Act 1997* so that a document signed by the parties may be admitted as evidence of an agreement or arrangement reached during a mediation session,
- (b) to amend the *Civil Procedure Act 2005*:
 - (i) to expand the membership of the Uniform Rules Committee to include a representative of the Land and Environment Court, and
 - (ii) to provide for the appointment of deputies for all members of the Uniform Rules Committee, and
 - (iii) to apply that Act to civil proceedings in certain classes of the jurisdiction of the Land and Environment Court, and
 - (iv) to include provisions dealing with the transfer of civil proceedings from the Supreme Court to the Land and Environment Court,
- (c) to amend the *Confiscation of Proceeds of Crime Act 1989* with respect to the Local Court's jurisdiction in relation to drug proceeds orders, forfeiture orders and freezing notices,

- (d) to amend the *Coroners Act 1980* to allow the State Coroner to provide assistance to, and request assistance from, a coroner in another State or Territory,
- (e) to amend the *District Court Act 1973* to enable the registrar of a Local Court to exercise the functions of a registrar of the District Court (and to make similar provision with respect to the deputy registrars and officers),
- (f) to amend the *Land and Environment Court Act 1979* following the application of the *Civil Procedure Act 2005* to civil proceedings in certain classes of the Land and Environment Court's jurisdiction and to make provision with respect to various other matters including the removal and referral of matters before Commissioners and the removal of the Divisions of the Court,
- (g) to amend the *Local Courts Act 1982* to enable a registrar of the District Court to exercise the functions of the registrar of a Local Court (and to make similar provision with respect to assistant registrars and officers) and to make provision with respect to the civil jurisdiction of the Court,
- (h) to amend the *Supreme Court Act 1970* with respect to the appointment of an Acting Chief Justice and to enable the registrar of the Court of Criminal Appeal to exercise the powers of a registrar of the Supreme Court (and to make similar provision with respect to the officers),
- (i) to make other miscellaneous amendments, including amendments for the purpose of achieving consistency with the *Civil Procedure Act 2005*, amendments in the nature of statute law revision, consequential amendments to other Acts and instruments and amendments of a savings or transitional nature.

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 on the date of assent, subject to specified exceptions.

Clause 3 is a formal provision that gives effect to the amendments to the Acts specified in Schedules 1–8.

Clause 4 is a formal provision that gives effect to the consequential amendments to the Act and instrument specified in Schedule 9.

Clause 5 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendment of Administrative Decisions Tribunal Act 1997 No 76

Schedule 1 [1] inserts proposed section 91A into the *Administrative Decisions Tribunal Act 1997* to provide for the issue of practice notes by the President of the Administrative Decisions Tribunal.

Schedule 1 [2] provides that any document signed by the parties is admissible, as evidence of an agreement or arrangement reached during a mediation session, on an application to the Tribunal for orders to give effect to any such agreement or arrangement. The proposed amendment ensures that the *Administrative Decisions Tribunal Act 1997* is consistent with the *Civil Procedure Act 2005* in this respect. **Schedule 1 [3] and [4]** also amend the provision of the *Administrative Decisions Tribunal Act 1997* concerning privilege for this purpose and as a consequence of the amendment in **Schedule 1 [2]**.

Schedule 2 Amendment of Civil Procedure Act 2005 No 28

Schedule 2 [2] makes provision for an additional member of the Uniform Rules Committee established by the *Civil Procedure Act 2005*, being the Chief Judge of the Land and Environment Court or a Judge nominated for the time being by the Chief Judge. **Schedule 2 [1] and [10]** make consequential amendments.

Schedule 2 [9] provides for the application of Parts 3–9 of the *Civil Procedure Act 2005* to proceedings in Class 1, 2, 3 or 4 of the jurisdiction of the Land and Environment Court (subject to the uniform rules under that Act which can exclude any class of civil proceedings from the operation of all or any of the provisions of Parts 3–9). **Schedule 2 [8]** inserts Division 2A into Part 9 (Transfer of proceedings between courts) of the *Civil Procedure Act 2005* to allow for proceedings to be transferred from the Supreme Court to the Land and Environment Court if the Supreme Court is satisfied that the proceedings could properly have been commenced in the Land and Environment Court.

Schedule 2 [11] makes provision for a deputy to be appointed for each member of the Uniform Rules Committee. **Schedule 2 [12]** makes it clear that the deputy for the Chief Justice of the Supreme Court (or the Judge nominated for the time being by the Chief Justice) is not entitled to preside at a meeting of the Uniform Rules Committee.

Schedule 2 [3]–[7] make amendments by way of statute law revision.

Schedule 2 [13] enables regulations to be made of a savings and transitional nature and **Schedule 2 [14]** contains consequential provisions.

Schedule 3 Amendment of Confiscation of Proceeds of Crime Act 1989 No 90

Schedule 3 [1] amends section 87 of the *Confiscation of Proceeds of Crime Act 1989* to make it clear that a Local Court may not make a drug proceeds order under section 29 of that Act against a person for an amount that exceeds the jurisdictional limit of a Local Court when sitting in its General Division (being \$60,000 at present).

Schedule 3 [2] provides that nothing in section 87 of the *Confiscation of Proceeds of Crime Act 1989* prevents a Local Court from exercising its jurisdiction in relation to a freezing notice issued under section 42C of that Act (to be inserted by the *Confiscation of Proceeds of Crime Amendment Act 2005*) in relation to land or in relation to property whose value exceeds the jurisdictional limit of a Local Court when sitting in its General Division.

