

# Courts Legislation Amendment Act 2004 No 68

[2004-68]



New South Wales

## Status Information

### Currency of version

Historical version for 6 July 2004 to 30 June 2005 (accessed 28 April 2024 at 16:17)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

Some, but not all, of the provisions displayed in this version of the legislation have commenced.

### Notes—

- **See also**  
[Statute Law \(Miscellaneous Provisions\) Bill 2005](#)

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 8 June 2005

# Courts Legislation Amendment Act 2004 No 68



New South Wales

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# Courts Legislation Amendment Act 2004 No 68



New South Wales

An Act to amend certain Acts with respect to courts and court procedures and proceedings; to amend the *Protected Estates Act 1983* with respect to the powers of the Protective Commissioner; to amend the *Commercial Arbitration Act 1984* by way of statute law revision; and for other purposes.

## 1 Name of Act

This Act is the *Courts Legislation Amendment Act 2004*.

## 2 Commencement

- (1) This Act commences on the date of assent, except as provided by this section.
- (2) Schedule 5, and section 3 in its application to that Schedule, commences on a day or days to be appointed by proclamation.

## 3 Amendment of Acts

The Acts specified in Schedules 1–9 are amended as set out in those Schedules.

## Schedule 1 Amendment of *Children (Criminal Proceedings) Act 1987* No 55

(Section 3)

### Section 33 Penalties

Omit section 33 (1A) (b). Insert instead:

- (b) must contain a condition to the effect that, during the term of the bond, the person under bond will be of good behaviour, and

## Schedule 2 Amendment of **Commercial Arbitration Act 1984 No 160**

(Section 3)

### [1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

**assess**, in relation to costs, means assess under Division 6 of Part 11 of the *Legal Profession Act 1987*.

### [2] Section 34 Costs

Omit section 34 (1) (b). Insert instead:

(b) settle the amount (or any part of the amount) of costs to be so paid, or arrange for the assessment of those costs (or any part of them), and

### [3] Section 34 (1) (c)

Omit “taxed”. Insert instead “assessed”.

### [4] Section 34 (2)

Omit “shall, except so far as taxed or settled by the arbitrator or umpire, be taxable in the Court”.

Insert instead “are to be assessed (except to the extent that they have been settled by the arbitrator or umpire)”.

### [5] Section 35 Assessment of arbitrator’s or umpire’s fees and expenses

Omit “taxed in the Court” wherever occurring in section 35 (1) (b), (2) and (4).

Insert instead “assessed”.

### [6] Section 35 (3)

Omit “appear and be heard on any taxation under this section”.

Insert instead “make written submissions to the costs assessor in respect of any assessment required by this section”.

### [7] Section 35 (4)

Omit “reasonable on taxation”.

Insert instead “fair and reasonable on assessment”.

**[8] Section 35A**

Insert after section 35:

**35A Application of Division 6 of Part 11 of [Legal Profession Act 1987](#)**

For the purposes of sections 34 and 35, Division 6 of Part 11 of the [Legal Profession Act 1987](#) applies with any necessary modifications.

**Schedule 3 Amendment of [Crimes \(Local Courts Appeal and Review\) Act 2001 No 120](#)**

(Section 3)

**[1] Section 11A**

Insert after section 11:

**11A Appeals as of right against Local Court's refusal of application for annulment of conviction or sentence**

- (1) Any defendant whose application under section 4 for annulment of a conviction or sentence has been refused by the Local Court may appeal to the District Court against the refusal.
- (2) An appeal under this section must be made within 28 days after the Local Court notifies the defendant of its refusal of the application.
- (3) Not more than one appeal may be made under this section in respect of any particular conviction or sentence.

**[2] Section 13 Late applications for leave to appeal**

Insert after section 13 (1) (a):

- (a1) by any defendant by whom an appeal could be made under section 11A, but for section 11A (2), and

**[3] Section 13 (2)**

Insert “, or the relevant application under section 4 is refused, as the case may require” after “made or imposed”.

