

# Justice Legislation Amendment Act 2019 No 10

[2019-10]



New South Wales

## Status Information

### Currency of version

Historical version for 27 September 2019 to 6 December 2019 (accessed 27 December 2024 at 10:58)

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

### Provisions in force

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

### Notes—

- **Note**  
Amending Acts and amending provisions are subject to automatic repeal pursuant to sec 30C of the [Interpretation Act 1987 No 15](#) once the amendments have taken effect.
- **Editorial note**  
The Parliamentary Counsel's Office is progressively updating certain formatting styles in versions of NSW in force legislation published from 29 July 2019. For example, colons are being replaced by em-rules (em-dashes). Text of the legislation is not affected.

This version has been updated.

### Authorisation

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

File last modified 6 December 2019

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New South Wales

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# Justice Legislation Amendment Act 2019 No 10



New South Wales

An Act to amend various Acts and regulations relating to courts, crimes and other Stronger Communities portfolio matters.

## 1 Name of Act

This Act is the *Justice Legislation Amendment Act 2019*.

## 2 Commencement

- (1) This Act commences on the date of assent to this Act, except as provided by this section.
- (2) Schedule 1.4[1] and [2], 1.15 and 1.16 commence on a day or days to be appointed by proclamation.
- (3) Schedule 1.14 commences on 7 December 2019 or the date of assent to this Act, whichever is later.

## 3 Explanatory notes

The matter appearing under the heading “Explanatory note” in Schedule 1 does not form part of this Act.

## Schedule 1 Amendments

### 1.1-1.3

(Repealed)

### 1.4 Coroners Act 2009 No 41

#### [1] Section 6 Meaning of “reportable death”

Omit section 6(1)(d) and (2).

#### [2] Section 88A

Insert after section 88—

## **88A Preliminary examination of remains of deceased person**

- (1) A pathologist may carry out (or arrange for another person to carry out) a preliminary examination in relation to the remains of a deceased person even if a post mortem investigation direction has not been given authorising the examination.
- (2) A preliminary examination in relation to the remains of a deceased person may only involve any one or more of the following—
  - (a) a visual examination of the remains (including a dental examination),
  - (b) the collection and review of information, including personal and health information relating to the deceased person or the death of the person,
  - (c) the taking of samples of bodily fluid, including blood, urine, saliva, vitreous humour and mucus samples from the remains (which may require an incision to be made) and the testing of those samples,
  - (d) the imaging of the remains, including the use of computed tomography (CT scan), magnetic resonance imaging (MRI scan), x-rays, ultrasound and photography,
  - (e) the taking of samples from the surface of the remains (including swabs from wounds and inner cheek, hair samples and samples from under fingernails and from the skin) and the testing of those samples,
  - (f) the fingerprinting of the remains,
  - (g) any other procedure that is not a dissection, the removal of tissue or invasive in any other way.

### **[3], [4] (Repealed)**

#### **Explanatory note**

Item [1] of the proposed amendments removes a requirement to treat as a reportable death any death occurring in circumstances where the deceased person had not been attended by a medical practitioner during the period of 6 months immediately before the person's death.

Item [2] enables pathologists to conduct certain non-invasive preliminary examinations of the remains of deceased persons without having to obtain authority from a post mortem investigation direction.

Item [3] provides that the Domestic Violence Death Review Team is to include representatives of the Legal Aid Commission of New South Wales.

Item [4] inserts provisions of a savings or transitional nature as a consequence of proposed amendments to the [Coroners Act 2009](#) in items [1] and [2].

### **1.5-1.13**

(Repealed)

## **1.14 Land and Environment Court Act 1979 No 204**

### **Section 18 Class 2—local government and miscellaneous appeals and applications**

Insert after section 18(i)—

- (j) despite any other provision of this Division—appeals under any Act to the Court against building product rectification orders made under the *Building Products (Safety) Act 2017*.

#### **Explanatory note**

The proposed amendment clarifies that appeals under Acts against building product rectification orders fall within Class 2 of the jurisdiction of the Land and Environment Court (ie similar to local government appeals), only. Currently, these appeals fall within other classes under other environment and local government legislation.

## **1.15 Law Enforcement (Powers and Responsibilities) Act 2002 No 103**

### **[1] Section 59 Application of Division**

Insert “(other than section 61A)” after “Division” where firstly occurring in section 59(1).

### **[2] Section 59(3)**

Insert “61A,” after “sections” where firstly occurring.

### **[3] Section 61A**

Insert after section 61—

#### **61A Application for notice to produce documents**

- (1) Despite sections 60 and 61, a person may apply for a notice to produce documents by email and any other method authorised by the regulations and in the form prescribed by the regulations.
- (2) An eligible issuing officer must not issue the notice unless the information given by the applicant in or in connection with the application is verified by affidavit.
- (3) An application for a notice to produce documents may also be made under section 60 or 61, if applicable.

#### **Explanatory note**

The proposed amendments provide for applications for notices to produce documents to be able to be made by email and any other method authorised by the regulations at all times. Currently, these applications must be made in person or, if the notice is required urgently and cannot be applied for in person, may be made by telephone.

## **1.16 Law Enforcement (Powers and Responsibilities) Regulation 2016**

### **[1] Clause 4 Form of application for warrant or notice to produce**

Omit “and” from clause 4(1)(g).

### **[2] Clause 4(1)(h)**

Omit the paragraph.

### **[3] Clause 4(1A)**

Insert after clause 4(1)—

(1A) An application for a notice to produce documents issued under Division 3 of Part 5 of the Act is to be made in the form of Part 1 of Form 8.

### **[4] Schedule 1 Forms**

Omit “4(1)(h)” from Form 8. Insert instead “4(1A)”.

### **[5] Schedule 1, Form 8**

Omit “*not made in person*” from Part 2. Insert instead “*made by telephone*”.

#### **Explanatory note**

The proposed amendments are consequential on certain proposed amendments to the [Law Enforcement \(Powers and Responsibilities\) Act 2002](#) in this Schedule.

## **1.17-1.22**

(Repealed)