Schedule 3 [2] also provides that proceedings on an application for a forfeiture order or drug proceeds order or proceedings on an application for confirmation or setting aside of a freezing notice, that are before the Local Court, are to be dealt with by the Local Court sitting in its General Division.

Schedule 4 Amendment of Coroners Act 1980 No 27

Section 54A of the *Coroners Act 1980* currently allows the State Coroner to use any of his or her powers as State Coroner or as a coroner to assist a coroner of another State or Territory to investigate a death, suspected death, fire or explosion. **Schedule 4** substitutes section 54A to expand and revise this provision. Section 54A, as substituted, allows:

- (a) the State Coroner to request, in writing, the assistance of a person holding a corresponding office in another State or Territory (or a coroner in another State or Territory) in connection with the exercise of any power under that Act, and
- (b) the State Coroner to assist a person holding a corresponding office in another State or Territory (or a coroner in another State or Territory), in connection with the exercise of a power under the law of that State or Territory, at the written request of that person.

Schedule 5 Amendment of District Court Act 1973 No 9

Schedule 5 [3] inserts proposed section 18L into the *District Court Act 1973*. The proposed section enables (subject to the rules) the registrar of a Local Court to exercise the functions of a registrar of the District Court, the deputy registrar of a Local Court to exercise the functions of an assistant registrar of the District Court and an officer of a Local Court to exercise the functions of an officer of the District Court. **Schedule 7 [1]** makes a similar amendment to the *Local Courts Act 1982*.

Schedule 5 [4] clarifies that the civil jurisdiction of the District Court is not limited to money claims.

Schedule 5 [1] and [2] make consequential amendments.

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

Schedule 6 [2] and [23]–[34] make amendments consequential on the amendment of the *Civil Procedure Act 2005* in **Schedule 2 [9]** (which provides for the application of Parts 3–9 of that Act to proceedings in Class 1, 2, 3 or 4 of the jurisdiction of the Land and Environment Court) and in order to achieve consistency with the *Civil Procedure Act 2005*.

Schedule 6 [3], [4], [6]–[9], [11], [16]–[18], [20], [21] and [35] make amendments by way of statute law revision.

Schedule 6 [5] confirms that an Acting Commissioner of the Land and Environment Court (*the Court*) has the functions of, and is deemed to be, a Commissioner.

Schedule 6 [10] omits provisions of the *Land and Environment Court Act 1979 (LEC Act)* so that the Court will no longer be divided into Divisions. **Schedule 6 [1], [13] and [14]** make consequential amendments.

Schedule 6 [12] substitutes section 31 of the LEC Act. The section, as substituted, applies if the Court determines that proceedings before it are not being dealt with in the manner appropriate to the class of jurisdiction to which they belong. In such circumstances, the Court may order that the proceedings be dismissed or that the proceedings be dealt with in the appropriate manner.

Schedule 6 [15] substitutes section 34 of the LEC Act:

- (a) to ensure that the LEC Act is consistent with the *Civil Procedure Act 2005*, and
- (b) in order that preliminary conferences be renamed conciliation conferences, and
- (c) to enable the Commissioner to adjourn such a conference if there is good reason to, and
- (d) to provide that any document signed by the parties is admissible, as evidence of an agreement or arrangement reached during a conciliation conference, in proceedings for the disposal of the matter by a Commissioner in accordance with the agreement, and
- (e) to further provide that such a document and any other evidence as to an agreement reached during a conciliation conference is not, except in further specified circumstances, admissible in evidence in any proceedings.

Schedule 6 [22] provides that proceedings that are before a Commissioner under section 34 or 36 of the LEC Act may be referred or removed for hearing and determination before a Judge in the same way as proceedings before an associate

Judge may be referred or removed for hearing and determination before a Judge in the Supreme Court (subject to any contrary order of the Chief Judge). **Schedule 6 [19]** makes a consequential amendment.

Schedule 6 [36] enables regulations to be made of a savings and transitional nature.

Schedule 6 [37] inserts a savings provision.

Schedule 7 Amendment of Local Courts Act 1982 No 164

Schedule 7 [1] inserts proposed section 10CA into the *Local Courts Act 1982*. The proposed section enables (subject to the rules) a registrar of the District Court to exercise the functions of the registrar of the Local Court, an assistant registrar of the District Court to exercise the functions of a deputy registrar of the Local Court and an officer of the District Court to exercise the functions of an officer of the Local Court. **Schedule 5 [3]** makes a similar amendment to the *District Court Act 1973*.

Schedule 7 [4] provides that the Local Court sitting in its General Division has jurisdiction to hear and determine proceedings required by any other Act to be dealt with by the Local Court sitting in that Division.

Schedule 7 [2] and [3] make statute law revision amendments.

Schedule 7 [5] enables regulations to be made of a savings and transitional nature.

Schedule 8 Amendment of Supreme Court Act 1970 No 52

Schedule 8 [1] amends section 35 of the *Supreme Court Act 1970* to enable the Governor to appoint, by commission under seal, the President of the Court of Appeal, any Judge of Appeal or any Judge to be Acting Chief Justice if there is a vacancy in the office of the Chief Justice (in addition to whenever the Chief Justice is absent from duty). **Schedule 8 [2]** also amends this section so that the President of the Court of Appeal is taken to be the Acting Chief Justice while the Chief Justice is absent from Australia and an Acting Chief Justice has not been appointed by commission under seal.

