

# District Court Act 1973 No 9

[1973-9]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**
  - [Succession Amendment \(Intestacy\) Act 2009 No 29](#) (not commenced)
  - [Statute Law \(Miscellaneous Provisions\) Act \(No 2\) 2009 No 106](#) (not commenced — to commence on 8.1.2010)

### Authorisation

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# District Court Act 1973 No 9



New South Wales

## Contents

<b>Long title</b> .....	10
<b>Part 1 Preliminary</b> .....	10
1 Name of Act .....	10
2 Commencement .....	10
3 (Repealed) .....	10
4 Definitions: general .....	10
5 Definition: nearest proclaimed place .....	14
6 Order on terms .....	14
7 Application of certain provisions of this Act .....	14
<b>Part 2 The District Court of New South Wales</b> .....	14
<b>Division 1 Establishment of the Court</b> .....	14
8 The Court .....	14
9 Jurisdiction of the Court generally .....	15
10 State-wide jurisdiction .....	15
11 Single Judge to constitute the Court .....	15
<b>Division 2 Judges</b> .....	15
12 Composition of the Court .....	15
13 Appointment and qualifications of Judges .....	15
14 (Repealed) .....	16
15 Remuneration .....	16
15A The Chief Judge .....	17

16 Vacancy in office of or absence of Chief Judge .....	17
17 Acting Chief Judge .....	17
18 Acting Judges.....	17
<b>Division 3 Rule Committee</b> .....	<b>18</b>
18A Establishment of the Rule Committee .....	19
18B Composition of the Rule Committee.....	19
18BA Deputies for barrister and solicitor members.....	20
18C Chairperson and deputy chairperson of Rule Committee .....	20
18D Meetings of the Rule Committee.....	20
18E Secretary to the Rule Committee .....	21
<b>Division 4 Proclaimed places</b> .....	<b>21</b>
18F Proclaimed places.....	21
<b>Division 5 Registrars</b> .....	<b>21</b>
<b>Subdivision 1 Judicial Registrar</b> .....	<b>21</b>
18FA Appointment and qualifications of Judicial Registrar.....	22
18FB Powers of Judicial Registrar.....	22
18FC Acting Judicial Registrar.....	22
<b>Subdivision 2 Other registrars</b> .....	<b>22</b>
18G Registrars.....	22
18H Functions of registrars.....	23
18I Assistant registrars.....	23
18J Functions of assistant registrars .....	23
18K Temporary appointment of registrars and assistant registrars .....	24
18L Exercise of functions by registrars, deputy registrars and other officers of the Local Courts .....	24
<b>Part 3 The civil jurisdiction of the Court</b> .....	<b>25</b>
<b>Division 1 Officers and general provisions</b> .....	<b>25</b>
<b>Subdivision 1 (Repealed)</b> .....	<b>25</b>
<b>Subdivision 2 Sheriff</b> .....	<b>25</b>

25 Sheriff and Sheriff's officers .....	25
26-30 (Repealed) .....	25
<b>Subdivision 3 Sittings of the Court</b> .....	25
31 (Repealed) .....	25
32 Directions as to sittings of Court in its civil jurisdiction .....	25
33 General provisions as to sittings.....	26
34 Permanent substitution of proclaimed place .....	26
35-38 (Repealed) .....	27
39 Proper place not affected .....	27
<b>Subdivisions 4-6 (Repealed)</b> .....	27
<b>Division 2 Actions: jurisdiction</b> .....	27
<b>Subdivision 1 General jurisdiction in relation to actions</b> .....	27
44 Actions.....	27
45 (Repealed) .....	28
46 Ancillary equitable relief: injunctions.....	28
47 Cause of action or defendant outside the State .....	29
48 Miscellaneous limitations on jurisdiction .....	30
<b>Subdivision 2 (Repealed)</b> .....	30
<b>Subdivision 3 Jurisdiction by consent</b> .....	30
51 Consent jurisdiction .....	30
<b>Division 3 Actions: procedure</b> .....	31
<b>Subdivisions 1-7 (Repealed)</b> .....	31
<b>Subdivision 8 Trial and jury</b> .....	31
71-75 (Repealed) .....	31
76 Amount recoverable .....	31
76A Action to be tried without jury unless jury required in interests of justice.....	32
76B (Repealed).....	33
77 Questions of fact and law .....	33

78–79A (Repealed) .....	33
80 Special verdict .....	33
<b>Subdivision 9 Judgments and orders</b> .....	<b>33</b>
80A (Repealed) .....	33
81 Judgment final .....	33
82–83AA (Repealed) .....	33
<b>Subdivision 10 (Repealed)</b> .....	<b>33</b>
<b>Divisions 4–6 (Repealed)</b> .....	<b>34</b>
<b>Division 7 Actions: new trial and appeal</b> .....	<b>34</b>
125 Definition .....	34
126 Order of the Court for new trial .....	34
127 Right of appeal to Supreme Court .....	34
127A Appeal after jury trial .....	35
128 Stay of proceedings on appeal to Supreme Court .....	35
129 Agreement not to appeal .....	36
130, 131 (Repealed) .....	36
<b>Division 8 Miscellaneous jurisdiction</b> .....	<b>36</b>
<b>Subdivision 1 General</b> .....	<b>36</b>
132 Non-application of Divs 2–7 .....	36
<b>Subdivision 2 Possession of land, equity and other proceedings</b> .....	<b>36</b>
133 Jurisdiction in proceedings for possession of land .....	36
134 Jurisdiction in equity proceedings .....	36
134A Frustrated contracts .....	37
134B Jurisdiction in proceedings for review of contracts .....	37
135 Jurisdiction in proceedings under the Fair Trading Act 1987 .....	38
136 (Repealed) .....	38
137 Powers of the Court under this Subdivision .....	38
138 Rules .....	38
139 Appeal .....	39

<b>Subdivision 3 Temporary injunctions</b> .....	39
140 Temporary injunctions .....	39
141 Powers of Court under this Subdivision .....	40
142 Rules.....	40
<b>Subdivision 4 Special civil jurisdiction</b> .....	40
142A Definitions .....	41
142B Special civil jurisdiction of Court .....	41
142C References to Courts of Quarter Sessions in relation to the exercise by the District Court of its special jurisdiction .....	41
142D Judges exercising special civil jurisdiction.....	41
142E Powers of registrar in relation to exercise by the Court of its special civil jurisdiction.....	42
142F Rules in relation to hearing etc of proceedings in the Court in its special civil jurisdiction.....	42
<b>Division 8A Residual jurisdiction of Court</b> .....	42
<b>Subdivision 1 General</b> .....	42
142G Definition .....	42
142H Non-application of other Divisions .....	43
<b>Subdivision 2 Exercise of residual jurisdiction</b> .....	43
142I Powers of Court when exercising residual jurisdiction .....	43
142J Decisions of Court when exercising residual jurisdiction .....	43
142K Costs under other Acts .....	44
142L Special provision for evidence of exposure to noise .....	44
<b>Subdivision 3 Appeals</b> .....	44
142M Definition .....	44
142N Appeal to Court of Appeal on question of law .....	44
<b>Subdivision 4 Stay of proceedings</b> .....	45
142O Stay of proceedings .....	45
<b>Subdivision 5 Miscellaneous</b> .....	45
142P Liaison with WorkCover Authority.....	45

<b>Divisions 9, 9A (Repealed)</b> .....	46
<b>Division 10 Miscellaneous provisions</b> .....	46
149 Costs where no jurisdiction.....	46
150 Regulations: Court fees .....	46
151 Fees form part of Consolidated Fund .....	46
152 Unclaimed money.....	46
153 Proceedings for offences .....	47
154 Offences by corporations.....	47
155 Civil remedy not affected by proceedings for an offence .....	47
156 General power of Court to stay proceedings .....	47
157-160 (Repealed) .....	47
<b>Division 11 Rules</b> .....	47
161 Civil procedure rules.....	47
<b>Part 3A (Repealed)</b> .....	52
<b>Part 4 The criminal jurisdiction of the Court</b> .....	52
165 Definition.....	52
166 Criminal jurisdiction of the Court.....	52
167 Abolition of Courts of Quarter Sessions .....	53
168 References to Courts of Quarter Sessions .....	53
169 Judges.....	53
170 (Repealed) .....	53
171 Criminal procedure rules .....	53
171A-171C (Repealed) .....	55
171D Practice and procedure of Supreme Court to be followed unless other provision made .....	55
172 (Repealed) .....	55
173 Directions as to sittings of Court in its criminal jurisdiction.....	56
174 General provisions as to sittings.....	56
175 Hearing of appeals .....	56
176 No proceedings in the nature of certiorari.....	57
<b>Part 5 (Repealed)</b> .....	57

<b>Part 6 Repeals, amendments, savings and transitional provisions</b> .....	57
<b>Division 1 General</b> .....	57
180 Repeals.....	57
181 (Repealed).....	57
182 Non-revivor.....	57
183 References to “appointed place”.....	57
183A Provision consequent on enactment of Courts Legislation Further Amendment Act 1995 .....	57
183B Provisions consequent on enactment of Courts Legislation Amendment Act 1997 .....	57
183C Provisions consequent on enactment of Courts Legislation Further Amendment Act 1997.....	58
183D Provision consequent on enactment of other amendments.....	58
<b>Division 2 The civil jurisdiction of the Court</b> .....	58
184 Definitions .....	58
185 Savings as to places, sittings, Judges and officers etc.....	58
186 Pending proceedings etc .....	59
187 References to District Court in existing instruments .....	60
188 References to District Court judges in existing instruments .....	61
189 References to registrars and bailiffs in existing instruments.....	62
190 References to writs etc in existing instruments.....	62
191 Provisions as to practice and procedure in existing instruments.....	62
<b>Division 3 The criminal and special jurisdiction of the Court</b> .....	62
192 Definitions .....	62
193 (Repealed).....	63
194 Pending proceedings etc .....	63
<b>Part 7 General provisions</b> .....	63
195 Order to Judge or officer .....	63
196 Privilege.....	63
197 Proclamations.....	63
198 (Repealed).....	64
199 Contempt.....	64
200 Fines under sec 199.....	65
201 Appeals respecting contempt proceedings.....	65



202 Stay of contempt proceedings.....	65
203 Power to refer allegation etc of contempt to Supreme Court .....	66
<b>Schedule 1 Repeals</b> .....	66
<b>Schedule 1A Provisions relating to Judicial Registrar</b> .....	66
<b>Schedule 2 (Repealed)</b> .....	68
<b>Schedule 3 Savings and transitional provisions consequent on amendments to this Act</b> .....	68

# District Court Act 1973 No 9



New South Wales

An Act to establish a District Court of New South Wales, to provide for the appointment of, and the powers, authorities, duties and functions of, Judges and other officers of the Court, to empower the Court to hear and dispose of certain civil and criminal proceedings; to abolish the several District Courts and Courts of Quarter Sessions; to repeal the [District Courts Act 1912](#) and certain other Acts; to amend the [Crimes Act 1900](#) and certain other Acts; and for purposes connected therewith.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the [District Court Act 1973](#).

### 2 Commencement

This Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

### 3 (Repealed)

### 4 Definitions: general

(1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

**action** means action in the Court, but does not include any proceedings under Division 8 of Part 3 or under Part 4.

**admitted set-off**, in relation to an action, means set-off admitted by the plaintiff in the document lodged by the plaintiff to commence the action or, where a defendant pleads a cross-claim, by the defendant in the prescribed notice of the cross-claim.

**Chief Judge** means Chief Judge of the Court.

**civil procedure rules** means rules of Court made and in force under Part 3.

**civil proceedings** means proceedings in the Court in its civil jurisdiction.

**corporation** includes any body of persons that may by law sue or be sued, whether in its own name or in the name of any officer or other person.

**criminal procedure rules** means rules of Court made and in force under Part 4.

**criminal proceedings** means proceedings in the Court in its criminal jurisdiction.

**file**, in relation to any proceedings, means lodge with the registrar for the proper place in relation to the proceedings, for inclusion in the record of the Court.

**Judge** means Judge of the Court.

**judgment**, in relation to an action, means judgment given or entered up in the action.

**jurisdictional limit** of the Court means \$750,000.

**land** includes messuages, tenements and hereditaments, corporeal and incorporeal, of any tenure or description, and whatever may be the estate or interest therein, whether vested or contingent, whether freehold or leasehold, and whether at law or in equity.

**motor accident claim** means a claim for damages arising from the death of, or injury to, a person where the death or injury has been caused by an act or omission of the owner or driver of a motor vehicle in the use or operation of the vehicle.

**officer**, in relation to a corporation, includes a director and any person having (whether alone or with others) powers of management, direction or control of the corporation.

**prescribed** means prescribed by this Act or the rules.

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

**proceedings:**

- (a) where occurring in a provision of Part 3 and in subsections (3) and (5), means civil proceedings,
- (b) where occurring in a provision of Part 4, means criminal proceedings, and
- (c) where occurring in any other provision of this Act, shall be construed according to the context in which the expression occurs.