**[4] Section 14 Lodgment of appeals and applications for leave to appeal**

Insert “or 11A” after “section 11” in section 14 (1).

**[5] Section 14 (4)**

Insert “, 11A” after “section 11”.

**[6] Section 16A**

Insert after section 16:

**16A Determination of appeals against Local Court’s refusal of application for annulment of conviction or sentence**

- (1) The District Court may determine an application under section 11A by dismissing the application or by granting it.
- (2) Pending the determination of the application, the District Court may stay the execution of the sentence concerned subject to such terms and conditions as it thinks fit.
- (3) If the District Court grants the application, the District Court must remit the matter to the Local Court.
- (4) The Local Court is to deal under section 9 with any matter remitted to it under this section as if the application under section 4 in respect of the matter had been granted by the Local Court.

**[7] Schedule 1 Savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Courts Legislation Amendment Act 2004*, but only in relation to the amendments made to this Act

**[8] Schedule 1**

Insert at the end of the Schedule, with appropriate Part and clause numbers:

**Part Provision consequent on enactment of *Courts Legislation Amendment Act 2004***

**Appeal against refusal of application under section 4**

Sections 11A and 16A, as inserted by the *Courts Legislation Amendment Act 2004*, and sections 13 and 14 as amended by that Act, extend to apply to and in respect of an application under section 4 that was refused by the Local Court before the commencement of Schedule 3 to that Act, unless, on that commencement, an appeal against the relevant conviction or sentence is pending in the District Court or

has been dealt with by that Court.

## **Schedule 4 Amendment of Crimes (Sentencing Procedure) Act 1999 No 92**

(Section 3)

### **[1] Section 32 Prosecutor may file list of additional charges**

Omit section 32 (4) (a).

### **[2] Sections 62 and 73**

Omit “in or to the effect of the form prescribed by the regulations and” from section 62 (2) and 73 (2) wherever occurring.

### **[3] Sections 66 and 78**

Omit”, in the form prescribed by the regulations,” from sections 66 (1) (f) and 78 (1) (c) and (d) wherever occurring.

### **[4] Section 86 Suitability of offender for community service work**

Omit section 86 (1) (e).

### **[5] Section 86 (5)**

Insert after section 86 (4):

- (5) If a court makes a community service order in respect of an offender, the offender must, as soon as practicable (having regard to sections 92 and 93) after the order is made, sign an undertaking to comply with the offender’s obligations under the order. If the offender refuses to sign such an undertaking, the offender may be brought before the court and the court may revoke the community service order and impose such other sentence as it considers appropriate.

### **[6] Section 103 Regulations**

Insert at the end of section 103:

- (2) In particular, the regulations may make provision for or with respect to the following:
  - (a) the information or other matter to be contained in any notice, order, warrant, undertaking or other document that by or under this Act is required or permitted to be prepared,
  - (b) requiring any such document to be in a form approved by the Minister,



(c) the manner of service of any such document.

**[7] Schedule 2 Savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Courts Legislation Amendment Act 2004* (but only to the extent that it amends this Act)

**[8] Schedule 2**

Insert at the end of the Schedule, with appropriate Part and clause numbers:

**Part Provision consequent on enactment of *Courts Legislation Amendment Act 2004***

**Prescribed forms**

A form to the effect of a form prescribed for the purpose of section 32, 62, 66, 73 or 78 by a regulation in force immediately before the commencement of Schedule 4 to the *Courts Legislation Amendment Act 2004* may be used for the purpose of the relevant section until such time as regulations are made under section 103 (2).

**Schedule 5 Amendment of *Criminal Appeal Act 1912 No 16***

(Section 3)

**[1] Section 9 Revesting and restitution of property**

Omit “giving the court” from section 9 (1) (a).

Insert instead “lodging”.

**[2] Section 9 (1) (b) and (4) (b)**

Omit “given” wherever occurring. Insert instead “lodged”.