Schedule 8 [3] inserts proposed section 120A (1A) and (1B) into the *Supreme Court Act 1970*. The proposed subsections enable (subject to the rules) the registrar of the Court of Criminal Appeal to exercise the powers of a registrar of the Supreme Court and an officer of the Court of Criminal Appeal to exercise the powers of an officer of the Supreme Court. A similar provision currently exists in the *Criminal Appeal Act 1912* in respect of registrars and officers of the Supreme Court.

Schedule 8 [4] amends section 123 of the *Supreme Court Act 1970* to cure any defect in the form of the appointment of members of the Rule Committee who attended meetings of the Committee held on or after 1 July 2005 and before 1 July 2007.

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Explanatory note

Schedule 9 Consequential amendments

Schedule 9.1 contains a consequential amendment to the *Community Land Management Act 1989*.

Schedule 9.2 contains a consequential amendment to the *Legal Profession Regulation 2005*.



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Courts Legislation Amendment Bill 2007

No. , 2007

A Bill for

An Act to amend certain Acts with respect to courts, court procedure and jurisdiction; to amend the *Land and Environment Court Act 1979* to ensure consistency with the *Civil Procedure Act 2005*; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Courts Legislation Amendment Act 2007</i> .	3
2 Commencement	4
(1) This Act commences on the date of assent to this Act, subject to subsections (2)–(3).	5 6
(2) Schedules 3 and 7 [4] commence on the date of assent to this Act or on the commencement of Schedule 1 [34] to the <i>Confiscation of Proceeds of Crime Amendment Act 2005</i> , whichever is the later.	7 8 9
(3) The following provisions commence on a day or days to be appointed by proclamation:	10 11
(a) Schedules 1, 2, 4–6 and 9,	12
(b) Schedule 7 [1]–[3] and [5],	13
(c) Schedule 8 [1]–[3].	14
3 Principal amendments	15
The Acts specified in Schedules 1–8 are amended as set out in those Schedules.	16 17
4 Consequential amendments	18
The Act and instrument specified in Schedule 9 are amended as set out in that Schedule.	19 20
5 Repeal of Act	21
(1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.	22 23
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	24 25

Schedule 1	Amendment of Administrative Decisions Tribunal Act 1997 No 76	1
		2
	(Section 3)	3
[1] Section 91A		4
	Insert after section 91:	5
91A Practice notes		6
	(1) Subject to the rules of the Tribunal, the President may issue practice notes for the Tribunal in relation to any matter with respect to which rules may be made.	7
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	(2) Part 6 of the <i>Interpretation Act 1987</i> applies to a practice note issued under this section in the same way as it applies to a rule of court.	10
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[2] Section 105 Agreements and arrangements arising from mediation sessions		13
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	Insert after section 105 (2):	15
	(2A) On any application for an order under this section, any document signed by the parties is admissible as to the fact that an agreement or arrangement has been reached and as to the substance of the agreement or arrangement.	16
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[3] Section 107 Privilege		20
	Omit “Subject to subsection (3), the” from section 107 (2).	21
	Insert instead “The”.	22
[4] Section 107 (4) and (5)		23
	Omit section 107 (4)–(6). Insert instead:	24
	(4) Subject to subsection (5) and section 105 (2A):	25
	(a) evidence of anything said or of any admission made in a mediation session or neutral evaluation session is not admissible in any proceedings before any court, tribunal or body, and	26
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	(b) a document prepared for the purposes of, or in the course of, or as a result of, a mediation session or neutral evaluation session, or any copy of such a document, is not admissible in evidence in any proceedings before any court, tribunal or body.	30
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Schedule 1 Amendment of Administrative Decisions Tribunal Act 1997 No 76

- (5) Subsection (4) does not apply with respect to any evidence or document: 1
- (a) if the persons in attendance at, or identified during, the mediation session or neutral evaluation session and, in the case of a document, all persons identified in the document, consent to the admission of the evidence or document, or 2
- (b) in proceedings instituted with respect to any act or omission in connection with which a disclosure has been made under section 108 (c). 3
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Schedule 2	Amendment of Civil Procedure Act 2005	1
	No 28	2
	(Section 3)	3
[1] Section 8 Uniform Rules Committee		4
	Omit “10 members” from section 8 (1). Insert instead “11 members”.	5
[2] Section 8 (1) (c1)		6
	Insert after section 8 (1) (c):	7
	(c1) one is to be the Chief Judge of the Land and Environment Court or a Judge nominated for the time being by the Chief Judge, and	8 9 10
[3] Section 76 Settlement of proceedings commenced by or on behalf of, or against, person under legal incapacity		11 12
	Insert “, or against,” after “on behalf of” in section 76 (1).	13
[4] Section 76 (3)		14
	Omit “the claim of”.	15
	Insert instead “a claim made by or on behalf of, or against,”.	16
[5] Section 141 Transfer orders		17
	Insert “the” before “proceedings” in section 141 (2).	18
[6] Section 144 Transfer of certain proceedings from District Court to Supreme Court		19 20
	Omit “the transfer order” wherever occurring in section 144 (7).	21
	Insert instead “an order under subsection (2) or (5)”.	22
[7] Section 149 Jurisdiction of lower court		23
	Omit “Pursuant to this section, the”. Insert instead “The”.	24