**proclaimed place** means a place for the time being specified in a proclamation under section 18F.

**proper place**, in relation to any proceedings in the Court in its civil jurisdiction:

- (a) where there has been no change of venue in respect of the proceedings—means

the proclaimed place at which the proceedings were commenced,

- (b) where there has been only one change of venue in respect of the proceedings—means the proclaimed place to which the venue was changed, or
- (c) where there have been two or more changes of venue in respect of the proceedings—means the proclaimed place to which the venue was last changed.

**registry**, in relation to a proclaimed place, means the office of the registrar for the proclaimed place.

**Rule Committee** means the District Court Rule Committee established under section 18A.

**sitting place** means:

- (a) any proclaimed place, and
- (b) in relation to the Court's civil jurisdiction—any place (other than a proclaimed place) that is the subject of a direction in force under section 32 (1), and
- (c) in relation to the Court's criminal jurisdiction—any place (other than a proclaimed place) that is the subject of a direction in force under section 173 (1).

**the Court** or **the District Court** means the District Court of New South Wales, and includes all registries and offices of the Court, whether they are within the precincts of the Court or not.

**the registrar**, in relation to any proceedings, means the registrar for the proper place in relation to the proceedings, and, where any other registrar is authorised by or under this Act to exercise or discharge any power, authority, duty or function of the registrar for that place, includes that other registrar when exercising or discharging that power, authority, duty or function.

**the rules** means:

- (a) where occurring in Part 3 and Division 2 of Part 6, the civil procedure rules, and
- (b) where occurring in Part 4, the criminal procedure rules.

**work injury damages claim** means a claim for an award of damages to which Division 3 (Modified common law damages) of Part 5 of the [Workers Compensation Act 1987](#) applies.

(2) A reference in this Act:

- (a) to the giving of a judgment is a reference to the recording and delivering of a judgment, not being a judgment under any provision of the civil procedure rules prescribed for the purposes of this paragraph, and

- (b) to the entering up of a judgment is a reference to the entering up of a judgment in accordance with any provision of the civil procedure rules so prescribed.
- (3) A reference in this Act to the commencement of proceedings at a proclaimed place (however expressed) is a reference to the commencement of those proceedings by the lodging of the document commencing the proceedings with the registrar for that place.
- (4) A reference in this Act to the issue of a document at a proclaimed place (however expressed) is a reference to the issue of that document by the registrar for that place.
- (5) A reference in this Act to a stay of proceedings (however expressed) includes a reference to a stay of enforcement of the judgment arising from the proceedings.
- (6) A reference in this Act to a stay of enforcement of a judgment includes a reference to a stay of the issue of an order or writ under Part 8 of the *Civil Procedure Act 2005*.
- (7) Where a provision of this Act refers to the amount claimed in an action or cross-claim or to the amount for which an action is authorised by this Act to be brought and the action or cross-claim is for the detention of goods, the reference to that amount shall be construed as a reference to an amount equivalent to the value of the goods together with any damages claimed for the detention of the goods.
- (8) A reference in this Act to a Court of Quarter Sessions includes a reference to a court which, before 1 July 1973, was a Court of Sessions of the Peace, General Sessions of the Peace, General Sessions, General Quarter Sessions, General or Quarter Sessions, or General and Quarter Sessions.
- (9) A reference in this Act to criminal jurisdiction includes a reference to jurisdiction to hear an appeal from any conviction, finding of guilt, sentence or other decision relating to the commission or alleged commission of an offence against the law in force in New South Wales.
- (10) In this Act:
- (a) a reference to a function includes a reference to a power, authority and duty, and
  - (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.
- (11) A reference in this or any other Act, or in any instrument, to the registrar of the District Court for a proclaimed place is, if there are 2 registrars for that place, a reference to either registrar.
- (12) Notes included in this Act do not form part of this Act.

## **5 Definition: nearest proclaimed place**

- (1) A reference in this Act to the nearest proclaimed place to another place (however expressed) is a reference to the proclaimed place the distance between the principal registry for which and that other place is shorter than the distance between any other principal registry and that other place.
- (2) In subsection (1):  
**distance** means distance computed in accordance with the civil procedure rules.  
**principal registry**, in relation to a proclaimed place, means:
  - (a) where there is only one registry for the proclaimed place—that registry, or
  - (b) where there are two or more registries for the proclaimed place—the registry specified in, or determined in accordance with, the civil procedure rules as being the principal registry for the proclaimed place.
- (3) The Governor may, at the Governor's discretion, by proclamation, specify an address or a place at which the principal registry for a proclaimed place shall be deemed to be situated, and that principal registry shall, for the purposes of subsection (1), be deemed to be situated at the address or place so specified, notwithstanding that it may be situated elsewhere.

## **6 Order on terms**

Where under this Act or the civil or criminal procedure rules the Court may make any order or give any direction or leave or do any other thing on terms, the Court may make the order or give the direction or leave or do the thing on such terms and conditions (if any) as the Court thinks fit.

## **7 Application of certain provisions of this Act**

The provisions of Part 3 and Division 2 of Part 6 and the civil procedure rules:

- (a) apply to and in respect of proceedings in the Court in its civil jurisdiction, and
- (b) except as provided by Part 4, do not apply to or in respect of proceedings in the Court in its criminal jurisdiction.

# **Part 2 The District Court of New South Wales**

## **Division 1 Establishment of the Court**

### **8 The Court**

- (1) There shall be a District Court of New South Wales.
- (2) The Court shall be a court of record.

- (3) There shall be a seal of the Court, and any document required by or under this or any other Act or law to be sealed or stamped with the seal of the Court shall be so sealed or stamped.

## **9 Jurisdiction of the Court generally**

- (1) The Court shall have a civil jurisdiction, consisting of:
  - (a) its jurisdiction conferred by Part 3, and
  - (b) the jurisdiction conferred by or under any other Act or law on the Court, not being its jurisdiction referred to in subsection (2).
- (2) The Court shall have a criminal jurisdiction, consisting of:
  - (a) its jurisdiction conferred by Part 4, and
  - (b) the jurisdiction conferred by or under any other Act or law on the Court in its criminal jurisdiction.

## **10 State-wide jurisdiction**

The Court, wherever sitting, shall, subject to this Act, have jurisdiction throughout the whole of New South Wales.

## **11 Single Judge to constitute the Court**

- (1) All civil and criminal proceedings in the Court, and all business arising out of any such proceedings, shall, subject to this Act and the *Jury Act 1977*, be heard and disposed of before a Judge, who shall constitute the Court.
- (2) Subsection (1) does not affect the provisions of this Act and the civil or criminal procedure rules concerning the hearing and disposal of civil and criminal proceedings and business before a registrar or other officer of the Court.

## **Division 2 Judges**

### **12 Composition of the Court**

The Court shall be composed of a Chief Judge and such other Judges as the Governor may from time to time appoint.

### **13 Appointment and qualifications of Judges**

- (1) The Governor may, by commission under the public seal of the State, appoint any qualified person as a Judge.
- (2) In this section:

***qualified person*** means any of the following persons:

- (a) a person who is an Australian lawyer of at least 7 years' standing,
  - (b) a person who holds or has held a judicial office of this State or of the Commonwealth, another State or a Territory.
  - (c), (d) (Repealed)
- (3) (Repealed)
- (4) The Governor may, by the commission of a person's appointment as a Judge or by a subsequent commission under the public seal of the State, appoint a Judge to be Chief Judge.
- (5) Subject to subsection (6), the Chief Judge shall hold office as Chief Judge so long as he or she holds office as a Judge.
- (6) With the approval of the Governor, the Chief Judge may resign his or her office as Chief Judge without resigning his or her office as a Judge.
- (7) A Judge shall, while he or she holds office as such, be deemed to have been appointed a justice of the peace.
- (8) A person who vacates office as a Judge may, despite vacating his or her office, complete or otherwise continue to deal with any matters relating to proceedings that have been heard, or partly heard, by the person before vacating his or her office (including proceedings that were instituted before the commencement of this subsection).
- (9) While a person completes or otherwise continues under subsection (8) to deal with any matters relating to proceedings that have been heard or partly heard by the person before vacating office, the person has all the entitlements and functions of a Judge and, for the purpose of those proceedings, is taken to continue to be a Judge.

**14 (Repealed)**

**15 Remuneration**

- (1) The Judges (other than the Chief Judge) are entitled to be paid remuneration in accordance with the *Statutory and Other Offices Remuneration Act 1975*.
- (2) The remuneration referred to in subsection (1) and payable to a Judge shall be paid to the Judge so long as he or she continues to hold office.
- (3) However, a Judge is not entitled to the remuneration referred to in subsection (1) for any period for which the Judge is on leave without pay (being leave that is agreed to by the Judge).



### **15A The Chief Judge**

- (1) The Chief Judge is entitled to a like style and title as that to which a Judge of the Supreme Court (other than the Chief Justice and the President of the Court of Appeal) is entitled.
- (2) The Chief Judge is entitled to the same remuneration as that to which a Judge of the Supreme Court (other than the Chief Justice and the President of the Court of Appeal) is entitled.

### **16 Vacancy in office of or absence of Chief Judge**

- (1) Where there is a vacancy in the office of Chief Judge, or the Chief Judge is absent from duty, the senior of the other Judges willing to act as Chief Judge shall, if there is no Acting Chief Judge appointed under section 17, act as Chief Judge, and shall, while so acting, have the powers and authorities and fulfil the duties of the Chief Judge.
- (2) For the purposes only of subsection (1):
  - (a) the Judges shall have seniority between themselves according to the dates of their commissions as Judges under this Act or the *District Courts Act 1912*, a Judge whose commission is dated earlier than that of another Judge being senior to that other Judge, and
  - (b) if the commissions of two or more Judges bear the same date, those Judges shall have seniority between themselves according to the seniority assigned to them by their commission or, failing any such assignment, according to the order of their being sworn.

### **17 Acting Chief Judge**

- (1) The Governor may, by commission under the public seal of the State, appoint a Judge to be Acting Chief Judge during such period as the Chief Judge may be absent from duty.
- (2) While holding office, the Acting Chief Judge shall have the powers and authorities and fulfil the duties of the Chief Judge, and is entitled to be paid remuneration at the rate provided for the Chief Judge.

### **18 Acting Judges**

- (1) The Governor may, by commission under the public seal of the State, appoint any qualified person to act as a Judge for a time not exceeding 12 months to be specified in the commission.
- (2) In subsection (1), **qualified person** means a person qualified for appointment as a Judge.

- (3) The person so appointed, for the time and subject to the conditions or limitations specified in the person's commission, shall have the powers and authorities and fulfil the duties of the Judge and shall, for the purposes of this or any other Act (other than the *Statutory and Other Offices Remuneration Act 1975*), be deemed to be a Judge.
- (3A) The person so appointed may, despite the expiration of the period of the person's appointment, complete or otherwise continue to deal with any matters relating to proceedings that have been heard, or partly heard, by the person before the expiration of that period.
- (3AA) While a person completes or otherwise continues under subsection (3A) to deal with any matters relating to proceedings that have been heard or partly heard by the person before the expiration of the person's appointment, the person has all the entitlements and functions of a Judge (subject to the conditions and limitations specified in the person's commission) and, for the purposes of those proceedings, is taken to continue to be a Judge.
- (3B) The person so appointed is entitled to be paid remuneration in accordance with the *Statutory and Other Offices Remuneration Act 1975*. The remuneration payable to such a person is to be paid to the person so long as he or she continues to hold office.
- (4) A retired Judge of the Court or of another court in New South Wales (including a retired judicial member of the Industrial Commission or the Industrial Relations Commission) may be so appointed even though the retired Judge has reached the age of 72 years (or will have reached that age before the appointment expires), but may not be so appointed for any period that extends beyond the day on which he or she reaches the age of 75 years.
- (4A) A person who is or has been a judge of the Federal Court of Australia or of the Supreme Court, District Court or County Court of another State or Territory may be so appointed even though that person has reached the age of 72 years (or will have reached that age before the appointment expires), but may not be so appointed for any period that extends beyond the day on which he or she reaches the age of 75 years.
- (5) The conditions or limitations specified in a commission under this section may exclude the whole or any part of the period of appointment from being regarded as prior judicial service (within the meaning of section 8 of the *Judges' Pensions Act 1953*) by the person.
- (6) A person appointed under this section may be appointed under the title of Acting Judge or Associate Judge.

### **Division 3 Rule Committee**

**18A Establishment of the Rule Committee**

There shall be a District Court Rule Committee.