**[3] Section 9 (1) (b)**

Omit “giving”. Insert instead “lodgment”.

**[4] Section 10**

Omit the section. Insert instead:

**10 Method and time for making appeal**

(1) The provisions of this section apply to an appeal, or application for leave to appeal, under this Act against a person’s conviction or sentence.

- (2) The appellant is required to lodge the relevant notice of intention with:
  - (a) the registrar of the court, or
  - (b) the person in charge of the place where the appellant is in custody, or
  - (c) the registrar of the court of trial (but not if the court of trial was the Drug Court or the Land and Environment Court).
- (3) The relevant notice of intention:
  - (a) must comply with the rules of court, and
  - (b) must be lodged within 28 days after the relevant conviction or the imposition of the relevant sentence (as the case may require).
- (4) The court may, at any time, extend the time within which the relevant notice of intention is required to be lodged or, if the rules of court so permit, dispense with the requirement for the notice.
- (5) The appeal, or application for leave to appeal, is to be lodged with the registrar of the court or the registrar of the court of trial (unless that court was the Drug Court or the Land and Environment Court) in accordance with the rules of court, which may include:
  - (a) provision with respect to any statement of grounds of appeal, transcripts, exhibits or other documents or things to accompany the appeal or application, and
  - (b) provision with respect to the timely institution and prosecution of the appeal or application, and
  - (c) provision with respect to the period during which the relevant notice of intention has effect.
- (6) For the purposes of any other Act or statutory instrument (whether enacted or made before or after the commencement of this subsection):
  - (a) the period provided for making or lodging an appeal or notice of appeal to the court against a conviction or sentence is taken to be the period for lodging the relevant notice of intention with the registrar of the court, the person in charge of the place where the appellant is in custody or the registrar of the court of trial, and
  - (b) an appeal against a conviction or sentence is taken to be pending in the court if the relevant notice of intention has been duly lodged with the registrar of the court, the person in charge of the place where the appellant is in custody or the registrar of the court of trial, unless the appeal or

application has not been made within any time it is required to be made by the rules of court.

(7) In this clause:

**relevant notice of intention** means:

- (a) a notice of intention to appeal, or
- (b) a notice of intention to apply for leave to appeal.

**rules of court** means rules of court made for the purposes of this Act.

#### **[5] Section 19 Duties of registrar with respect to notices of appeal**

Omit section 19 (3). Insert instead:

- (3) The registrar must furnish the necessary forms and instructions in relation to notices of intention to appeal, or to apply for leave to appeal, under this Act to the following:
  - (a) any person who demands them,
  - (b) officers of courts,
  - (c) persons in charge of places where convicted persons are in custody,
  - (d) such other officers or persons as the registrar thinks fit.
- (4) A person in charge of a place where convicted persons are in custody must ensure that:
  - (a) the forms and instructions referred to in subsection (3) are placed at the disposal of all such convicted persons at that place, and
  - (b) any such notice that is given to the person is forwarded to the registrar of the court.

#### **[6] Schedule 1 Savings and transitional provisions**

Insert after clause 8:

### **9 Courts Legislation Amendment Act 2004**

- (1) This Act, as amended by Schedule 5 to the [Courts Legislation Amendment Act 2004](#), applies in respect of any appeal made after the commencement of that Schedule.
- (2) Subclause (1) extends to apply in respect of an appeal in respect of which a

relevant notice of intention (within the meaning of section 10) has been given before the commencement of the Schedule referred to in that subclause, but does not so apply as to require a further relevant notice of intention to be lodged.

## **Schedule 6 Amendment of [Criminal Procedure Act 1986 No 209](#)**

(Section 3)

### **[1] Section 52 Service of court attendance notices**

Insert “of a Magistrate or a registrar” after “except with leave” in section 52 (4).

### **[2] Section 52 (5)**

Insert after section 52 (4):

- (5) Leave may be granted under subsection (4) after the expiry of the 7-day period referred to in that subsection.