[8] Part 9, Division 2A	1
Insert after Division 2 of Part 9:	2
Division 2A Transfer of proceedings from Supreme Court to Land and Environment Court	3
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149A Definition	5
In this Division:	6
<i>transfer order</i> means an order referred to in section 149B.	7
149B Transfer of proceedings from Supreme Court to Land and Environment Court	8
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If the Supreme Court is satisfied, in relation to proceedings before it, that the proceedings could properly have been commenced in the Land and Environment Court, the Supreme Court may, on application by a party to the proceedings or of its own motion, order that the proceedings be transferred to the Land and Environment Court.	10
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149C Transfer orders	16
(1) A transfer order takes effect when it is made.	17
(2) A transfer order does not invalidate any order made or other thing done in the proceedings before the order was made.	18
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(3) Any order made by the Supreme Court, other than a transfer order, may be varied or revoked by an order of the Land and Environment Court.	20
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149D Proceedings after transfer	23
(1) Subject to the rules of the Land and Environment Court, any proceedings with respect to which a transfer order takes effect are to be continued in the Land and Environment Court as if they had been duly commenced in that Court on the date on which they were commenced in the Supreme Court.	24
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(2) For the purposes of any proceedings continued in the Land and Environment Court, any admission duly made in the Supreme Court is to be treated as if it had been duly made in the Land and Environment Court.	29
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(3) Subject to the rules of the Land and Environment Court, the power of the Land and Environment Court to make orders as to costs includes a power to make orders with respect to the costs of:	33
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(a)	the application for, and the making of, the transfer order, and	1 2
(b)	any step taken in the proceedings before the transfer order was made.	3 4
149E	Jurisdiction of Land and Environment Court	5
	The Land and Environment Court has, and may exercise, all of the jurisdiction of the Supreme Court in relation to any proceedings to which a transfer order relates, including jurisdiction to determine any question arising in any such proceedings.	6 7 8 9 10
[9]	Schedule 1 Application of Act	11
	Insert in Columns 1 and 2 after the matter relating to the Supreme Court:	12
	Land and Environment Court All civil proceedings in Class 1, 2, 3 or 4 of the Court's jurisdiction	
[10]	Schedule 2 Constitution and procedure of Uniform Rules Committee	13
	Insert "the Chief Judge of the Land and Environment Court," after "the Court of Appeal," in the definition of <i>ex-officio member</i> in clause 1.	14 15
[11]	Schedule 2, clause 3A	16
	Insert after clause 3:	17
	3A Deputies for members	18
	(1) A reference to a power to nominate or appoint a member of the Uniform Rules Committee in section 8 (1) includes a power to nominate or appoint a deputy for that member.	19 20 21
	(2) In the absence of a member appointed or nominated under section 8 (1), the member's deputy:	22 23
	(a) may, if available, act in the place of the member, and	24
	(b) subject to clause 6 (6)—while so acting, has the functions of the member and is taken to be the member.	25 26
[12]	Schedule 2, clause 6 (6)	27
	Insert after clause 6 (5):	28
	(6) A person nominated as a deputy for the member of the Uniform Rules Committee referred to in section 8 (1) (a) is not entitled to exercise any of the functions of a presiding member under this clause.	29 30 31 32

[13] Schedule 6 Savings, transitional and other provisions	1
Insert at the end of clause 1 (1):	2
<i>Courts Legislation Amendment Act 2007</i> (but only to the extent to which it amends this Act)	3 4
[14] Schedule 6, Part 4	5
Insert after clause 12:	6
Part 4 Provisions consequent on enactment of the Courts Legislation Amendment Act 2007	7 8 9
13 Definitions	10
In this Part:	11
<i>relevant commencement date</i> means the date of the commencement of Schedule 2 [9] to the <i>Courts Legislation Amendment Act 2007</i> .	12 13 14
<i>relevant proceedings</i> means proceedings in Class 1, 2, 3 or 4 of the jurisdiction of the Land and Environment Court.	15 16
<i>unamended L & E legislation</i> means the <i>Land and Environment Court Act 1979</i> or the rules of court made under that Act, as in force immediately before the relevant commencement date.	17 18 19
14 Regulation	20
The <i>Land and Environment Court Regulation 2005</i> is taken to have been made under section 18 and may be amended and repealed accordingly.	21 22 23
15 Pending proceedings	24
(1) Subject to subclause (2), this Act and the uniform rules apply to relevant proceedings commenced in the Land and Environment Court before the relevant commencement date in the same way as they apply to relevant proceedings commenced on or after that commencement.	25 26 27 28 29
(2) If relevant proceedings are commenced in the Land and Environment Court before the relevant commencement date, the Land and Environment Court may make such orders dispensing with the requirements of the uniform rules in relation to the proceedings, and such consequential orders (including orders as to costs), as are appropriate in the circumstances.	30 31 32 33 34 35

16	Construction of references	1
	Subject to the regulations, in any other Act or instrument:	2
(a)	a reference to a provision of the unamended L & E legislation for which there is a corresponding provision in this Act extends to the corresponding provision of this Act or the uniform rules, and	3 4 5 6
(b)	a reference to any act, matter or thing referred to in a provision of the unamended L & E legislation for which there is a corresponding provision in this Act or the uniform rules extends to the corresponding act, matter or thing referred to in the corresponding provision of this Act or the uniform rules, as the case requires.	7 8 9 10 11 12
17	General saving	13
	Subject to this Schedule and the regulations:	14
(a)	anything begun before the relevant commencement date under a provision of the unamended L & E legislation for which there is a corresponding provision in this Act or the uniform rules may be continued and completed under the unamended L & E legislation as if this Act had not been enacted, and	15 16 17 18 19 20
(b)	subject to paragraph (a), anything done under a provision of the unamended L & E legislation for which there is a corresponding provision in this Act or the uniform rules (including anything arising under paragraph (a)) is taken to have been done under the corresponding provision of this Act or the uniform rules, as the case requires.	21 22 23 24 25 26