**18B Composition of the Rule Committee**

- (1) The Rule Committee shall be composed of no fewer than 9 and no more than 10 members.
- (2) Of the members of the Rule Committee:
  - (a) one shall be the Chief Judge,
  - (b) six shall be Judges other than the Chief Judge,
  - (c) one shall be a barrister, and
  - (d) one shall be a solicitor.
- (3) If the Minister thinks it appropriate to do so, the Minister may, by instrument in writing, appoint as a member of the Rule Committee a person who, in the Minister's opinion, is suitably qualified to hold that position.
- (4) A member of the Rule Committee referred to in subsection (2) (b), (c) or (d) shall be appointed by the Chief Judge by instrument in writing.
- (5) Subject to this section, a member of the Rule Committee referred to in subsection (2) (b), (c) or (d) shall hold office for such period as may be specified in the member's instrument of appointment and, if otherwise qualified, is eligible for re-appointment or, as the case may be, for further re-appointment.
- (6) A member of the Rule Committee referred to in subsection (3) shall hold office as such only during the pleasure of the Minister.
- (7) A member of the Rule Committee referred to in subsection (2) ceases to hold office as such:
  - (a) when the member ceases to hold the qualification by virtue of which the member was appointed, or
  - (b) in the case of a member referred to in subsection (2) (b), (c) or (d), if the member resigns as such by writing under the member's hand addressed to the Chief Judge.
- (8) In the event of the office of any member of the Rule Committee becoming vacant, a suitably qualified person:
  - (a) in the case of a member referred to in subsection (2) (b), (c) or (d), shall, and
  - (b) in the case of a member referred to in subsection (3), may,

subject to this section, be appointed to fill the vacancy.

(9) In this section and in section 18BA:

**barrister** has the same meaning as in the *Legal Profession Act 2004*.

**solicitor** has the same meaning as in the *Legal Profession Act 2004*.

#### **18BA Deputies for barrister and solicitor members**

(1) The Chief Judge may, from time to time, appoint to the Rule Committee:

(a) a barrister to be the deputy of the member appointed under section 18B (2) (c),  
and

(b) a solicitor to be the deputy of the member appointed under section 18B (2) (d),  
and the Chief Judge may revoke any such appointment.

(2) In the absence of a member appointed under section 18B (2) (c) or (d), the member's deputy:

(a) may, if available, act in the place of the member, and

(b) while so acting, has the functions of the member and is taken to be the member.

#### **18C Chairperson and deputy chairperson of Rule Committee**

(1) The Chief Judge shall be the chairperson of the Rule Committee and one of the other members of that Committee shall, in and by the relevant instrument of appointment as such a member or by another instrument executed by the Chief Judge, be appointed as deputy chairperson of that Committee.

(2) (Repealed)

#### **18D Meetings of the Rule Committee**

(1) The procedure for calling meetings of the Rule Committee and for the conduct of business at those meetings shall, subject to any procedure that is prescribed by or under this Act, be as determined by the Rule Committee.

(2) Five members of the Rule Committee shall form a quorum and any duly convened meeting of the Rule Committee at which a quorum is present is competent to transact any business of the Rule Committee and shall have and may exercise all the powers, authorities, duties and functions of the Rule Committee.

(3) The chairman of the Rule Committee or, in the absence of the chairman, the deputy chairman of that Committee shall preside at a meeting of that Committee.

(4) In the absence from a meeting of the Rule Committee of both the chairman and the

deputy chairman another member of the Rule Committee elected by the members present shall preside at the meeting.

- (5) The person presiding at a meeting of the Rule Committee has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (6) A decision supported by a majority of the votes cast at a meeting of the Rule Committee at which a quorum is present shall be the decision of that Committee.
- (7) The Chief Judge shall call the first meeting of the Rule Committee in such manner as the Chief Judge thinks fit and, subject to any decision of that Committee under subsection (1), may call other meetings of that Committee as and when the Chief Judge thinks necessary.
- (8) The Rule Committee may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Rule Committee for the time being, and a resolution in writing approved in writing by a majority of those members is to be taken to be a decision of the Rule Committee.

#### **18E Secretary to the Rule Committee**

- (1) Subject to and in accordance with the [Public Service Act 1979](#), a person shall be appointed to hold office as the Secretary to the Rule Committee.
- (2) The appointment of a person under subsection (1) is subject to the prior approval of the Chief Judge.
- (3) A person may hold office under subsection (1) in conjunction with some other office or position in the Public Service, including the office of registrar.
- (4) The Secretary to the Rule Committee has and may exercise and discharge such powers, authorities, duties and functions as may be specified in the civil procedure rules or the criminal procedure rules or as the Rule Committee may determine.

### **Division 4 Proclaimed places**

#### **18F Proclaimed places**

- (1) The Governor may, by proclamation, specify places at which the Court may sit, and one of those places shall be Sydney.
- (2) In this section, **place** means city, town or other place.

### **Division 5 Registrars**

#### **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 an Australian lawyer.
- (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) (Repealed)
- (3) 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**

### **18G Registrars**

- (1) There shall be a registrar of the Court for each proclaimed place.
- (2) The Principal Registrar, and the registrar for any proclaimed place specified for the

purposes of this subsection by the Minister by order published in the Gazette, shall be appointed subject to and in accordance with the *Public Service Act 1979*.

- (3) (Repealed)
- (4) The Minister may, by order published in the Gazette, direct that there can be 2 registrars for a particular proclaimed place, each having the functions specified in that order.
- (5) (Repealed)

#### **18H Functions of registrars**

- (1) The registrar for a proclaimed place has and may exercise:
  - (a) in the case of an action to which the *Civil Procedure Act 2005* applies, the functions conferred on the registrar pursuant to section 12 or 13 of that Act, or
  - (b) in any other case, the functions prescribed by the civil procedure rules or the criminal procedure rules.
- (2) The registrar for a proclaimed place may exercise any or all of those functions in respect of that proclaimed place only.
- (3) The Principal Registrar may exercise any or all of those functions in respect of any place in the State.

#### **18I Assistant registrars**

- (1) Subject to and in accordance with the *Public Service Act 1979*, one or more assistant registrars may be appointed for a proclaimed place.
- (2), (3) (Repealed)

#### **18J Functions of assistant registrars**

- (1) An assistant registrar for a proclaimed place has and may exercise:
  - (a) in the case of an action to which the *Civil Procedure Act 2005* applies, the functions conferred on the assistant registrar pursuant to section 12 or 13 of that Act, or
  - (b) in any other case, such of the registrar's functions as may be prescribed by the civil procedure rules or the criminal procedure rules.
- (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.
- (2) Anything done or omitted to be done by an assistant registrar for a proclaimed place in the exercise of the assistant registrar's functions under this Act shall, for the

purposes of this Act, have the same effect as if it had been done or omitted by the registrar for that proclaimed place.

(3) Nothing in this section affects the functions of any registrar.

**18K Temporary appointment of registrars and assistant registrars**

(1) The Minister may, by order in writing, appoint a person to act in the office of registrar or assistant registrar during:

(a) an absence from duty of the registrar or assistant registrar, or

(b) a vacancy of not more than 6 months' duration in the office of the registrar or assistant registrar.

(2) The Minister may delegate to the Director-General of the Attorney General's Department the Minister's power of appointment under this section.

(3) While acting in the office of registrar or assistant registrar, a person so appointed has and may exercise all the functions of that office.

(4) Any act, matter or thing done by a person while purporting to exercise a function conferred by this section is not ineffective or unlawful by reason only that either of the circumstances referred to in subsection (1) (a) or (b) did not exist when the act, matter or thing was done.

(5) Any act, matter or thing done by a person while acting in the office of registrar or assistant registrar is taken to have been done by the registrar or assistant registrar, as the case requires.

(6) This section does not apply to an office that is held by a registrar of the Local Court.

**18L Exercise of functions by registrars, deputy registrars and other officers of the Local Courts**

(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.

(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.

(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.

## **Part 3 The civil jurisdiction of the Court**

### **Division 1 Officers and general provisions**

#### **Subdivision 1**

##### **19-24 (Repealed)**

#### **Subdivision 2 Sheriff**

##### **25 Sheriff and Sheriff's officers**

- (1) The Sheriff shall have and may exercise the functions conferred or imposed on the Sheriff by this Act and the rules.
- (2) Unless the rules provide otherwise, the Sheriff may delegate to any Sheriff's officer any of the Sheriff's functions under this Act, except this power of delegation.
- (3) Subject to the rules, the Sheriff and any Sheriff's officers to whom functions are delegated shall exercise their functions under this Act in accordance with any orders and directions given by a Judge.

##### **26-30 (Repealed)**

#### **Subdivision 3 Sittings of the Court**

##### **31 (Repealed)**

##### **32 Directions as to sittings of Court in its civil jurisdiction**

- (1) The Chief Judge may, by order in writing, direct that the Court is, during a specified calendar year, to sit in its civil jurisdiction at such proclaimed places or other places within the State and at such times as may be specified in the order.
- (1A) The Chief Judge is to consult with the Attorney General before making a direction under subsection (1) that substantially alters the frequency of sittings at a particular place compared with the previous calendar year.
- (2) If a place specified in a direction under subsection (1) is not a proclaimed place, the specified place is, for the purposes of this Act or any other law and while the direction remains in force, taken to form part of the nearest proclaimed place to the specified place.
- (3) Subsection (2) ceases to have effect if and when the specified place becomes a proclaimed place.
- (4) If the Chief Judge considers that it is not expedient or practicable for the Court to sit

at a particular place:

- (a) the Chief Judge may, by order in writing, direct that all civil proceedings (other than proceedings before a registrar or some other officer of the Court) for which the proper place is that place are to be continued by the Court sitting at some other place specified in the order, and
  - (b) while a direction under this subsection remains in force, the proceedings to which it relates are, if continued, to be dealt with accordingly.
- (5) A direction under this section may be given in respect of a particular calendar year before the commencement of that year or, in respect of the remaining portion of that year, after the commencement of that year.
- (6) If a direction having effect during a particular calendar year is given under subsection (1) in relation to a particular place, a previous direction under subsection (4) having effect, during that year, in respect of proceedings the proper place in relation to which is that place, ceases to have effect.

### **33 General provisions as to sittings**

- (1) Subject to this Part and the rules, sittings of the Court shall be arranged by the Chief Judge.
- (2) Subject to this Part and the rules:
  - (a) the Court may sit simultaneously at different sitting places,
  - (b) a Judge shall preside at such sittings of the Court at such sitting places as the Chief Judge may from time to time direct, and
  - (c) two or more Judges may preside simultaneously at separate sittings of the Court at the one sitting place.
- (3) (Repealed)

### **34 Permanent substitution of proclaimed place**

- (1) Where a place ceases to be a proclaimed place by reason of the revocation or amendment of a proclamation made under section 18F, the Governor may, by proclamation, direct that:
  - (a) all proceedings (including proceedings before a registrar or any other officer of the Court) pending before the Court at that place, and
  - (b) any unsatisfied judgment or order of the Court in proceedings the proper place in relation to which was that place,may be continued or enforced by the Court sitting at such other place as may be

specified in the proclamation, and the proceedings shall, if continued, be continued accordingly or the judgment or order enforced accordingly, as the case may require.

- (2) The Governor may, in any such proclamation, direct that the records of the Court at the place that has so ceased to be a proclaimed place shall be removed at or within a time stated in the proclamation to the registry for the other place specified therein.
- (3) A direction under subsection (1) shall, for the purposes of the definition of **proper place** in section 4 (1), have effect as if it were an order for a change of venue under rules of Court in respect of the proceedings to which it relates to the other place specified in the proclamation.

### **35-38 (Repealed)**

### **39 Proper place not affected**

Nothing contained in or done under section 32 or under the rules has, for the purposes of the definition of **proper place** in section 4 (1), effect as a change of venue, unless the Court orders a change of venue under rules of court.

## **Subdivisions 4-6**

### **40-43 (Repealed)**

## **Division 2 Actions: jurisdiction**

### **Subdivision 1 General jurisdiction in relation to actions**

#### **44 Actions**

- (1) Subject to this Act, the Court has jurisdiction to hear and dispose of the following actions:
  - (a) any action of a kind:
    - (i) which, if brought in the Supreme Court, would be assigned to the Common Law Division of that Court, and
    - (ii) in which the amount (if any) claimed does not exceed the Court's jurisdictional limit, whether on a balance of account or after an admitted set-off or otherwise,other than an action referred to in paragraph (d) or (e),
  - (b) (Repealed)
  - (c) any action brought to recover an amount not exceeding \$20,000, which is the whole or part of the unliquidated balance of a partnership account, or the amount or part of the amount of the distributive share under an intestacy or of a legacy

under a will,

- (d) any motor accident claim, irrespective of the amount claimed,
- (d1) any work injury damages claim, irrespective of the amount claimed,
- (e) any proceedings transferred to the Court under section 146 (1) of the *Civil Procedure Act 2005*, irrespective of the amount (if any) claimed in those proceedings.

(2) Where the amount claimed in an action includes interest (being interest which the Court could, under section 100 (1) of the *Civil Procedure Act 2005*, order to be included in the amount for which it could give judgment), that interest shall be disregarded for the purposes of:

- (a) determining whether the maximum amount for which the action is authorised by this Act to be brought has been exceeded or not, and
- (b) determining whether or not the Court has jurisdiction to hear and dispose of the action.

(3) Where:

- (a) an amendment to subsection (1) which is enacted after, or was enacted before the commencement of Schedule 3 to the *District Court (Procedure) Amendment Act 1984* has or had the effect of increasing the amount specified in paragraph (a) or (b) of that subsection, and
- (b) an action in which an amount of money is claimed is pending at the time when the amendment has effect or, as the case may be, an action in which an amount of money is claimed was pending at the time when the amendment had effect and has not been finally determined,

the Court may, on the application of the claimant, make an order altering the amount specified in the claim to an amount not exceeding that specified in paragraph (a) or (b) of that subsection, as in force immediately after the amendment has or had effect.