### **[3] Section 177 Service of court attendance notices**

Insert “of a Magistrate or a registrar” after “except with the leave” in section 177 (4).

### **[4] Section 177 (5)**

Insert after section 177 (4):

- (5) Leave may be granted under subsection (4) after the expiry of the 7-day period referred to in that subsection.

### **[5] Section 218 Public officers and police officers not personally liable for costs**

Insert “or a police officer” after “public officer” wherever occurring in section 218 (1).

### **[6] Section 222 Issue of subpoenas**

Omit “If the prosecutor in proceedings is a public officer, the public officer may” from section 222 (2).

Insert instead “If the prosecutor in proceedings is a public officer or a police officer, the officer may”.

### **[7] Section 224 Conduct money**

Insert “or a police officer” after “public officer”.

## Schedule 7 Amendment of [District Court Act 1973 No 9](#)

(Section 3)

### [1] Section 4 Definitions: general

Insert in alphabetical order in section 4 (1):

**Principal Registrar** means the registrar for Sydney.

### [2] Part 2, Division 5, Subdivision 1

Insert before section 18G:

## Subdivision 1 Judicial Registrar

### 18FA Appointment and qualifications of Judicial Registrar

- (1) The Minister may appoint any qualified person to be the Judicial Registrar of the Court.
- (2) A person is qualified for appointment as the Judicial Registrar if the person is, or is eligible to be, admitted as a legal practitioner of any court of a State or Territory or of the High Court.
- (3) The Judicial Registrar is to devote the whole of his or her time to the office of Judicial Registrar.
- (4) The [Public Sector Employment and Management Act 2002](#) does not apply to or in respect of the Judicial Registrar and, in particular, Chapter 5 of that Act does not apply to the person appointed to the office of Judicial Registrar.
- (5) The Judicial Registrar is an officer of the Court.
- (6) Schedule 1A has effect with respect to the Judicial Registrar.

### 18FB Powers of Judicial Registrar

- (1) The Judicial Registrar may, subject to the direction of the Chief Judge, exercise such powers of the Court as are, by or under this or any other Act, conferred on the Judicial Registrar. The Judicial Registrar constitutes the Court for the purpose of the exercise of those powers.
- (2) A judgment given, or an order (other than an interlocutory order) made, by the Judicial Registrar may be set aside or varied by the Court.
- (3) Subject to subsection (2), a judgment given or an order made or a direction

given by the Judicial Registrar has effect as a judgment or order or direction of the Court, whether or not the judgment, order or direction is within the powers of the Judicial Registrar.

### **18FC Acting Judicial Registrar**

- (1) If there is a vacancy in the office of Judicial Registrar, or the Judicial Registrar is absent from duty, the Minister may appoint a person who is qualified for appointment as the Judicial Registrar to act in the position of Judicial Registrar for the period of the vacancy or absence from duty.
- (2) A person appointed under subsection (1) has, for the period of the appointment, all the entitlements, powers, authorities, functions and duties of the Judicial Registrar and, for that period, is taken to be the Judicial Registrar.

## **Subdivision 2 Other registrars**

### **[3] Section 18G Registrars**

Omit “The registrar for Sydney, and for any other proclaimed place” from section 18G (2).

Insert instead “The Principal Registrar, and the registrar for any proclaimed place”.

### **[4] Section 18G (3)**

Insert “(other than Sydney)” after “any proclaimed place”.

### **[5] Section 18H Functions of registrars**

Omit “The registrar for Sydney” from section 18H (3).

Insert instead “The Principal Registrar”.

### **[6] Section 18J Functions of assistant registrars**

Omit section 18J (1A). Insert instead:

- (1A) An assistant Principal Registrar may exercise any or all of the functions of the Principal Registrar in respect of any place in the State.