Schedule 3	Amendment of Confiscation of Proceeds of Crime Act 1989 No 90	1
		2
	(Section 3)	3
[1] Section 87 Provisions relating to courts		4
Insert after section 87 (3):		5
(3A)	A Local Court may not make a drug proceeds order against a person for an amount that exceeds the jurisdictional limit of a Local Court when sitting in its General Division within the meaning of the <i>Local Courts Act 1982</i> .	6 7 8 9
[2] Section 87 (6) and (7)		10
Insert after section 87 (5):		11
(6)	Nothing in this section prevents a Local Court from exercising its jurisdiction in relation to a freezing notice issued in relation to land or in relation to property whose value exceeds the jurisdictional limit of a Local Court when sitting in its General Division within the meaning of the <i>Local Courts Act 1982</i> .	12 13 14 15 16
(7)	Proceedings before a Local Court on an application for a forfeiture order or drug proceeds order, or on an application for confirmation or setting aside of a freezing notice, are to be dealt with by the Court sitting in its General Division within the meaning of the <i>Local Courts Act 1982</i> .	17 18 19 20 21

Schedule 4	Amendment of Coroners Act 1980 No 27	1
	(Section 3)	2
Section 54A		3
Omit the section. Insert instead:		4
54A Assistance to and from coroners in other jurisdictions		5
(1)	The State Coroner may request in writing the person holding a corresponding office in another State or a Territory to provide assistance in connection with the exercise by the State Coroner or another coroner of any power under this Act.	6 7 8 9
(2)	The State Coroner, at the written request of the person holding a corresponding office in another State or a Territory, may provide assistance to that person or a coroner of that State or Territory in connection with the exercise of a power under the law of that State or Territory.	10 11 12 13 14
(3)	For the purpose of providing assistance, the State Coroner or a coroner may exercise any of his or her powers under this Act irrespective of whether he or she would, apart from this section, have authority to exercise that power.	15 16 17 18
	Note. The State Coroner has, in addition to all the powers of a coroner, a general function of overseeing and co-ordinating coronial services and ensuring that inquests and other investigations are held. The assistance provided may involve the exercise of administrative powers by the State Coroner or the exercise by him or her or another coroner of coronial powers.	19 20 21 22 23 24
(4)	For the purpose of this section, this Act applies as if the matter that is the subject of the request or direction were the subject of an investigation under this Act.	25 26 27

Schedule 5	Amendment of District Court Act 1973	1
	No 9	2
	(Section 3)	3
[1] Section 18G Registrars		4
	Omit section 18G (3) and (5).	5
[2] Section 18I Assistant registrars		6
	Omit section 18I (2) and (3).	7
[3] Section 18L		8
	Insert after section 18K:	9
18L Exercise of functions by registrars, deputy registrars and other officers of the Local Courts		10
		11
(1)	The registrar of a Local Court may, subject to the civil procedure rules and criminal procedure rules, exercise the functions of a registrar of the District Court for Sydney or another proclaimed place and, when exercising those functions, is taken to be the registrar of the District Court for Sydney or the proclaimed place.	12
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(2)	The deputy registrar of a Local Court may, subject to the civil procedure rules and criminal procedure rules, exercise the functions of an assistant registrar of the District Court for Sydney or another proclaimed place and, when exercising those functions, is taken to be an assistant registrar of the District Court for Sydney or the proclaimed place.	17
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(3)	An officer of a Local Court may, subject to the civil procedure rules and criminal procedure rules, exercise the functions of an officer of the District Court and, when exercising those functions, is taken to be an officer of the District Court.	23
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		26
[4] Section 44 Actions		27
	Insert “(if any)” after “amount” in section 44 (1) (a) (ii).	28

Schedule 6	Amendment of Land and Environment Court Act 1979 No 204	1
		2
	(Section 3)	3
[1] Section 4 Definitions		4
	Omit the definition of <i>Division</i> from section 4 (1).	5
[2] Section 4 (1)		6
	Insert in alphabetical order:	7
	<i>practice note</i> means a practice note issued under section 76.	8
[3] Section 4 (1), definition of “registrar”		9
	Omit the definition. Insert instead:	10
	<i>Registrar</i> means the Registrar of the Court.	11
[4] Section 4 (1), definition of “rules”		12
	Omit the definition. Insert instead:	13
	<i>rules</i> means rules of the Court.	14
[5] Section 13 Acting Commissioners		15
	Omit section 13 (3). Insert instead:	16
	(3) The person so appointed has and may exercise, for the time and subject to the conditions or limitations specified in the instrument of appointment, the functions of a Commissioner and is, for the purposes of this or any other Act, deemed to be:	17
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	(a) in the case of a person acting on a full-time basis—a full-time Commissioner, and	21
		22
	(b) in the case of a person acting on a part-time basis—a part-time Commissioner.	23
		24
[6] Section 13 (5)		25
	Omit “ <i>Public Service Act 1979</i> ”.	26
	Insert instead “ <i>Public Sector Employment and Management Act 2002</i> ”.	27
[7] Sections 15 and 66		28
	Omit “registrar” and “assistant registrar” wherever occurring.	29
	Insert instead “Registrar” and “Assistant Registrar”, respectively.	30

