

[Act 2001 No 121]



New South Wales

Justices Legislation Repeal and Amendment Bill 2001

Explanatory note

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

This Bill is cognate with the *Criminal Procedure Amendment (Justices and Local Courts) Bill 2001*.

Overview of Bill

The object of this Bill is to repeal certain Acts and to consequentially amend others as a result of the enactment of the proposed *Criminal Procedure Amendment (Justices and Local Courts) Act 2001* and the proposed *Crimes (Local Courts Appeal and Review) Act 2001*.

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.

Clause 3 is a formal provision giving effect to the repeals of the Acts set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the Acts set out in Schedule 2.

Schedule 1 Repeals

This Schedule lists the Acts to be repealed, including the *Justices Act 1902*, the *Supreme Court (Summary Jurisdiction) Act 1967* and other Acts amending those Acts.

Schedule 2 Amendment of Acts

Amendments to Local Courts Act 1982

Schedule 2.140 amends the *Local Courts Act 1982* for the following purposes:

- (a) to provide that a Local Court is to be constituted by a Magistrate sitting alone (see Schedule 2.140 [4]),
- (b) to make Local Courts courts of record (see Schedule 2.140 [5]),
- (c) to provide for the appointment and functions of registrars of Local Courts (instead of Clerks of Local Courts), including the issue of Ministerial guidelines relating to specified functions (see Schedule 2.140 [6]),
- (d) to omit the provision conferring the powers of a justice of the peace on Magistrates with the effect that they will lose powers relating to keeping the peace (see Schedule 2.140 [7]),
- (e) to confer on Local Courts the same powers as the District Court to deal with contempt of court (see Schedule 2.140 [11]),
- (f) to provide for a general rule-making power for matters required or permitted to be dealt with by rules under any Act (see Schedule 2.140 [12]),

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- (g) to provide for the way in which matters (not relating to criminal offences) formerly dealt with by making a complaint under the *Justices Act 1902* are to be dealt with (see Schedule 2.140 [13]), including:
 - (i) setting out the matters to which the procedure is to apply, and
 - (ii) requiring matters to be commenced using an application notice, and
 - (iii) procedures for the conduct of hearings, and
 - (iv) appeals from the decisions of Local Courts in respect of such matters,
- (h) to make amendments consequential on the repeal of the *Justices Act 1902* and the amendments made by the proposed *Criminal Procedure Amendment (Justices and Local Courts) Act 2001* and the enactment of the proposed *Crimes (Local Courts Appeal and Review) Act 2001* and the proposed Act,
- (i) to make provision of a savings and transitional nature.

Other amendments

The proposed Act also amends various other Acts for the following purposes:

- (a) to change references to provisions of the *Justices Act 1902* and the *Supreme Court (Summary Jurisdiction) Act 1967* as a result of the repeal of those Acts and the enactment of amendments to the *Criminal Procedure Act 1986* by the proposed *Criminal Procedure Amendment (Justices and Local Courts) Act 2001* and the enactment of the *Crimes (Local Courts Appeal and Review) Act 2001*,
- (b) to change references to Clerks of Local Courts to registrars of Local Courts,
- (c) to omit references to Local Courts being constituted by a Magistrate sitting alone or by Justices,
- (d) to change references to Justices of the Peace where those references relate to Justices having powers of a judicial nature or of a nature related to an administrative or other function other than one in connection with the witnessing of documents,
- (e) to change outdated references to stipendiary Magistrates and Courts of Petty Sessions and other outdated references,
- (f) to amend the *Crimes Act 1900* to include a provision formerly contained in the *Justices Act 1902* relating to aiders and abettors being punishable as principals,

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- (g) to amend the *Judicial Officers Act 1986* to provide for the protection and immunity of Supreme Court Judges and Judges of the same status when performing ministerial duties, the protection and immunity of judicial officers when performing duties as a judicial officer (including ministerial duties) and for the protection and immunity of certain officers of the Court when performing the duties of a judicial officer (including ministerial duties),
- (h) to amend various Acts as a consequence of:
 - (i) the application of Parts of the proposed Chapter 4 of the *Criminal Procedure Act 1986* (as inserted by the proposed *Criminal Procedure Amendment (Justices and Local Courts) Act 2001*) in respect of summary criminal proceedings before certain courts, and
 - (ii) the application of Parts of the proposed *Crimes (Local Courts Appeal and Review) Act 2001* in respect of appeal and review proceedings before certain courts.