### **[7] Part 3, Division 8A**

Insert after section 142F:

## Division 8A Residual jurisdiction of Court

### Subdivision 1 General

#### 142G Definition

In this Division:

**residual jurisdiction** means the jurisdiction conferred on the District Court by operation of the [Compensation Court Repeal Act 2002](#).

**Note—**

The jurisdiction conferred on the District Court by operation of the [Compensation Court Repeal Act 2002](#) is the following jurisdiction:

- (a) jurisdiction to examine, hear and determine all coal miner matters (within the meaning of the [Workplace Injury Management and Workers Compensation Act 1998](#)) except matters arising under Part 5 of the [Workers Compensation Act 1987](#),
- (b) jurisdiction to make determinations under section 216A of the [Police Act 1990](#), section 21 of the [Police Regulation \(Superannuation\) Act 1906](#), section 29 of the [Sporting Injuries Insurance Act 1978](#) and sections 16 and 30 of the [Workers Compensation \(Bush Fire, Emergency and Rescue Services\) Act 1987](#),
- (c) jurisdiction to determine appeals under section 8I of the [Workers' Compensation \(Dust Diseases\) Act 1942](#).

#### 142H Non-application of other Divisions

Subject to this Act and the rules, nothing in Division 2, 3, 7 or 8 (except for Subdivisions 6 and 7 of Division 3), and nothing in Division 9 or 9A, applies to or in respect of any proceedings under this Division.

### Subdivision 2 Exercise of residual jurisdiction

#### 142I Powers of Court when exercising residual jurisdiction

For the purposes of exercising its residual jurisdiction, the District Court has the same powers, authorities, duties and functions as the Compensation Court had under the [Compensation Court Act 1984](#) immediately before 1 January 2004. The powers conferred by this section are not limited by any other provisions of this Division.

#### 142J Decisions of Court when exercising residual jurisdiction

- (1) The following apply in the exercise of the Court's residual jurisdiction:
  - (a) a decision of the Court in any matter is to be on the real merits and justice of the case,
  - (b) the Court is not bound to follow strict legal precedent,

(c) subject to Subdivision 3:

- (i) a decision or proceeding of the Court is not vitiated by reason of any informality or want of form, and
- (ii) a decision or proceeding of the Court is not liable to be appealed against, reviewed, quashed or called in question by any court, and
- (iii) no proceedings, whether for an order in the nature of prohibition, certiorari or mandamus or for a declaration or injunction or for any other relief, lie in respect of any decision or proceeding of the Court relating to, or on the face of the proceedings appearing to relate to, any matter within its residual jurisdiction, and
- (iv) the validity of any decision or proceeding of the Court cannot be challenged in any manner.

(2) Nothing in subsection (1) prevents the Court from reconsidering any matter that has been dealt with by it in its residual jurisdiction (or had been dealt with by the Compensation Court), or from rescinding, altering or amending any decision previously made or given by the Court in the exercise of that jurisdiction (or by the Compensation Court), all of which the Court has authority to do.

(3) In this section, **decision** includes award, order, determination, ruling and direction.

#### **142K Costs under other Acts**

Section 112 of the [Workplace Injury Management and Workers Compensation Act 1998](#) extends to any proceedings in the residual jurisdiction of the Court (not just proceedings under that Act), and in its application to proceedings under any other Act, is not limited by section 111A (Costs provisions apply only to existing claim matters) of that Act.

#### **142L Special provision for evidence of exposure to noise**

Historical evidence and general medical or other expert evidence concerning exposure of workers to noise in employment with particular employers or in employment of a particular class, that has been admitted in any proceedings before the Compensation Court or before the Court in its exercise of its residual jurisdiction, may, with the leave of the Court, be received as evidence in any other proceedings before the Court in its exercise of that jurisdiction, whether or not the proceedings are between the same parties.



## **Subdivision 3 Appeals**

### **142M Definition**

- (1) In this Subdivision, **award** includes interim award, order, decision, determination, ruling and direction.
- (2) A reference in this Subdivision to the making of an award includes, where the award is a ruling or direction, a reference to the giving of the ruling or direction.