[8] Section 15 Appointment of other officers	1
Omit “may be appointed and employed under and subject to the <i>Public Service Act 1979</i> ” from section 15 (1).	2 3
Insert instead “may be employed under the <i>Public Sector Employment and Management Act 2002</i> ”.	4 5
[9] Section 21 Class 5—environmental planning and protection summary enforcement	6 7
Omit section 21 (c).	8
[10] Part 4 Exercise of jurisdiction	9
Omit Divisions 1 and 2.	10
[11] Section 30 Arrangement of business of the Court	11
Omit “whose qualification” from section 30 (2B).	12
Insert instead “whose only qualification”.	13
[12] Section 31	14
Omit the section. Insert instead:	15
31 Irregularity of proceedings	16
(1) This section applies if the Court determines, on application by a party or of its own motion, that any proceedings before it are not being dealt with in the manner appropriate to the class of jurisdiction to which they belong.	17 18 19 20
(2) In the circumstances referred to in subsection (1), the Court may make either of the following orders on such terms as may be necessary:	21 22 23
(a) an order that the proceedings be dismissed,	24
(b) an order that the proceedings be dealt with in the appropriate manner.	25 26
(3) If the Court makes an order referred to in subsection (2) (b):	27
(a) the proceedings are taken to have been duly commenced, and	28 29
(b) any step that has been taken in the proceedings is deemed to have been duly taken.	30 31
(4) The Court may make such orders as it thinks fit for the future conduct of the proceedings.	32 33

[13] Section 32 Validity of proceedings in any Division	1
Omit the section.	2
[14] Section 33, heading	3
Omit “ in the Divisions ”. Insert instead “ generally ”.	4
[15] Section 34	5
Omit the section. Insert instead:	6
34 Conciliation conferences	7
(1) If proceedings are pending in Class 1, 2 or 3 of the Court’s jurisdiction, the Court:	8
(a) may arrange a conciliation conference between the parties or their representatives, with or without their consent, and	9
(b) if it does so, must notify the parties or their representatives of the time and place fixed for the conference.	10
(2) A conciliation conference is to be presided over by a single Commissioner.	11
(3) If, either at or after a conciliation conference, agreement is reached between the parties or their representatives as to the terms of a decision in the proceedings that would be acceptable to the parties (being a decision that the Court could have made in the proper exercise of its functions), the Commissioner:	12
(a) must dispose of the proceedings in accordance with the decision, and	13
(b) must set out in writing the terms of the decision.	14
(4) If no such agreement is reached, the Commissioner must terminate the conciliation conference and:	15
(a) unless the parties consent under paragraph (b), must make a written report to the Court:	16
(i) stating that no such agreement has been reached and that the conciliation conference has been terminated, and	17
(ii) setting out what in the Commissioner’s view are the issues in dispute between the parties, or	18
(b) if the parties consent to the Commissioner disposing of the proceedings, must dispose of the proceedings:	19
(i) following a hearing, whether held forthwith or later, or	20
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(ii)	with the consent of the parties, on the basis of what has occurred at the conciliation conference.	1 2
(5)	The Commissioner, when giving his or her decision under subsection (4) (b), is to give reasons for the decision:	3 4
(a)	in writing, or	5
(b)	orally and recorded by means that can be reproduced.	6
(6)	If satisfied that there is a good reason to do so, the Commissioner may adjourn the conciliation conference to a time and place fixed in consultation with the Registrar.	7 8 9
(7)	Subject to this Act and the rules, the Commissioner disposing of, or hearing and disposing of, proceedings pursuant to subsection (3) or (4) (b) has and may exercise the functions of the Court.	10 11 12
(8)	The decision of the Commissioner under subsection (3) or (4) (b) is taken to be the decision of the Court.	13 14
(9)	If a report is made to the Court under subsection (4) (a), it must, as soon as practicable, furnish a copy of the report to each of the parties.	15 16 17
(10)	If an agreement is reached between the parties and proceedings are being dealt with under subsection (3), any document signed by the parties is admissible as to the fact that such an agreement has been reached and as to the substance of the agreement.	18 19 20 21
(11)	Subject to subsections (10) and (12):	22
(a)	evidence of anything said or of any admission made in a conciliation conference is not admissible in any proceedings before any court, tribunal or body, and	23 24 25
(b)	a document prepared for the purposes of, or in the course of, or as a result of, a conciliation conference, or any copy of such a document, is not admissible in evidence in any proceedings before any court, tribunal or body.	26 27 28 29
(12)	Subsection (11) does not apply with respect to any evidence or document if the parties consent to the admission of the evidence or document.	30 31 32
(13)	The Commissioner presiding over a conference under this section in relation to any proceedings is disqualified from further participation in those proceedings, unless the parties otherwise agree.	33 34 35 36

(14)	Unless otherwise directed by the Chief Judge, the Registrar may preside over a conference under this section and, in that event, a reference in this section to a Commissioner includes a reference to the Registrar.	1 2 3 4
[16]	Section 34B Arrangements for dealing with on-site hearing matters	5
	Omit “a conference” from section 34B (1).	6
	Insert instead “an on-site conference”.	7
[17]	Section 34B (2) and (3)	8
	Omit “conference” wherever occurring. Insert instead “on-site conference”.	9
[18]	Section 34B (4)	10
	Omit the subsection. Insert instead:	11
(4)	The Commissioner, when giving his or her decision, is to give reasons for the decision:	12 13
(a)	in writing, or	14
(b)	orally and recorded by means that can be reproduced.	15
[19]	Section 34B (5)	16
	Omit “(5), (6) and (7)”. Insert instead “(5) and (6)”.	17
[20]	Section 35 Inquiries by Commissioners	18
	Omit “registrar” from section 35 (3). Insert instead “Court”.	19
[21]	Section 35 (5)	20
	Omit “section 67 (paragraphs (d) and (e) excepted)”.	21
	Insert instead “section 68 of the <i>Civil Procedure Act 2005</i> ”.	22
[22]	Section 36 (5) and (6)	23
	Omit section 36 (5)–(7). Insert instead:	24
(5)	Proceedings that are before a Commissioner under section 34, or under this section, may be referred or removed for hearing and determination by a Judge in the same way as proceedings before an associate Judge may be referred or removed for hearing and determination by a Judge in the Supreme Court.	25 26 27 28 29
(6)	The power of a Commissioner to refer proceedings pursuant to subsection (5) is subject to any contrary order of the Chief Judge.	30 31