#### **45 (Repealed)**

#### **46 Ancillary equitable relief: injunctions**

- (1) Without affecting the generality of Division 8, the Court shall, in any action, have power to grant any injunction (whether interlocutory or otherwise) which the Supreme Court might have granted if the action were proceedings in the Supreme Court.
- (2) In relation to the power of the Court to grant an injunction under this section:
  - (a) the Court and the Judges shall, in addition to the powers and authority otherwise conferred on it and them, have all the powers and authority of the Supreme Court

and the Judges thereof in the like circumstances,

- (b) the appropriate officer of the Court shall, in addition to the duties otherwise imposed on the officer, discharge:
    - (i) any duty which an officer of the Supreme Court would be required under the practice of the Supreme Court to discharge in the like circumstances, and
    - (ii) any duty imposed on the officer by the rules or by any order of the Court,
  - (c) the practice and procedure of the Court shall, so far as practicable and subject to this Act and the rules, be the same as the practice and procedure of the Supreme Court applicable in the like circumstances, and
  - (d) without affecting the generality of the foregoing provisions of this section, the powers, authority and duty conferred by paragraphs (a) and (b), and the practice and procedure of the Court referred to in paragraph (c) shall, subject to the rules, extend to the enforcement of any order of the Court made in connection with proceedings for the grant of the injunction.
- (3) Without affecting the generality of any other provision of this Act authorising the making of rules, the rules may make provision for or with respect to:
- (a) the procedure to be followed with respect to the granting and enforcing of an injunction under this section, and
  - (b) any other matter necessary or convenient for giving effect to this section.

#### **47 Cause of action or defendant outside the State**

- (1) If a defendant has been duly served with the document commencing an action:
- (a) the Court has jurisdiction in accordance with this Act to hear and dispose of the action, and
  - (b) a registrar has and may exercise:
    - (i) if the action involves proceedings to which the *Civil Procedure Act 2005* applies, the functions conferred on the registrar pursuant to section 12 or 13 of that Act, or
    - (ii) in any other case, the functions prescribed by the civil procedure rules,
- regardless of whether the cause of action to which the action relates arose wholly or partly outside New South Wales.
- (2) For the purposes of subsection (1), it is immaterial whether the defendant was within or outside New South Wales:
- (a) at the time the cause of action arose, or

(b) at the time of service of the document commencing the action.

- (3) For the purposes of this section, a defendant is duly served with a document commencing an action if the defendant is served with the document by or under this Act or in accordance with the *Service and Execution of Process Act 1992* of the Commonwealth.
- (4) In this section, **defendant** includes, if there are two or more defendants, any one of those defendants.

#### **48 Miscellaneous limitations on jurisdiction**

- (1) An action in which the amount claimed does not exceed \$4,000 and which could have been commenced in the Local Court shall not be commenced in the District Court except with the leave of the District Court, which leave may be given on terms.
- (2) Subject to subsection (3), the Court shall not have jurisdiction in an action in which title to land the value of which is more than the Court's jurisdictional limit is in question.
- (3) If the title to land the value of which is more than the Court's jurisdictional limit incidentally comes in question in an action, the Court shall have power to decide the claim which it is the immediate object of the action to enforce, but the judgment of the Court shall not be evidence of title between the parties or their privies in other proceedings in the Court or in any proceedings in any other court.
- (4) Without affecting Division 8, the Court shall not have jurisdiction in actions for possession of land by virtue of this Part.

### **Subdivision 2**

#### **49, 50 (Repealed)**

### **Subdivision 3 Jurisdiction by consent**

#### **51 Consent jurisdiction**

- (1) This section applies to an action or cross-claim that, but for this section, the Court would not have jurisdiction to hear and dispose of by reason only of the fact that the amount claimed exceeds the jurisdictional limit of the Court as at the time the action was commenced.
- (2) The Court has, and may exercise, jurisdiction to hear and dispose of an action or cross-claim to which this section applies:
- (a) if a party to the action or cross-claim files a memorandum of consent in respect of the action or cross-claim, or

- (b) if no objection to the Court's jurisdiction has been raised by any of the parties prior to 3 months before the trial of the action commences.
- (3) For the purposes of subsection (1):
  - (a) the jurisdictional limit of the Court in relation to an action commenced before 1 July 1993 is taken to be \$100,000, and
  - (b) the jurisdictional limit of the Court in relation to an action commenced on or after 1 July 1993 but before 18 July 1997 is taken to be \$250,000.
- (4) The maximum amount for which judgment may be given in relation to an action or cross-claim that is dealt with pursuant to subsection (2) (b) is an amount equivalent to 50 per cent above the jurisdictional limit of the Court as at the time the action was commenced.
- (5) This section does not apply in relation to an action referred to in section 44 (1) (c).
- (6) Nothing in this section limits the operation of section 140 of the *Civil Procedure Act 2005*.
- (7) In this section, **memorandum of consent** in relation to an action or cross-claim means a document signed by each party to the action or cross-claim, or the party's Australian legal practitioner, in which it is stated that each of those parties consents to the action or cross-claim being tried in the Court and is aware that, unless the document is filed, the Court will not have jurisdiction to dispose of the action or cross-claim.

## **Division 3 Actions: procedure**

### **Subdivisions 1-7**

#### **52-70 (Repealed)**

### **Subdivision 8 Trial and jury**

#### **71-75 (Repealed)**

#### **76 Amount recoverable**

- (1) Where in an action commenced before the commencement of section 3 (k) of the *District Court (Amendment) Act 1975* a verdict (whether of the Judge or a jury) is found for, or the total amount which would have been recoverable if there had been no contributory negligence by the successful party is found at:
  - (a) an amount in excess of \$10,000 but not in excess of \$15,000, the Court shall record the amount of the verdict or total amount, as the case may be, and the successful party shall be entitled to recover:

- (i) the full amount of the verdict, or
  - (ii) the total amount reduced in accordance with Part 3 of the *Law Reform (Miscellaneous Provisions) Act 1965*,
- as the case may be, or
- (b) an amount in excess of \$15,000, the Court shall record the amount of the verdict or total amount, as the case may be, and the successful party shall be entitled to recover:
    - (i) the amount of \$15,000, or
    - (ii) the amount of \$15,000 reduced in accordance with Part 3 of the *Law Reform (Miscellaneous Provisions) Act 1965*,
- as the case may be.
- (2) Where in an action commenced after the commencement of section 3 (k) of the *District Court (Amendment) Act 1975* a verdict (whether of the Judge or a jury) is found for, or the total amount which would have been recoverable if there had been no contributory negligence by the successful party is found at, an amount in excess of the amount for which the action was authorised by this Act to be brought, the Court shall record the amount of the verdict or total amount, as the case may be, and the successful party shall be entitled to recover:
- (a) the maximum amount for which the action was authorised by this Act to be brought, or
  - (b) that amount reduced in accordance with Part 3 of the *Law Reform (Miscellaneous Provisions) Act 1965*,
- as the case may be.

**76A Action to be tried without jury unless jury required in interests of justice**

- (1) An action is to be tried without a jury, unless the Court orders otherwise.
- (2) The Court may make an order under subsection (1) that an action is to be tried with a jury if:
  - (a) any party to the action:
    - (i) files, within the prescribed time, a requisition for trial with a jury, and
    - (ii) pays the fee prescribed by the regulations made under section 18 of the *Civil Procedure Act 2005*, and
  - (b) the Court is satisfied that the interests of justice require that the action be tried by



a jury.

(3) A fee paid under this section is to be treated as costs in the action, unless the Court orders otherwise.

(4) This section does not apply to any action for defamation.

**Note—**

Section 21 of the *Defamation Act 2005* makes provision for jury trials in defamation actions.

**76B (Repealed)**

**77 Questions of fact and law**

(1) In an action the Judge shall determine all questions of law.

(2) In an action the Judge shall, subject to subsection (5), determine all questions of fact unless a jury has been summoned.

(3), (4) (Repealed)

(5) In any proceedings in which the Court has ordered a jury be summoned, the following questions of fact must be tried without the jury:

(a) questions of fact on a defence arising under section 63 (5) or 64 (1) (c) of the *Workers' Compensation Act 1926* or section 151Z (1) (e) of the *Workers Compensation Act 1987*,

(b) any other question of fact ordered by the Court.

**78-79A (Repealed)**

**80 Special verdict**

It shall be the duty of a jury to answer any question of fact that may be left to the jury by the presiding Judge at the trial of an action.

**Subdivision 9 Judgments and orders**

**80A (Repealed)**

**81 Judgment final**

Subject to this or any other Act, a judgment in an action shall, unless set aside in accordance with this Act, be final and conclusive between the parties to the action.

**82-83AA (Repealed)**

**Subdivision 10**

**83B-83D (Repealed)**

## **Divisions 4-6**

### **84-124 (Repealed)**

## **Division 7 Actions: new trial and appeal**

### **125 Definition**

In this Division, **action** includes interpleader action.

### **126 Order of the Court for new trial**

- (1) The Court in its discretion may, after judgment in an action, order that a new trial of the action be had if:
  - (a) the parties to the action consent, or
  - (b) the action is tried with a jury and on the day on which the jury gives its verdict in the action a party to the action:
    - (i) in the presence of the other party, or
    - (ii) in the absence of the other party but after such notice as the Court thinks reasonable has been given to the other party,makes application for the order, or
  - (c) the action is tried without a jury and a party to the action:
    - (i) in the presence of the other party and on the day on which judgment in the action is given, or
    - (ii) in the absence of the other party but after such notice as the Court thinks reasonable has been given to the other party and, in any case, within 21 days after judgment in the action is given,makes application for the order.
- (2) The Court may, before judgment in an action and if no verdict in the action has been entered, order, on sufficient cause being shown, that the hearing of the action be discontinued and that a new trial be had.
- (3) This section does not limit the operation of section 127A.

### **127 Right of appeal to Supreme Court**

- (1) A party who is dissatisfied with a Judge's or a Judicial Registrar's judgment or order in an action may appeal to the Supreme Court.
- (2) The following appeals lie only by leave of the Supreme Court:

- (a) an appeal from an interlocutory judgment or order,
  - (b) an appeal from a judgment or order as to costs only,
  - (c) an appeal from a final judgment or order, other than an appeal:
    - (i) that involves a matter at issue amounting to or of the value of \$100,000 or more, or
    - (ii) that involves (directly or indirectly) any claim, demand or question to or respecting any property or civil right amounting to or of the value of \$100,000 or more,
  - (d) an appeal from a judgment or order on an application for summary judgment under the rules,
  - (e) an appeal from an order made with the consent of the parties.
- (3) In any other case, an appeal lies as of right.

**127A Appeal after jury trial**

- (1) Where, in any proceedings in the Court, there is a trial of the proceedings or of any issue in the proceedings with a jury, an application for:
- (a) the setting aside of a verdict or judgment, or
  - (b) a new trial, or
  - (c) the alteration of a verdict by increasing or reducing any amount of debt, damages or other money,
- shall be by appeal to the Supreme Court.
- (2) An appeal under this section lies as of right.

**128 Stay of proceedings on appeal to Supreme Court**

- (1) This section applies if, after judgment in an action, the Court orders that proceedings be stayed during the period within which an appeal may be brought.
- (2) If during that period:
- (a) an appeal is brought in respect of proceedings that have been stayed, and
  - (b) security is given to the satisfaction of the registrar for the amount of the judgment debt (if any) payable by the appellant, including an amount assessed by the registrar in respect of any costs forming part of the judgment debt,
- the stay of proceedings is to continue until the appeal is disposed of or until the Court

or the Supreme Court otherwise orders.

(3) An appeal does not operate to stay proceedings in any other way.

(4) This section does not affect the operation of section 156 (1).

### **129 Agreement not to appeal**

An appeal shall not lie to the Supreme Court from any ruling, order, direction or decision if before the ruling, order, direction or decision is pronounced the parties agree in writing, signed by themselves or their Australian legal practitioner, that the ruling, order, direction or decision shall be final.

### **130, 131 (Repealed)**

## **Division 8 Miscellaneous jurisdiction**

### **Subdivision 1 General**

#### **132 Non-application of Divs 2-7**

Subject to this Act and the rules, nothing in Divisions 2 to 7 (inclusive) applies to or in respect of any proceedings under this Division.

### **Subdivision 2 Possession of land, equity and other proceedings**

#### **133 Jurisdiction in proceedings for possession of land**

- (1) The Court shall have the same jurisdiction as the Supreme Court, and may exercise all the powers and authority of the Supreme Court, in proceedings for possession of land the value of which does not exceed \$20,000, as determined by the Court.
- (2) Nothing in subsection (1) applies in respect of proceedings under the [Landlord and Tenant Act 1899](#).

