

[Act 2000 No 31]



New South Wales

Courts Legislation Amendment Bill 2000

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 *Bail Act 1978* to provide that the persons or bodies who are prescribed by the regulations as the **appropriate State authority** for the purposes of being involved in the enforcement of bail agreements and forfeiture proceedings under that Act are not required to be persons or bodies who represent the Crown,
 - (b) to amend the *Coroners Act 1980*:
 - (i) to provide that a witness at an inquest or inquiry may be required to give incriminating evidence so long as the coroner gives a certificate to the effect that the evidence cannot be used later against the witness in court proceedings, and
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Explanatory note

- (ii) to update the special provisions dealing with inquests into deaths (or suspected deaths) in mines so as to enable mines investigators to participate in coronial hearings in the same manner that mines inspectors have previously participated,
- (c) to amend the *Criminal Appeal Act 1912*:
 - (i) to provide that appeals to the Court of Criminal Appeal against the decision of the Supreme Court, Land and Environment Court, Court of Coal Mines Regulation, District Court or Drug Court in their respective summary jurisdictions are not required to be by way of rehearing on the evidence given in the summary proceedings, and
 - (ii) to enable appeals to be made to the Court of Criminal Appeal against interlocutory judgments or orders given or made by the Land and Environment Court in relation to criminal proceedings (ie Class 5 of its jurisdiction),
- (d) to amend the *Family Provision Act 1982* to enable the court to make an order allowing an application for provision out of the estate of a deceased person to be made after the prescribed limitation period on the basis that the parties to the proceedings have consented to the application being made after that period,
- (e) to amend the *Fines Act 1996* to enable law enforcement officers to fully recover professional costs and witnesses' expenses in proceedings for offences that are brought by such officers,
- (f) to amend the *Industrial Relations Act 1996* to enable minor matters that have been instituted before the Industrial Relations Commission in Court Session to be transferred to Industrial Magistrates,
- (g) to amend the *Judges' Pensions Act 1953* to provide for a lump sum superannuation benefit for judges and acting judges who are not eligible for a pension under that Act,
- (h) to amend the *Jury Act 1977* to provide for majority answers to be given by juries in civil proceedings in circumstances similar to which majority verdicts can be given,
- (i) to amend the *Justices Act 1902* to make it clear that a Magistrate may order a defendant to pay court costs and the prosecution's professional costs when convicting or making an order against the defendant,
- (j) to amend the *Land and Environment Court Act 1979* to provide for an appeal in certain circumstances to the Supreme Court on a question of law from a decision of a Commissioner of the Land and Environment Court,

Explanatory note

- (k) to amend the *Legal Profession Act 1987* to clarify the operation of the costs assessment scheme under that Act and the manner in which interest is payable on costs that are assessed in accordance with that scheme,
- (l) to amend the *Local Courts (Civil Claims) Act 1970* to make it clear that costs in relation to civil actions in the Local Court's Small Claims Division may be determined in accordance with the rules under that Act,
- (m) to amend the *Supreme Court Act 1970*:
 - (i) to provide that 2 Judges of the Court of Appeal may determine an appeal from a court or tribunal against an order for costs, and
 - (ii) to allow the Court of Appeal to remove the requirement that criminal contempt proceedings be held in camera, and
 - (iii) to allow the Court of Appeal, in dismissing an appeal against a judgment, order or injunction, to make a minor variation of the judgment, order or injunction the subject of the appeal,
- (n) to amend the *Workplace Injury Management and Workers Compensation Act 1998* to provide that judges (as well as commissioners) of the Compensation Court may revoke a direction of a conciliation officer in relation to weekly payments of compensation,
- (o) to amend the *Workers Compensation Act 1987* to enable the Compensation Court to authorise payments of compensation to beneficiaries rather than to the Public Trustee for the benefit of beneficiaries,
- (p) to make other miscellaneous amendments to the above Acts (including 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 a day or days to be appointed by proclamation, except as provided by the proposed section.

Clause 3 is a formal provision giving effect to the amendments to Acts set out in Schedules 1–15.

Clause 4 makes it clear that the explanatory notes contained in the Schedules do not form part of the proposed Act.

Schedules 1–15 makes the amendments to the Acts outlined above.

An explanation of each of the amendments is set out in the proposed Act after the amendment concerned.