[23] Section 61 Manner in which appeals to the Court to be made	1
Omit section 61 (1).	2
[24] Part 5A Mediation and neutral evaluation	3
Omit the Part.	4
[25] Section 65 Issue of process	5
Omit “prescribed by the rules”.	6
Insert instead “approved under section 77A”.	7
[26] Section 67 Powers of the Court as to the production of evidence	8
Insert at the end of the section:	9
(2) This section does not apply to proceedings in Class 1, 2, 3 or 4 of the Court’s jurisdiction.	10 11
[27] Section 68 Amendments and irregularities	12
Insert after section 68 (3):	13
(4) This section does not apply to proceedings in Class 1, 2, 3 or 4 of the Court’s jurisdiction.	14 15
[28] Sections 69–69B	16
Omit the sections.	17
[29] Section 71 Proceedings in Supreme Court	18
Insert after section 71 (1):	19
(2) The jurisdiction conferred on the Court in respect of proceedings referred to in section 20 (1) (e) is not limited by any provision of the <i>Civil Procedure Act 2005</i> or the uniform rules under that Act.	20 21 22
[30] Section 72 Transfer of proceedings from Supreme Court	23
Insert at the end of the section:	24
(2) This section does not apply to proceedings in Class 1, 2, 3 or 4 of the Court’s jurisdiction.	25 26

[31] Section 73	1
Omit the section. Insert instead:	2
73 Proceedings after transfer (cf Civil Procedure Act 2005, section 148)	3
(1) Subject to the rules, any proceedings with respect to which an order under section 72 is made are to continue in the Court as if they had been duly commenced in the Court on the date on which they were commenced in the Supreme Court.	4 5 6 7
(2) For the purposes of any proceedings continued in the Court, any admission duly made in the Supreme Court is to be treated as if it had been duly made in the Court.	8 9 10
(3) Subject to the rules, the power of the Court to make orders as to costs includes a power to make orders with respect to the costs of:	11 12
(a) the application for, and the making of, the order under section 72, and	13 14
(b) any step taken in the proceedings before the order under section 72 was made.	15 16
[32] Section 74 Rules	17
Omit section 74 (1) (a1).	18
[33] Section 74 (6)–(8)	19
Omit section 74 (6) and (7). Insert instead:	20
(6) This section does not give power to make rules with respect to any matter for which rules may be made under section 38 of the <i>Legal Profession Act 2004</i> or any matter relating to costs that is regulated by Part 3.2 of that Act.	21 22 23 24
(7) The rules made under this section may authorise or require the use of an electronic case management system established under section 14B of the <i>Electronic Transactions Act 2000</i> in relation to any proceedings in a court in respect of which the use of such a system is authorised by an order in force under section 14C of that Act.	25 26 27 28 29 30
(8) The rules made under this section may provide for the exercise by the Registrar or any other officer of the Court of any of the Court's administrative or judicial functions under this or any other Act and for the review by the Court of the exercise by the Registrar or any other such officer of any such function.	31 32 33 34 35

[34] Sections 75–77A	1
Insert after section 74:	2
75 Court may dispense with rules in particular cases (cf Civil Procedure Act 2005, section 14)	3
The Court may, by order, dispense with any requirements of the rules if satisfied that it is appropriate to do so in the circumstances of the case.	4
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76 Practice notes (cf Civil Procedure Act 2005, section 15)	8
(1) Subject to the rules, the Chief Judge may issue practice notes in relation to any matter with respect to which rules may be made.	9
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(2) Part 6 of the <i>Interpretation Act 1987</i> applies to a practice note issued under this section in the same way as it applies to a rule of court.	11
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(3) This section does not apply to proceedings in Class 1, 2, 3 or 4 of the Court’s jurisdiction.	14
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77 Court may give directions in circumstances not covered by rules (cf Civil Procedure Act 2005, section 16)	16
(1) In relation to particular proceedings, the Court may give directions with respect to any aspect of practice or procedure for which the rules or practice notes do not provide.	17
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(2) Anything done in accordance with such a direction (including the commencing of proceedings and the taking of any step in proceedings) is taken to have been validly done.	20
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(3) This section does not apply to proceedings in Class 1, 2, 3 or 4 of the Court’s jurisdiction.	23
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77A Forms (cf Civil Procedure Act 2005, section 17)	25
(1) The Chief Judge:	26
(a) may approve forms for documents to be used in connection with proceedings, and	27
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(b) in the case of documents filed with a court, or issued by a court, by means of an ECM system within the meaning of the <i>Electronic Transactions Act 2000</i> , may approve the format in which such documents are to be filed or issued.	29
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(2) Copies of the approved forms are to be made available for public inspection at each registry of the Court and on the Court’s internet website.	33
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(3)	If a form is approved in relation to a document to be used in connection with proceedings, a document that is filed with or issued by the Court is to be in that form.	1 2 3
(4)	If a form is approved under section 17 of the <i>Civil Procedure Act 2005</i> in relation to the same matter as that for which a form is approved under subsection (1), the form to be used is the form approved under subsection (1).	4 5 6 7
[35]	Schedule 1 The Commissioners	8
	Omit “ <i>Public Service Act 1979</i> ” from clause 3.	9
	Insert instead “ <i>Public Sector Employment and Management Act 2002</i> ”.	10
[36]	Schedule 3 Savings, transitional and other provisions	11
	Insert before clause 1:	12
	Part 1 General	13
	1A Regulations	14
(1)	The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts: <i>Courts Legislation Amendment Act 2007</i> , but only in relation to the amendments made to this Act	15 16 17 18 19
(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.	20 21
(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:	22 23 24
(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	25 26 27
(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.	28 29 30
	Part 2 Provisions consequent on enactment of other Acts	31 32