#### **134 Jurisdiction in equity proceedings**

- (1) The Court shall have the same jurisdiction as the Supreme Court, and may exercise all the powers and authority of the Supreme Court, in proceedings for:
  - (a) the foreclosure or redemption of a mortgage or the enforcing of any charge or lien where the amount owing in respect of the mortgage, charge or lien does not exceed \$20,000, as determined by the Court,
  - (b) the specific performance, rectification, delivery up or cancellation of any agreement for:
    - (i) the sale or purchase of any property at a price not exceeding \$20,000, or
    - (ii) the lease of any property the value of which does not exceed \$20,000, as

determined by the Court,

- (c) an order under section 3 of the *Testator's Family Maintenance and Guardianship of Infants Act 1916* or a family provision order under Chapter 3 of the *Succession Act 2006*,
  - (d) relief against fraud or mistake where the damage sustained or the estate or fund in respect of which relief is sought does not exceed \$20,000 in amount or value, as determined by the Court,
  - (e) the execution of a trust or a declaration that a trust subsists, where the estate or fund subject or alleged to be subject to the trust does not exceed \$20,000 in amount or value, as determined by the Court, or
  - (f) the administration of the estate of a deceased person, where the estate does not exceed \$20,000 in amount or value, as determined by the Court, or
  - (g) any application under the *Property (Relationships) Act 1984*, or
  - (h) any equitable claim or demand for recovery of money or damages, whether liquidated or unliquidated (not being a claim or demand of a kind to which any other paragraph of this subsection applies), in an amount not exceeding the Court's jurisdictional limit.
- (2) In any proceedings pursuant to subsection (1) (c), the Court shall not have power to make an order for provision under the *Testator's Family Maintenance and Guardianship of Infants Act 1916* or Chapter 3 of the *Succession Act 2006* that will or may result in the amount of provision so made exceeding \$250,000.
- (3) In any proceedings pursuant to subsection (1) (g), the Court has no power to make an order for financial adjustment under Part 3 of the *Property (Relationships) Act 1984* that will or may result in the amount of the adjustment so made exceeding \$250,000.

#### **134A Frustrated contracts**

The Court shall have the same jurisdiction as the Supreme Court, and may exercise all the powers and authority of the Supreme Court, in proceedings under Division 4 of Part 3 of the *Frustrated Contracts Act 1978* where the claim does not exceed the Court's jurisdictional limit in amount or value, as determined by the Court.

#### **134B Jurisdiction in proceedings for review of contracts**

- (1) The Court shall have the same jurisdiction as the Supreme Court, and may exercise all the powers and authority of the Supreme Court, in proceedings in which relief under the *Contracts Review Act 1980* is sought, where the amount or value of the consideration that has passed or would, if the contract were fully executed, pass from one contracting party to another does not exceed the amount for the time being

specified in section 44 (1) (a), as determined by the Court.

- (2) Subsection (1) does not authorise the Court to exercise the powers conferred by section 10 of the *Contracts Review Act 1980*.

### **135 Jurisdiction in proceedings under the *Fair Trading Act 1987***

The Court has the same jurisdiction as the Supreme Court, and may exercise all the powers and authority of the Supreme Court, in any proceedings in which relief is sought under the *Fair Trading Act 1987* and where the amount of the claim concerned does not exceed the amount for the time being specified in section 44 (1) (a).

### **136 (Repealed)**

### **137 Powers of the Court under this Subdivision**

In relation to proceedings under this Subdivision:

- (a) the Court and the Judges shall, in addition to the powers and authority otherwise conferred on it and them, have all the powers and authority of the Supreme Court and the Judges thereof in the like circumstances,
- (b) the appropriate officer of the Court shall, in addition to the duties otherwise imposed on the officer, discharge:
  - (i) any duty which an officer of the Supreme Court would be required under the practice of the Supreme Court to discharge in the like circumstances, and
  - (ii) any duty imposed on the officer by the rules or by any order of the Court,
- (c) the practice and procedure of the Court shall, so far as practicable and subject to this Act and the rules, be the same as the practice and procedure of the Supreme Court applicable in the like circumstances, and
- (d) without affecting the generality of the foregoing provisions of this section, the powers, authority and duty conferred by paragraphs (a) and (b), and the practice and procedure referred to in paragraph (c), shall, subject to the rules, extend to the enforcement of any judgment or order of the Court in those proceedings.

### **138 Rules**

- (1) Without affecting the generality of any other provision of this Act authorising the making of rules, the rules may make provision for or with respect to:
- (a) the procedure to be followed in respect of proceedings under this Subdivision, including the enforcement of any judgment or order of the Court in any such proceedings,
  - (b) the costs of any such proceedings, and

(c) any other matter necessary or convenient for giving effect to this Subdivision.

(2) This section does not give power to make rules with respect to any matter relating to costs that is regulated by Part 3.2 of the [Legal Profession Act 2004](#).

### **139 Appeal**

Division 7 applies to and in respect of proceedings under this Subdivision in the same way as if they were an action.

## **Subdivision 3 Temporary injunctions**

### **140 Temporary injunctions**

(1) The Court shall have jurisdiction to grant an injunction, to be called a temporary injunction, to restrain:

(a) a threatened or apprehended trespass or nuisance, or

(b) the breach of a negative stipulation in a contract the consideration for which does not exceed \$20,000,

in like manner, subject to this Subdivision, as the Supreme Court might grant an interlocutory injunction in like circumstances.

(2) Subject to this Subdivision, a temporary injunction shall continue in force for a specified period not exceeding fourteen days, but if the specified period is less than fourteen days, it may be renewed from time to time, but so that the total period for which the temporary injunction is in force does not exceed fourteen days.

(3) A temporary injunction may be renewed so that the total period for which it is in force exceeds fourteen days if the Court is satisfied that the additional time is required to enable proceedings to be commenced or heard in the Supreme Court in relation to the matter.

(4) A temporary injunction shall cease to be in force if:

(a) the Court, on the application of a party, so orders, or

(b) the Supreme Court, on the application of a party, so orders, whether or not the Supreme Court grants an injunction or gives any other relief in relation to the matter.

(5) Proceedings for a temporary injunction may be commenced at any proclaimed place, not being a prescribed proclaimed place.

(6) A temporary injunction may be renewed by the Court only where it is sitting at a proclaimed place that is not a prescribed proclaimed place.

- (7) A reference in this section to the renewal of a temporary injunction includes a reference to the grant of another temporary injunction in respect of the same matter by the Court, whether before or after the expiry of the firstmentioned injunction.

#### **141 Powers of Court under this Subdivision**

With respect to temporary injunctions:

- (a) the Court and the Judges shall, in addition to the powers and authority otherwise conferred on it and them, have all the powers and authority of the Supreme Court and the Judges thereof with respect to the granting of interlocutory injunctions,
- (b) the appropriate officer of the Court shall, in addition to the duties otherwise imposed on the officer, discharge:
  - (i) any duty which an officer of the Supreme Court would be required under the practice of the Supreme Court to discharge with respect to interlocutory injunctions, and
  - (ii) any duty imposed on the officer by the rules or by any order of the Court,
- (c) the practice and procedure of the Court shall, so far as practicable and subject to this Act and the rules, be the same as the practice and procedure of the Supreme Court applicable with respect to the granting of interlocutory injunctions, and
- (d) without affecting the generality of the foregoing provisions of this section, the powers, authority and duty conferred by paragraphs (a) and (b), and the practice and procedure of the Court referred to in paragraph (c), shall, subject to the rules, extend to the enforcement of a temporary injunction and any order of the Court made in connection with proceedings for the granting of the temporary injunction.

#### **142 Rules**

- (1) Without affecting the generality of any other provision of this Act authorising the making of rules, the rules may make provision for or with respect to:
  - (a) the procedure to be followed with respect to the granting and enforcing of temporary injunctions,
  - (b) the costs of proceedings in the Court in relation to temporary injunctions, and
  - (c) any other matter necessary or convenient for giving effect to this Subdivision.
- (2) This section does not give power to make rules with respect to any matter relating to costs that is regulated by Part 3.2 of the [Legal Profession Act 2004](#).

### **Subdivision 4 Special civil jurisdiction**



### **142A Definitions**

In this Subdivision:

- (a) a reference to an instrument is a reference to an Act (other than this Act) enacted before 1 July 1973, or a rule, by-law, regulation or ordinance, or any other instrument or document whatsoever, of the same or a different kind or nature, made, proclaimed, issued or published before that date, and
- (b) a reference to the special civil jurisdiction of the Court is a reference to the jurisdiction conferred on it under section 142B.

### **142B Special civil jurisdiction of Court**

- (1) The District Court shall have the same civil jurisdiction as each Court of Quarter Sessions had immediately before 1 July 1973.
- (2) The reference in subsection (1) to civil jurisdiction in relation to a Court of Quarter Sessions is a reference to that part of such a court's jurisdiction that, immediately before 1 July 1973, was not of a criminal nature.
- (3) Subsection (1) is subject to the provisions of any enactment which commenced on or after 1 July 1973 and which relates to the jurisdiction referred to in that subsection.

### **142C References to Courts of Quarter Sessions in relation to the exercise by the District Court of its special jurisdiction**

A reference in any instrument to a Court of Quarter Sessions shall, in relation to that part of the jurisdiction of such a Court which was not of a criminal nature, be construed as a reference to the District Court in its special civil jurisdiction.

### **142D Judges exercising special civil jurisdiction**

- (1) A Judge exercising the special civil jurisdiction of the District Court has, in relation to proceedings in the Court in that jurisdiction, the same powers, authorities, duties and functions as a Chairman of Quarter Sessions had in relation to corresponding proceedings in a Court of Quarter Sessions before 1 July 1973.
- (2) Except where express provision to the contrary is made by any other Act:
  - (a) the trial of all issues arising in the Court in the exercise of its special civil jurisdiction,
  - (b) the hearing of any application, or the making of any order, in relation to any such issues, and
  - (c) all other matters relating to the exercise of that jurisdiction,shall be held before or dealt with by a Judge sitting alone.

- (3) A reference in any instrument to a Chairman of Quarter Sessions shall, in relation to a Court of Quarter Sessions in the exercise of that part of its jurisdiction which was not of a criminal nature, be construed as a reference to a Judge exercising the special civil jurisdiction of the District Court.

**142E Powers of registrar in relation to exercise by the Court of its special civil jurisdiction**

- (1) The registrar has, in relation to the District Court in its special civil jurisdiction and to proceedings in the District Court in that jurisdiction, such of the powers, authorities, duties and functions that the Clerk of the Peace had in relation to Courts of Quarter Sessions when exercising the corresponding jurisdiction and in relation to similar proceedings in those courts before 1 July 1973 as are prescribed in the rules.
- (2) Subsection (1) is subject to the provisions of any enactment which commenced on or after 1 July 1973 and which relates to the jurisdiction referred to in that subsection.

**142F Rules in relation to hearing etc of proceedings in the Court in its special civil jurisdiction**

- (1) Without affecting the generality of any other provision of this Part authorising the making of rules, the rules may make provision for or with respect to:
- (a) the procedure to be followed in respect of proceedings under this Subdivision, including the enforcement of any judgment or order of the Court in any such proceedings,
  - (b) the costs of any such proceedings, and
  - (c) any other matter necessary or convenient for giving effect to this Subdivision.
- (2) This section does not give power to make rules with respect to any matter relating to costs that is regulated by Part 3.2 of the [Legal Profession Act 2004](#).

## **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 81 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**

### **1420 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.

## **Divisions 9, 9A**

### **143-148E (Repealed)**

## **Division 10 Miscellaneous provisions**

### **149 Costs where no jurisdiction**

Where any proceedings purport to be commenced in the Court and the Court has no jurisdiction to hear and dispose of the proceedings, the Court may, notwithstanding the lack of jurisdiction, make such order (if any) as it thinks fit for the payment by any party to any other party of the costs of the proceedings in the Court, and any such order for costs may be enforced as if the Court had had jurisdiction to hear and dispose of the proceedings.

### **150 Regulations: Court fees**

- (1) The Governor may make regulations for or with respect to fees to be paid in respect of the business of the Court.
- (2) Regulations may be made under this section so as to apply differently according to such factors as may be specified in the regulations.

### **151 Fees form part of Consolidated Fund**

All fees received by a registrar under this Act shall be paid by the registrar to the Treasurer for payment to the Consolidated Fund.

### **152 Unclaimed money**

- (1) An amount which:
  - (a) was paid to a registrar for or on account of or for the use or benefit of any party to any proceedings, and
  - (b) remains unclaimed in the hands of the registrar for one year after a party to the proceedings becomes entitled to claim the amount,

shall be paid by the registrar to the Treasurer and placed to the credit of the Special Deposits Account in the Treasury.

- (2) The provisions of section 14 (3) and (4) of the *Public Finance and Audit Act 1983* apply

to an amount placed to the credit of the Special Deposits Account under subsection (1) in the same way as they apply to money paid into that Account pursuant to section 14 (2) of that Act.

### **153 Proceedings for offences**

- (1) All proceedings for offences against this Act shall be disposed of summarily before the Local Court.
- (2) (Repealed)

### **154 Offences by corporations**

Where a person convicted of an offence against this Act is a corporation, every person who at the time of the commission of the offence was an officer of the corporation shall be deemed to have committed the like offence and be liable to the penalty provided by this Act for the offence accordingly, if the person knowingly and wilfully authorised or permitted the commission of the offence.