### **142N Appeal to Court of Appeal on question of law**

- (1) If a party to any proceedings before the Court in its residual jurisdiction is aggrieved by an award of the Court in point of law or on a question as to the admission or rejection of evidence, that party may appeal to the Court of Appeal.
- (2) The Court of Appeal may, on the hearing of any appeal under this section, remit the matter to the District Court in its residual jurisdiction for determination by that Court in accordance with any decision of the Court of Appeal and may make such other order in relation to the appeal as the Court of Appeal sees fit.
- (3) A decision of the Court of Appeal on an appeal under this section is binding on the District Court and on all the parties to the proceedings in respect of which the appeal was made.
- (4) The following appeals under this section may be made only by leave of the Court of Appeal:
  - (a) an appeal from an interlocutory decision,
  - (b) an appeal from a decision as to costs only,
  - (c) an appeal from a final decision or award, other than an appeal that involves (directly or indirectly) a claim for, or a question relating to, an amount of \$20,000 or more,
  - (d) an appeal from a decision or award made with the consent of the parties.

## **Subdivision 4 Stay of proceedings**

### **142O Stay of proceedings**

- (1) The Court may, subject to any order of the Supreme Court, order a stay of proceedings (on such terms as the Court thinks fit) in respect of any award the subject of an appeal under this Division.
- (2) In the absence of a stay of proceedings ordered by the Supreme Court or by the District Court, a notice of appeal does not operate as a stay of proceedings.

- (3) If a stay of proceedings is ordered by the Supreme Court or the District Court in respect of an appeal against an award of weekly payments of compensation, the stay of proceedings does not operate to affect the liability to make those payments under the award to the extent that the payments are in respect of a period after the award is made.
- (4) If the decision of the Supreme Court or District Court on any such appeal is to terminate liability to make the weekly payments of compensation, that Court may:
  - (a) order that the Uninsured Liability and Indemnity Scheme established under the [Workers Compensation Act 1987](#) bear the whole or a specified part of the liability to make those payments, and
  - (b) give such directions as are necessary to give effect to the order.

## **Subdivision 5 Miscellaneous**

### **142P Liaison with WorkCover Authority**

- (1) The Chief Judge may refer to the WorkCover Authority for inquiry or report any matter relating to the functions of the Court in its residual jurisdiction.
- (2) A Judge may refer to the WorkCover Authority:
  - (a) a report on suspected fraud or contravention of the [Workers Compensation Act 1987](#) or the [Workplace Injury Management and Workers Compensation Act 1998](#) or the regulations under either of those Acts by any party to proceedings in the residual jurisdiction of the Court, and
  - (b) a report on any neglect in the provision of rehabilitation for an injured worker, and
  - (c) any other matter the Judge considers appropriate to refer to the Authority.

### **[8] Section 161 Civil procedure rules**

Omit “registrars” from section 161 (2) (a) where firstly occurring.

Insert instead “the Judicial Registrar, other registrars”.

### **[9] Section 171 Criminal procedure rules**

Omit “the registrars” from section 171 (2) (a).

Insert instead “the Judicial Registrar, other registrars”.

**[10] Schedule 1A**

Insert after Schedule 1:

## **Schedule 1A Provisions relating to Judicial Registrar**

(Section 18FA (6))

### **1 Term of office**

Subject to this Schedule, a Judicial Registrar holds office for such period (not exceeding 5 years) as is specified in the Judicial Registrar's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

### **2 Remuneration**

A Judicial Registrar is entitled to be paid the following:

- (a) such remuneration as is from time to time determined under the [Statutory and Other Offices Remuneration Act 1975](#) in respect of a Senior Commissioner under the [Land and Environment Court Act 1979](#),
- (b) such travelling and subsistence allowances as the Minister administering the [Land and Environment Court Act 1979](#) from time to time determines in respect of such a Commissioner.