[37] Schedule 3, clause 8	1
Insert after clause 7:	2
8 Provisions consequent on enactment of Courts Legislation Amendment Act 2007	3
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(1) Section 32, as in force immediately before being repealed by Schedule 6 [13] to the <i>Courts Legislation Amendment Act 2007</i> , continues to apply to proceedings commenced in a Division of the Court before, but not yet finalised by, the date of the commencement of Schedule 6 [13] as if it had not been repealed.	5
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(2) The amendments to this Act that are made by the <i>Courts Legislation Amendment Act 2007</i> do not affect the validity of any form in force before the commencement of Schedule 6 [34] to that Act.	10
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Schedule 7	Amendment of Local Courts Act 1982	1
	No 164	2
	(Section 3)	3
[1] Section 10CA		4
	Insert after section 10C:	5
10CA	Exercise of functions by registrars, assistant registrars and other officers of the District Court	6
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	(1) A registrar of the District Court may, subject to the rules, exercise the functions of the registrar of a Local Court and, when exercising those functions, is taken to be the registrar of the Local Court.	8
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	(2) An assistant registrar of the District Court may, subject to the rules, exercise the functions of a deputy registrar of a Local Court and, when exercising those functions, is taken to be a deputy registrar of the Local Court.	12
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	(3) An officer of the District Court may, subject to the rules, exercise the functions of an officer of a Local Court and, when exercising those functions, is taken to be an officer of the Local Court.	16
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[2] Part 7, heading		19
	Omit the heading. Insert instead:	20
	Part 7 Civil proceedings in Local Courts	21
[3] Part 7, Division 1, heading		22
	Omit the heading. Insert instead:	23
	Division 1 Jurisdiction	24
[4] Section 65 Jurisdiction generally		25
	Insert after section 65 (1) (b):	26
	, and	27
	(c) proceedings that, pursuant to any other Act, are required to be dealt with by the Court sitting in that Division.	28
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Courts Legislation Amendment Bill 2007

Schedule 7 Amendment of Local Courts Act 1982 No 164

[5] Schedule 1 Savings and transitional provisions

Insert at the end of clause 8 (1):

Courts Legislation Amendment Act 2007 (but only to the extent
to which it amends this Act)

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Schedule 8	Amendment of Supreme Court Act 1970	1
	No 52	2
	(Section 3)	3
[1] Section 35 Acting Chief Justice		4
	Omit “may be absent from duty” from section 35 (1).	5
	Insert instead “is absent from duty or there is a vacancy in the office of the Chief Justice”.	6 7
[2] Section 35 (1A) and (1B)		8
	Insert after section 35 (1):	9
	(1A) While the Chief Justice is absent from Australia and an Acting Chief Justice has not been appointed under subsection (1), the President of the Court of Appeal is taken to be the Acting Chief Justice.	10 11 12 13
	(1B) The reference to the President of the Court of Appeal in subsection (1A) does not extend to any Judge of Appeal who is for the time being acting as President under section 34.	14 15 16
[3] Section 120A Exercise of powers of registrar and deputy registrar by other officers		17 18
	Insert before section 120A (1):	19
	(1A) The registrar of the Court of Criminal Appeal may, subject to the rules, exercise the powers of a registrar of the Supreme Court and, when exercising those powers, is taken to be a registrar of the Supreme Court.	20 21 22 23
	(1B) An officer of the Court of Criminal Appeal may, subject to the rules, exercise the powers of an officer of the Supreme Court and, when exercising those powers, is taken to be an officer of the Supreme Court.	24 25 26 27
[4] Section 123 Rule Committee		28
	Insert after section 123 (9):	29
	(10) A person who, as a purported member, attended a meeting of the Rule Committee held on or after 1 July 2005 and before 1 July 2007 is taken to have been a duly appointed member of the Rule Committee during that time and accordingly any rule that was purportedly made by the Rule Committee during that time is taken to have been duly made.	30 31 32 33 34 35

Schedule 9	Consequential amendments	1
	(Section 4)	2
9.1	Community Land Management Act 1989 No 202	3
	Section 109 Jurisdiction generally	4
	Omit the section.	5
9.2	Legal Profession Regulation 2005	6
	Clause 44 Scope of practice—section 188 of the Act	7
	Omit clause 44 (3) (b). Insert instead:	8
	(b) mediation undertaken in accordance with Part 4 of the <i>Civil Procedure Act 2005.</i>	9 10