### **155 Civil remedy not affected by proceedings for an offence**

Notwithstanding any proceedings against a person for an offence against this Act (whether resulting in a conviction or otherwise) that person shall remain liable to all civil proceedings in like manner as if the proceedings for the offence had not been taken.

### **156 General power of Court to stay proceedings**

- (1) At any stage of any proceedings, the Court may, on terms, order that the proceedings be stayed.
- (2) Nothing in subsection (1) limits any power conferred on the Court or a Judge by any other provision of this Act or by any other Act or rule of law to stay proceedings.

### **157-160 (Repealed)**

## **Division 11 Rules**

### **161 Civil procedure rules**

- (1) The Rule Committee may make rules, not inconsistent with this Act, for or with respect to any matter:
  - that by this Act, or by any other Act or law, is required or permitted to be prescribed by rules, or
  - that is necessary or convenient to be prescribed by rules,

for the purposes of, or in connection with, the exercise by the Court of its civil jurisdiction under provisions of this Act, or of any other Act or law, or for carrying any

such provisions into effect, and in particular for or with respect to:

- (a) providing for the procedure (including the method of pleading) and the practice to be followed in the Court in all proceedings in which, or with respect to which, the Court has for the time being civil jurisdiction, and regulating or providing for any matters incidental to, or relating to, any such procedure or practice,
  - (b) subject to the provisions of any other Act, regulating and prescribing the procedure and practice to be followed in connection with the transfer of any proceedings to the Court from any other court or from the Court to any inferior court, and, where proceedings are transferred to the Court, the procedure and practice thereafter to be followed in the Court, and
  - (c) subject to the provisions of any other Act, regulating and prescribing the procedure and practice to be followed in connection with the institution of any appeal to the Court, including:
    - (i) the time within which, and the manner in which, the appeal is to be instituted, and
    - (ii) the procedure and practice thereafter to be followed in the Court.
- (2) Without limiting the generality of subsection (1), rules may be made under that subsection for or with respect to:
- (a) prescribing the powers, authorities, duties and functions of the Judicial Registrar, other registrars, assistant registrars, bailiffs, assistant bailiffs and other officers of the Court, and the Sheriff, and the records to be kept by them in relation to or for the purposes of any proceedings,
  - (b) enabling any specified registrar, in such circumstances as may be prescribed, to exercise the powers and authorities, and to discharge the duties and functions, of another specified registrar,
  - (c) providing for the sittings of the Court and the regulation of business at those sittings,
  - (d) prescribing and providing for the places at which particular proceedings may be heard, commenced or otherwise dealt with and prescribing the circumstances in which, and the conditions subject to which, the venue of proceedings or specified parts of proceedings may be changed,
  - (e) providing for the vacations and holidays of the Court and for the hearing and disposal of proceedings during any such vacations or holidays,
  - (f) providing for and regulating the joinder of causes of action and the consolidation of proceedings,



- (g) providing for the bringing and disposal of proceedings by or against the executor, administrator or trustee of the estate of any person and providing for the enforcement of judgment in any such proceedings,
- (h) prescribing or providing for the manner in which corporations may participate in proceedings,
- (i) providing for the joinder of parties in proceedings,
- (j) prescribing the cases or circumstances in which security may be required in relation to proceedings, the form of any such security, and the manner in which, and the person to whom, it is to be given,
- (k) providing for pleading in relation to cross-claims (whether in the nature of set-off, cross-action or otherwise),
- (l) empowering the Court to strike out the whole or any part of any proceedings brought by a party on the ground that the proceedings or part of the proceedings are frivolous or vexatious or disclose no cause of action, or on any other ground prescribed in the rules, and to reinstate any proceedings that have been struck out,
- (m) providing for the trial or hearing of proceedings, including the giving of written or oral evidence and the production of documents and other things in evidence at the trial or hearing,
- (n) regulating the means by which particular facts may be proved, and the mode in which evidence may be given (including the administration of oaths to and the taking of evidence of witnesses in or out of New South Wales), in any proceedings or in any application in connection with, or at any stage of, any proceedings,
- (o) empowering the Court:
  - (i) to dispense with the rules of evidence for proving any matter that is not genuinely in dispute in any proceedings and to dispense with such rules of evidence as might cause expense or delay in proceedings if those rules were applied in specified circumstances, and
  - (ii) to require a party to any proceedings (not being a minor or person of unsound mind) to make admissions with respect to documents or questions of fact,and prescribing the effects of and consequences for failing to comply with a requirement of the kind referred to in subparagraph (ii),
- (p) prescribing matters relating to expert evidence, including the disclosure, by providing copies of reports or otherwise, of the nature of expert evidence to be given, and including the exclusion of expert evidence in the case of non-

- compliance with the rules relating to expert evidence or with any order for disclosure of the nature of expert evidence,
- (q) providing for and regulating the payment or transfer of money into and out of the Court,
  - (r) providing for the manner and form in which, and the times and places at which, judgments, orders or other decisions of the Court may be given,
  - (s) empowering Judges to deal with and determine specified kinds of proceedings or specified parts of specified kinds of proceedings while sitting in chambers,
  - (t) prescribing the circumstances in which judgments may be set aside,
  - (u) providing for judgments by confession, agreement or consent and providing for orders for judgment, default judgments and orders for summary judgment and the circumstances in which such judgments and orders may be given or made,
  - (v) prescribing the circumstances in which a party to proceedings may be non-suited,
  - (w) enabling the Court to order that the amount of a judgment in favour of a person against another person be set off against an amount payable under another judgment in favour of that other person against the firstmentioned person,
  - (x) providing for matters relating to proceedings in which a person interpleads, including the staying of proceedings in courts other than the Court and for the barring of claims of persons who do not interplead when required to do so,
  - (y) providing for any matters relating to the costs of proceedings,
  - (z) empowering the Court to order the Australian legal practitioner for a party to particular proceedings personally to pay specified costs of the proceedings and to order further that the costs so specified not be recoverable by the Australian legal practitioner from that party,
  - (aa), (ab) (Repealed)
  - (ac) prescribing matters relating to claims for, payment of, and entering up of judgment for, interest on money (including debts, damages and the value of goods) recovered or sought to be recovered in proceedings before the Court,
  - (ad) prescribing means for, and the procedure and practice to be followed in, the enforcement and execution of judgments and orders of the Court,
  - (ae) providing for the manner of payment of a judgment debt and prescribing the practice and procedure to be followed in relation to orders and agreements for varying the manner of payment of any such debt,

- (af) empowering the Court to direct the manner or form of procedure to be followed in any particular proceedings in which the manner or form of procedure for taking any step in the proceedings is not prescribed by or under this Part,
  - (ag) providing for the service or giving of notices, documents and other instruments relating to proceedings,
  - (ah) providing for the amendment of documents filed by a party to any proceedings,
  - (ai) prescribing the times for doing or not doing any act or thing for the purposes of this Act or the rules in or in relation to any proceedings, and
  - (aj) interim payments.
- (3) (Repealed)
- (4) The rules may make provision for or with respect to the bringing of money into the Court by a defendant in any proceedings and, without affecting the generality of the foregoing provisions of this subsection, may make provision for or with respect to:
- (a) prescribing the manner in which money may be so brought into the Court,
  - (b) without affecting the generality of paragraph (a), deeming money to be brought into the Court if there is filed a security given by:
    - (i) the Government Insurance Office under the *Motor Vehicles (Third Party Insurance) Act 1942* or the *Transport Accidents Compensation Act 1987* or where the matter relates to a cause of action which arose before 1 July 1984, an authorised insurer under that Act,
    - (ii) a licensed insurer under the *Workers' Compensation Act 1926*, or
    - (iii) any other person authorised by the Court,
  - (c) requiring the Government Insurance Office, insurer or other person who gives a security as referred to in paragraph (b) to pay the amount for which the security was given in the prescribed circumstances and providing that any such amount not so paid may be enforced as a judgment against the Government Insurance Office, insurer or other person, and
  - (d) determining the effect on the cause or causes of action on which the proceedings were brought where the plaintiff accepts the money so brought into the Court.
- (5) A provision of the rules may:
- (a) apply generally or be limited in its application by reference to specified exceptions or factors,
  - (b) apply differently according to different factors of a specified kind, or

(c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

- (6) This section does not give power to make rules with respect to any matter relating to costs that is regulated by Part 3.2 of the *Legal Profession Act 2004*.
- (6A) This section does not give power to make rules in terms inconsistent with those of the uniform rules under the *Civil Procedure Act 2005* unless the uniform rules expressly permit rules under this section to be made in those terms.
- (6B) The rules made under this section may authorise or require the use of an electronic case management system established under section 14B of the *Electronic Transactions Act 2000* 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.
- (6C) The rules made under this section may provide for the exercise by a registrar or 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 a registrar or other such officer of any such function.
- (7) A practice note (including any other document, however described, which regulates the practice or procedure of the Court, or of any class of proceedings in the Court, but excluding a decision of the Court) issued by or on behalf of the Court must be published in the Gazette.
- (8) Sections 40 and 41 of the *Interpretation Act 1987* apply to a practice note in the same way as they apply to a statutory rule.

## Part 3A

### 162-164J (Repealed)

## Part 4 The criminal jurisdiction of the Court

### 165 Definition

In this Part:

**instrument** means an Act (other than this Act) enacted before the commencement of this Act, or a rule, by-law, regulation or ordinance, or any other instrument or document whatsoever, of the same or a different kind or nature, made, proclaimed, issued or published before the commencement of this Act.

### 166 Criminal jurisdiction of the Court

- (1) The Court has the criminal jurisdiction conferred or imposed on it by or under this Act,

the *Criminal Procedure Act 1986* and any other Act.

- (2) The Court has generally the same criminal jurisdiction as each Court of Quarter Sessions had immediately before the commencement of this Act, except as regards any offences prescribed for the purposes of section 46 of the *Criminal Procedure Act 1986*.

#### **167 Abolition of Courts of Quarter Sessions**

Courts of Quarter Sessions are abolished.

#### **168 References to Courts of Quarter Sessions**

A reference in any instrument to a Court of Quarter Sessions shall, in relation to the exercise of that Court's criminal jurisdiction, be construed as a reference to the District Court in its criminal jurisdiction.

#### **169 Judges**

- (1) A Judge exercising the criminal jurisdiction of the Court has, in relation to proceedings in the Court in that jurisdiction, the same powers, authorities, duties and functions as a Chairman of Quarter Sessions would have had, in relation to the like proceedings in a Court of Quarter Sessions, had this Act not been enacted.
- (2) Except where express provision to the contrary is made by any other Act:
  - (a) the trial of all issues arising in the Court in the exercise of its criminal jurisdiction,
  - (b) the hearing of any application, or the making of any order, in relation to any such issues, and
  - (c) all other matters relating to the exercise of that jurisdiction,shall be held before or dealt with by a Judge sitting alone.
- (3) A reference in any instrument to a Chairman of Quarter Sessions shall, in relation to a Court of Quarter Sessions in its criminal jurisdiction, be construed as a reference to a Judge exercising the criminal jurisdiction of the District Court.

#### **170 (Repealed)**

#### **171 Criminal procedure rules**

- (1) The Rule Committee may make rules, not inconsistent with this Act or any other Act, for or with respect to any matter that by this Act is required or permitted to be prescribed for the purposes of, or in connection with, the exercise by the Court of its criminal jurisdiction or that is necessary or convenient to be prescribed for carrying out or giving effect to this Part and Division 3 of Part 2 or any Act under or by virtue of which rules under this Part apply, and in particular for or with respect to providing for

the procedure and practice to be followed in the Court in all proceedings in which, and with respect to which, the Court has for the time being criminal jurisdiction and regulating or providing for any matters incidental to, or relating to, any such procedure or practice.

- (2) Without limiting the generality of subsection (1), rules may be made under that subsection for or with respect to any of the following:
- (a) prescribing the duties and functions of the Judicial Registrar, other registrars and other officers of the Court and the records to be kept by them in relation to or for the purposes of any proceedings,
  - (b) conferring on a registrar in particular proceedings power, subject to the rules, to issue on behalf of a defendant or an appellant in those proceedings:
    - (i) a subpoena requiring a person specified in the subpoena to attend and give evidence in the proceedings, or
    - (ii) a subpoena requiring a person specified in the subpoena to attend and produce, for the purpose of evidence, in the proceedings any document or thing that is in the possession or under the control of that person,
  - (c) providing for the sittings of the Court and the regulation of business at those sittings,
  - (d) prescribing and providing for the places at which particular proceedings may be held and, subject to any enactment or rule of law which confers powers on the Attorney General with respect to the venue or changes of venue of proceedings, providing for the venue of proceedings to be changed and prescribing the circumstances in which, and the conditions subject to which, any such change may be made,
  - (e) providing for the vacations and holidays of the Court and the hearing and disposal of proceedings during any such vacations or holidays,
  - (f) providing for all procedural matters relating to or incidental to the indictment and arraignment of an accused person, including motions to quash or stay indictments,
  - (g) providing for all matters relating to the conduct of the proceedings, including matters concerning the representation of defendants and appellants in proceedings,
  - (h) providing for evidentiary matters in proceedings, including matters relating to the giving of expert evidence,
  - (i) prescribing the procedure and practice with respect to the delivery of verdicts, the convicting and sentencing of persons found by the Court guilty of offences and the

acquittal of persons found by the Court not guilty of offences,

- (j) prescribing the procedure for proceedings in the Court under section 126 of the *Criminal Procedure Act 1986* and Part 4 of the *Victims Compensation Act 1996*,
- (ja) conferring on the Court the same powers as the Supreme Court has to make an order for a view of real property for the purposes of any proceedings,
- (k) subject to the *Costs in Criminal Cases Act 1967*, providing for matters relating to the payment of the costs of or in relation to proceedings and, in particular:
  - (i) empowering the Court to order an Australian legal practitioner appearing in particular proceedings to disclose the amount of any costs that the Australian legal practitioner intends to retain out of any sum ordered by the Court to be paid to the Australian legal practitioner's client, and
  - (ii) empowering the Court to order the Australian legal practitioner for a party to particular proceedings personally to pay specified costs of the proceedings and to order further that the costs so specified not be recoverable by the Australian legal practitioner from the party.