### **3 Leave**

- (1) A Judicial Registrar is entitled to such leave:
  - (a) as may be specified in respect of the Judicial Registrar in the Judicial Registrar's instrument of appointment, or
  - (b) if no leave is specified in the instrument of appointment—as is determined by the Minister.
- (2) For the purposes of subclause (1), leave may be specified or determined by reference to the leave entitlement of the holder of any other office or class of office.

### **4 Vacancy in office**

- (1) The office of Judicial Registrar becomes vacant if the Judicial Registrar:
  - (a) dies, or
  - (b) completes a term of office and is not re-appointed, or
  - (c) resigns the office by instrument in writing addressed to the Minister, or

- (d) is removed from office by the Minister under this clause, or
- (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
- (f) becomes a mentally incapacitated person, or
- (g) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

- (2) The Minister may remove a Judicial Registrar from office at any time for incapacity, incompetence or misbehaviour.

**[11] Schedule 3 Savings and transitional provisions consequent on amendments to this Act**

Insert at the end of clause 1 (1):

*Courts Legislation Amendment Act 2004*, but only in relation to the amendments made to this Act

**Schedule 8 Amendment of *Jury Act 1977 No 18***

(Section 3)

**[1] Sections 13 and 26**

Omit “in the form prescribed by the regulations” from sections 13 (1) and 26 (1) wherever occurring.

**[2] Section 26 Persons selected to be summoned**

Omit “at the court or coronial inquest at the time specified”.

Insert instead “at the court or coronial inquest, at the place and at the time specified”.

**[3] Section 76 Regulations**

Insert after section 76 (1):

(1A) In particular, the regulations may make provision for or with respect to the following:

- (a) the information or other matter to be contained in any notice, summons or other document that by or under this Act is required or permitted to be

prepared,

(b) the manner of service of any such document.

## **Schedule 9 Amendment of Protected Estates Act 1983 No 179**

(Section 3)

### **[1] Section 30 Protective Commissioner may authorise and direct functions of managers**

Omit section 30 (1) (a) and (b). Insert instead:

- (a) authorise the person appointed as manager to have:
  - (i) all, or any specified, functions necessary and incidental to the management and care of the estate, and
  - (ii) such other functions as the Protective Commissioner may direct or authorise the manager to have or exercise, and
- (b) make such orders, and give such authorities and directions, of the kind referred to in section 32 or 33 as appear to the Protective Commissioner to be necessary or expedient or that the Protective Commissioner thinks fit (as if a reference in those sections to the Court were a reference to the Protective Commissioner), and
- (c) give the person appointed as manager such directions in respect of the orders, authorities and directions authorised by this subsection as the Protective Commissioner thinks fit.

### **[2] Section 30 (3) (a)-(c)**

Omit section 30 (3) (a) and (b). Insert instead:

- (a) authorise the person appointed as manager to have:
  - (i) all, or any specified, functions necessary and incidental to the management and care of the estate, and
  - (ii) such other functions as the Protective Commissioner may direct or authorise the manager to have or exercise, and
- (b) make such orders, and give such authorities and directions, of the kind referred to in section 32 or 33 as appear to the Protective Commissioner to be necessary or expedient or that the Protective Commissioner thinks fit (as if a reference in those sections to the Court were a reference to the Protective Commissioner), and
- (c) give the person appointed as manager such directions in respect of the orders, authorities and directions authorised by this subsection as the Protective

Commissioner thinks fit.

**[3] Section 30 (5)**

Insert after section 30 (4):

- (5) Without limiting the generality of subsection (1) or (3), the Protective Commissioner may authorise the person appointed as manager of the estate of a protected person to have functions of the same kind as those specified in section 24 (2) in respect of an estate committed to management by the Protective Commissioner without the limitation referred to in section 24 (3).

**[4] Schedule 1 Savings and transitional provisions**

Insert at the end of clause 1 (1):

*Courts Legislation Amendment Act 2004*, to the extent that it amends this Act