(3) A provision of the rules may:

- (a) apply generally or be limited in its application by reference to specified exceptions or factors,
- (b) apply differently according to different factors of a specified kind, or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

(4) (Repealed)

(5) Despite any other provision of this Act, the provisions of Part 3 of Chapter 4 of the *Criminal Procedure Act 1986* and any rules under that Part apply to proceedings in the Court in its criminal jurisdiction.

#### **171A-171C (Repealed)**

#### **171D Practice and procedure of Supreme Court to be followed unless other provision made**

Subject to this Act and the rules, the procedure and practice of the District Court when exercising its criminal jurisdiction shall, so far as practicable, be the same as the procedure and practice of the Supreme Court when exercising similar jurisdiction.

#### **172 (Repealed)**

### **173 Directions as to sittings of Court in its criminal jurisdiction**

- (1) The Chief Judge is, by order in writing, to direct that the Court is, during a specified calendar year, to sit in its criminal jurisdiction at such proclaimed places or other places within the State and at such times as may be specified in the order.
- (1A) The Chief Judge is to consult with the Attorney General before making a direction under subsection (1) that substantially alters the frequency of sittings at a particular place compared with the previous calendar year.
- (2) If a place specified in a direction under subsection (1) is not a proclaimed place, the specified place is, for the purposes of this Act or any other law and while the direction remains in force, taken to form part of the nearest proclaimed place to the specified place.
- (3) Subsection (2) ceases to have effect if and when the specified place becomes a proclaimed place.
- (4) A direction under subsection (1) may be given in respect of a particular calendar year before the commencement of that year or, in respect of the remaining portion of that year, after the commencement of that year.

### **174 General provisions as to sittings**

- (1) Subject to this Part:
  - (a) the Court may sit simultaneously at different sitting places in its criminal jurisdiction,
  - (b) a Judge shall preside at such sittings of the Court in its criminal jurisdiction at such sitting places as the Chief Judge may from time to time direct, and
  - (c) two or more Judges may preside simultaneously at separate sittings of the Court in its criminal jurisdiction at the one sitting place.
- (2) Where a sitting of the Court in its criminal jurisdiction is to be held and the Judge who is to preside at that sitting is not present at the time appointed for the sitting to commence, a registrar may adjourn the sitting to another time.

### **175 Hearing of appeals**

- (1) An appeal to the Court in its criminal jurisdiction may be heard and disposed of by the Court sitting at any sitting place.
- (2) Subsection (1) has effect subject to any other Act or any instrument under any other Act.



## **176 No proceedings in the nature of certiorari**

No adjudication on appeal of the District Court is to be removed by any order into the Supreme Court.

## **Part 5**

### **177-179 (Repealed)**

## **Part 6 Repeals, amendments, savings and transitional provisions**

### **Division 1 General**

#### **180 Repeals**

Each Act mentioned in Schedule 1 is repealed.

#### **181 (Repealed)**

#### **182 Non-revivor**

A repeal made by section 180 or an amendment made by section 181 shall not revive anything not in force or existing immediately before the commencement of this Act.

#### **183 References to “appointed place”**

A reference in any other Act, in any instrument made under any Act or in any other instrument of any kind to an “appointed place” (being an appointed place within the meaning of Part 4 as in force immediately before the commencement of the *District Court (Amendment) Act 1986*) shall be read as a reference to a proclaimed place at which the court sits in its criminal jurisdiction.

#### **183A Provision consequent on enactment of *Courts Legislation Further Amendment Act 1995***

The substitution of sections 127 and 128 by the *Courts Legislation Further Amendment Act 1995* does not operate to require leave to appeal against a decision of the Court if, when the decision was made, an appeal lay as of right.

#### **183B Provisions consequent on enactment of *Courts Legislation Amendment Act 1997***

- (1) Section 126, as amended by the *Courts Legislation Amendment Act 1997*, applies to judgments given before the commencement of Schedule 3 [1] to that Act in the same way as it applies to judgments given after that commencement.
- (2) Section 127, as amended by the *Courts Legislation Amendment Act 1997*, applies to judgments and orders given or made before the commencement of Schedule 3 [2] to that Act in the same way as it applies to judgments and orders given or made after that commencement.

### **183C Provisions consequent on enactment of [Courts Legislation Further Amendment Act 1997](#)**

Section 127, as amended by the [Courts Legislation Further Amendment Act 1997](#), applies to judgments and orders given or made before the commencement of Schedule 1.5 [6] to that Act in the same way as it applies to judgments and orders given or made after that commencement.

### **183D Provision consequent on enactment of other amendments**

Schedule 3 has effect in respect of enactments amending this Act.

## **Division 2 The civil jurisdiction of the Court**

### **184 Definitions**

In this Division:

**district** means district referred to in section 5 of the [District Courts Act 1912](#).

**former Court** means a District Court established under the [District Courts Act 1912](#) and includes a court referred to in an instrument as “the District Court” or “the district court”.

**instrument** means an Act (other than this Act) enacted before the commencement of this Act, or a rule, by-law, regulation or ordinance, or any other instrument or document whatsoever, of the same or a different kind or nature, made, proclaimed, issued or published before the commencement of this Act.

**the new Court** means the Court.

### **185 Savings as to places, sittings, Judges and officers etc**

- (1) (Repealed)
- (2) A person appointed as a judge under section 14 of the [District Courts Act 1912](#) and holding office as such immediately before the commencement of this Act, shall be deemed to have been appointed as a Judge under section 13 of this Act.
- (3) A person appointed to sit and act as a judge under section 19A of the [District Courts Act 1912](#) and whose appointment continues in force immediately before the commencement of this Act, shall be deemed to have been appointed to act as a Judge under section 18 of this Act, but the person shall not, by virtue of this subsection, hold office as such for a time longer than that for which the person was appointed to exercise jurisdiction under section 19A of the [District Courts Act 1912](#).
- (4) The person who was, immediately before the commencement of this Act, the Chairman of the District Court Judges shall be deemed to have been appointed as the Chief Judge under section 13 (4).

- (5) A person appointed as a judge under the *District Courts Act 1912* and not holding office as such immediately before the commencement of this Act, and the spouse of any such person, shall, notwithstanding anything in this Act, have the same rights as to salary, pension or otherwise which he or she would have had if this Act had not been enacted.
- (6) (Repealed)
- (7) A person holding office immediately before the commencement of this Act as a bailiff for a former Court appointed under section 26 (3) of the *District Courts Act 1912* or an officer appointed under section 26 (4) of that Act to assist a bailiff for a former Court, shall be deemed to have been appointed under this Act as a bailiff or as an assistant bailiff, as the case may require, of the new Court for the proclaimed place that is the place at which the former Court was ordered, under section 4 (1) of the *District Courts Act 1912*, to be holden.

#### **186 Pending proceedings etc**

- (1) Subject to the rules, and unless the Court otherwise orders:
  - (a) any proceedings pending in a former Court immediately before the commencement of this Act shall be continued in and disposed of by the new Court sitting at the proclaimed place that is the place at which the former Court was holden immediately before the commencement of this Act, but otherwise those proceedings shall be continued and disposed of as if this Act had not been enacted,
  - (b) any judgment or order of the new Court in proceedings referred to in paragraph (a) shall be enforceable in accordance with this Act and the rules,
  - (c) except as provided in paragraph (d), any judgment or order of a former Court shall be enforceable in accordance with this Act and the rules by the new Court sitting at the proclaimed place at which the former Court was holden in which the judgment or order could have been enforced immediately before the commencement of this Act,
  - (d) any judgment or order of a former Court shall, as regards any step taken in the enforcement of the judgment or order before the commencement of this Act, be enforceable by the new Court sitting at the proclaimed place at which the former Court was holden in which the judgment or order could have been enforced immediately before the commencement of this Act, but otherwise shall be enforceable as if this Act had not been enacted, and
  - (e) the entitlement of any party to costs in respect of proceedings commenced before the commencement of this Act and completed after that commencement shall be ascertained as if this Act had not been enacted.

- (2) For the purposes of continuing any proceedings in, or enforcing any judgment or order in, the new Court sitting at a proclaimed place, that place shall be deemed to be the proper place in relation to those proceedings or the proceedings in which the judgment was given or entered up or the order was made, as the case may require.
- (3) Unless the Supreme Court in a particular case otherwise orders:
  - (a) Division 7 of Part 3 (section 126 excepted) applies to and in respect of proceedings in, or a judgment or order of, a former Court as if they or it were proceedings in, or a judgment or order of, the new Court, and
  - (b) any appeal made under Part 6 of the *District Court Act 1912* and pending in the Supreme Court immediately before the commencement of this Act shall be deemed to have been made under Division 7 of Part 3 of this Act.

### **187 References to District Court in existing instruments**

- (1) In an instrument:
  - (a) subject to paragraphs (b) and (c), a reference to a former Court shall be read and construed as a reference to the new Court,
  - (b) subject to paragraph (c), a reference to a former Court within the jurisdiction of which, or within the district of which, or of or for the district where, or having or exercising jurisdiction within the district where, a place, building, institution or any other matter or thing is situated, or an event occurred or is occurring or is expected to occur, or a person has his or her place of abode or resides or carries on his or her business, shall be read and construed as a reference to the new Court sitting at the nearest proclaimed place to the place where that place, building, institution, matter or thing is situated, or that event occurred or is occurring or is expected to occur, or that person has his or her place of abode or resides or carries on his or her business, and
  - (c) a reference to a former Court occurring in conjunction with or in relation to a reference to a district shall, if the rules so provide, be read and construed as a reference to the new Court sitting at the proclaimed place specified in or determined in accordance with the rules.
- (2) In an instrument, a reference to the Metropolitan District Court (however expressed) shall be read and construed as a reference to the new Court sitting at Sydney.
- (3) Where under any instrument any power is vested in a former Court, the power shall be exercised by the new Court in all respects as it might have been exercised immediately before the commencement of this section, but in accordance with this Act and the rules.

### **188 References to District Court judges in existing instruments**

- (1) Subject to subsection (3), in an instrument:
  - (a) a reference to the Chairman of the District Court Judges shall be read and construed as a reference to the Chief Judge,
  - (b) subject to paragraphs (c) and (d), a reference to a District Court judge shall be read and construed as a reference to a Judge appointed under this Act,
  - (c) subject to paragraph (d), a reference to a District Court judge within whose jurisdiction, or within whose district, or of or for the district where, or having or exercising jurisdiction within the district where, a place, building, institution or any other matter or thing is situated, or an event occurred or is occurring or is expected to occur, or a person has his or her place of abode or resides or carries on his or her business, shall be read and construed as a reference to the new Court sitting at the nearest proclaimed place to the place where that place, building, institution, matter or thing is situated, or that event occurred or is occurring or is expected to occur, or that person has his or her place of abode or resides or carries on his or her business, and
  - (d) a reference to a District Court judge occurring in conjunction with or in relation to a reference to a district shall, if the rules so provide, be read and construed as a reference to the new Court sitting at the proclaimed place specified in or determined in accordance with the rules.
- (2) Subject to subsections (1) (c) and (d) and (3), where under an instrument a power (other than a power to make rules) is vested in the District Court judges, or in any number of them, or a majority of them, or any one of them that power shall be exercised by the new Court in all respects as those judges or that judge might have exercised the power immediately before the commencement of this Act, but in accordance with this Act and the rules.
- (3) The Governor may direct by proclamation that:
  - (a) subsection (1) (c) and (d) shall not apply to a reference specified in the proclamation, or
  - (b) subsection (2) shall not apply to any power specified in the proclamation,and the proclamation shall have effect accordingly, but subject to section 41 of the [Interpretation Act 1987](#).
- (4) Sections 40 and 41 of the [Interpretation Act 1987](#) apply to a proclamation under subsection (3) in the same way as they apply to a statutory rule within the meaning of that Act.
- (5), (6) (Repealed)

### **189 References to registrars and bailiffs in existing instruments**

In an instrument:

- (a) subject to paragraphs (b) and (c), a reference to a registrar or bailiff of a former Court shall be read and construed as a reference to a registrar or bailiff of the new Court,
- (b) subject to paragraph (c), a reference to the registrar or a bailiff of a former Court shall, if the reference to that former Court is, under section 187 (1) (b) or (c), to be read and construed as a reference to the new Court sitting at a proclaimed place specified in section 187 (1) (b) or specified in or determined in accordance with the rules, be read and construed as a reference to the registrar or a bailiff of the new Court for that place, and
- (c) a reference to a registrar or bailiff of a former Court occurring in conjunction with or in relation to a reference to a district shall, if the rules so provide, be read and construed as a reference to the registrar or a bailiff of the new Court for the proclaimed place specified in or determined in accordance with the rules.

### **190 References to writs etc in existing instruments**

(1) In an instrument:

- (a) a reference to a writ of fieri facias issued out of a former Court shall be read and construed as a reference to a writ of execution issued out of the new Court, and
- (b) a reference to a writ of capias ad satisfaciendum issued out of a former Court shall be read and construed as a reference to a writ against the person issued out of the new Court.

(2) In an instrument, a reference to an action of or proceedings in ejectment in a former Court includes a reference to proceedings for possession of land under Division 8 of Part 3.

### **191 Provisions as to practice and procedure in existing instruments**

The provisions of an instrument shall, in so far as they have effect in respect of or in relation to the practice and procedure of the new Court or any documents that may be or are issued by or in respect of the new Court, have effect subject to the rules.

## **Division 3 The criminal and special jurisdiction of the Court**

### **192 Definitions**

In this Division:

**former Court** means a Court of Quarter Sessions.

**the new Court** means the Court.

### **193 (Repealed)**

### **194 Pending proceedings etc**

- (1) Where any proceedings would, had section 3 (ff) of the *District Court (Amendment) Act 1975* not taken effect, have been continued, heard or disposed of after the commencement of that provision in a former Court, those proceedings shall be continued, heard or disposed of, respectively, in the new Court in its criminal and special jurisdiction, sitting at the place at which the former Court was sitting.
- (2) Nothing in subsection (1) affects the powers of the Supreme Court under section 30 of the *Criminal Procedure Act 1986*.
- (3) Where a question of law was submitted by a Chairman of Quarter Sessions to:
  - (a) the Court of Criminal Appeal under section 5B of the *Criminal Appeal Act 1912* and the matter was pending in that Court immediately before the commencement of this subsection, that section, or
  - (b) the Supreme Court under section 131A of the *Justices Act 1902*, and the matter was pending in that Court immediately before the commencement of this subsection, that section,shall apply to and in respect of the matter as if the question had been submitted by a Judge of the new Court.
- (4) Any act, matter or thing that could, had section 3 (ff) of the *District Court (Amendment) Act 1975* not taken effect, have been done or suffered by a person in the person's capacity as a Chairman of Quarter Sessions may be done or suffered by the person in the person's capacity as a Judge of the new Court.
- (5) (Repealed)

## **Part 7 General provisions**

### **195 Order to Judge or officer**

If a Judge or officer of the Court refuses to do any act relating to the duties of his or her office, the Supreme Court may, on the application of any party requiring the act to be done, by order direct the Judge or officer to do the act.

### **196 Privilege**

No privilege shall be allowed to any Australian legal practitioner or other person to exempt the Australian legal practitioner or other person from the provisions of this Act.

### **197 Proclamations**

- (1) In this section, **proclamation** means a proclamation under this Act, not being the

proclamation under section 2.

- (2) A power conferred by any provision of this Act to make a proclamation includes the power to revoke or amend that proclamation from time to time.
- (3) A proclamation shall:
  - (a) be published in the Gazette, and
  - (b) take effect on and from the date of publication or a later date specified in the proclamation.

**198 (Repealed)**

**199 Contempt**

- (1) In this section, **contemnor** means a person guilty or alleged to be guilty of contempt of court committed in the face of the Court or in the hearing of the Court.
- (2) Where it is alleged, or appears to the Court on its own view, that a person is guilty of contempt of court committed in the face of the Court or in the hearing of the Court, the Court may:
  - (a) by oral order direct that the contemnor be brought before the Court, or
  - (b) issue a warrant for the arrest of the contemnor.
- (3) Where the contemnor is brought before the Court, the Court shall:
  - (a) cause the contemnor to be informed orally of the contempt with which he or she is charged,
  - (b) require the contemnor to make his or her defence to the charge,
  - (c) after hearing the contemnor, determine the matter of the charge, and
  - (d) make an order for the punishment or discharge of the contemnor.
- (4) The Court may, pending disposal of the charge:
  - (a) direct that the contemnor be kept in such custody as the Court may determine, or
  - (b) direct that the contemnor be released,and such a direction is sufficient authority for the contemnor's being kept in custody or released, as the case may be.
- (5) The Court may give a direction under subsection (4) (b) on terms, which may include a requirement that the contemnor give security, in such sum as the Court directs, for his or her appearance in person to answer the charge.



- (6) A warrant for the arrest or detention under this section of a contemnor shall be addressed to the Sheriff or a bailiff and may be issued under the hand of the Judge constituting the Court.
- (7) The Court may punish contempt by a fine not exceeding 20 penalty units or by imprisonment for a period not exceeding 28 days.
- (8) The Court may make an order for punishment on terms, including a suspension of punishment or a suspension of punishment in case the contemnor gives security in such manner and in such sum as the Court may approve for good behaviour and performs the terms of the security.

#### **200 Fines under sec 199**

- (1) A fine imposed under section 199 is payable to the registrar for such proclaimed place as the Court directs.
- (2) Payment of a fine imposed under section 199 may, if the Court so orders, be enforced, subject to the civil or criminal procedure rules, as if the amount of the fine were a judgment debt, the person upon whom the fine was imposed were a judgment debtor and the registrar were a judgment creditor.
- (3) The amount of any fine paid to or recovered by the registrar under this section shall be paid to the Consolidated Fund.

#### **201 Appeals respecting contempt proceedings**

- (1) An appeal shall lie at the instance of the contemnor to the Supreme Court from the ruling, order, direction or decision of the Court under section 199, other than for the discharge of the contemnor.
- (2) An appeal under this section shall be made in such manner and be subject to such conditions as may be prescribed by rules of the Supreme Court.
- (3) In an appeal under this section, the Supreme Court may affirm, vary or revoke the ruling, order, direction or decision appealed against or may substitute its own ruling, order, direction or decision.

#### **202 Stay of contempt proceedings**

- (1) At any stage of any proceedings under section 199 or 200, the Court may, on terms, order that the proceedings be stayed.
- (2) Where the Court orders that proceedings be stayed under subsection (1) and an appeal is brought under section 201, the stay of proceedings shall continue until the appeal is disposed of or until the Court or the Supreme Court otherwise orders.
- (3) Except as provided in this section or as directed by the Supreme Court, an appeal

under section 201 shall not operate as a stay of proceedings.

### **203 Power to refer allegation etc of contempt to Supreme Court**

- (1) Without prejudice to the powers of the District Court under section 199, where it is alleged, or appears to the District Court on its own view, that a person is guilty of contempt of court, whether committed in the face or hearing of the District Court or not, the District Court may refer the matter to the Supreme Court for determination.
- (2) On any matter being referred to the Supreme Court under subsection (1), the Supreme Court shall dispose of the matter in such manner as it considers appropriate.

## **Schedule 1 Repeals**

(Section 180)

<b>Year and number of Act</b>	<b>Short title of Act</b>
1901 No 48	<a href="#">Inter-state Debts Recovery Act 1901</a>
1912 No 23	<a href="#">District Courts Act 1912</a>
1920 No 9	<a href="#">Quarter Sessions Enabling Act 1920</a>
1924 No 30	<a href="#">District Courts (Judges Pensions) Act 1924</a>
1928 No 7	<a href="#">Supreme Court and District Courts (Judges) Act 1928</a>
1932 No 34	<a href="#">District Courts (Validation and Amendment) Act 1932</a>
1932 No 35	<a href="#">District Courts (Further Validation and Amendment) Act 1932</a>
1936 No 4	<a href="#">District Courts (Amendment) Act 1936</a>
1940 No 44	<a href="#">Attachment of Wages Limitation Act 1940</a>
1949 No 44	<a href="#">District Courts (Amendment) Act 1949</a>
1951 No 19	<a href="#">District Courts (Amendment) Act 1951</a>
1955 No 20	<a href="#">District Courts (Amendment) Act 1955</a>
1958 No 11	<a href="#">District Courts (Amendment) Act 1958</a>
1961 No 18	<a href="#">District Courts and Small Debts Recovery (Amendment) Act 1961</a>

## **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.

## **Schedule 2 (Repealed)**

## **Schedule 3 Savings and transitional provisions consequent on amendments to this Act**

### **Part 1 Preliminary**

#### **1 Regulations**

(1A) The Governor may make regulations for the purposes of this Part.

(1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

*Courts Legislation Further Amendment Act 1998*, but only in relation to the amendments made to this Act

*District Court Amendment Act 1997*

*Courts Legislation Amendment (Civil Juries) Act 2001*, but only in relation to the amendments made to this Act

*Courts Legislation Amendment Act 2003*, but only in relation to the amendments made to this Act

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

*Courts Legislation Amendment Act 2006*, to the extent that it amends this Act

(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.

(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:

(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

(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.

### **Part 2 Provision consequent on enactment of **District Court****

## Amendment Act 1997

### 2 Definition

In this Part, **the amending Act** means the *District Court Amendment Act 1997*.

### 3 Causes of action generally

Sections 44, 48, 49, 51, 79, 134 and 134A, as amended by the amending Act, extend to apply in respect of any cause of action that accrued before their amendment by that Act.

### 4 Motor accident claims

The Court may, on the application of the plaintiff in a motor accident claim that was pending at the time the amendment of section 44 (1) by the amending Act took effect, by order determine that the amount recoverable by the plaintiff is not limited to any amount claimed in the pleadings.

### 5 Transfer of proceedings to or from the Court

Sections 143 and 145, as amended by the amending Act, extend to apply to proceedings instituted before their amendment by that Act.

## Part 3 Provision consequent on enactment of Courts Legislation Amendment Act 1998

### 6 Appeals from applications for summary judgment

The amendment made to section 127 by the *Courts Legislation Amendment Act 1998* does not apply to applications for summary judgment made before the commencement of the amendment.

## Part 4 Provision consequent on enactment of Courts Legislation Further Amendment Act 1998

### 7 Application of jurisdictional amendment to causes of action

- (1) Section 47 of this Act (as inserted by Schedule 1 [1] to the amending Act) does not apply to any cause of action that arose before the commencement of that item.
- (2) Any rules prescribed for the purposes of section 47 (1) (as in force immediately before the commencement of Schedule 1 [1] to the amending Act) conferring powers on the registrar are taken to have been made for the purposes of section 47 (1) (as inserted by Schedule 1 [1] to the amending Act).
- (3) In this clause, **amending Act** means the *Courts Legislation Further Amendment Act 1998*.

## **Part 5 Provision consequent on enactment of [Courts Legislation Amendment \(Civil Juries\) Act 2001](#)**

### **8 Application of amendments**

A provision of subdivision 8 of Division 3 of Part 3, as in force immediately before its amendment by the [Courts Legislation Amendment \(Civil Juries\) Act 2001](#), continues to apply in relation to actions commenced but not finally determined before the commencement of that amendment as if the provision had not been amended.

## **Part 6 Provisions consequent on enactment of [Courts Legislation Further Amendment Act 2001](#)**

### **9 Application of amendments**

- (1) Section 63A and Part 3A, as amended by the [Courts Legislation Further Amendment Act 2001](#), extend to and in respect of proceedings instituted before the amendments took effect, except as provided by subclause (2).
- (2) The amendments made by that Act to Part 3A have no effect in relation to a matter that, at the time the amendments took effect, had already been referred for mediation or neutral evaluation under that Part.

## **Part 7 Provisions consequent on enactment of [Courts Legislation Amendment Act 2003](#)**

### **10 Application of amendments to existing sittings directions**

- (1) Any direction given under section 32 before the commencement of Schedule 3 [2] to the [Courts Legislation Amendment Act 2003](#) and in force immediately before that commencement continues to have effect under the corresponding provisions of section 32 as inserted by that Schedule until it is revoked or varied by order of the Chief Judge.
- (2) Any direction given under section 173 before the commencement of Schedule 3 [4] to the [Courts Legislation Amendment Act 2003](#) and in force immediately before that commencement continues to have effect under the corresponding provisions of section 173 as inserted by that Schedule until it is revoked or varied by order of the Chief Judge.

## **Part 8 Provisions consequent on enactment of [Courts Legislation Amendment Act 2006](#)**

### **11 Application of amendments to existing interlocutory orders**

Section 127 (1), as amended by the [Courts Legislation Amendment Act 2006](#), extends to

an interlocutory order made in proceedings that were instituted before the commencement of that amendment but not finally determined before that commencement.

**12 Proceedings to set aside or vary judgment or order of Judicial Registrar**

- (1) The amendments made to section 18FB by the *Courts Legislation Amendment Act 2006* do not extend to an application to set aside or vary a judgment or order of the Judicial Registrar that has been made before the commencement of those amendments but not finally determined before the commencement of those amendments.
- (2) Such an application may be dealt with as if those amendments had not commenced.