

# Felons (Civil Proceedings) Act 1981 No 84

[1981-84]



New South Wales

## Status Information

### Currency of version

Current version for 1 January 2000 to date (accessed 16 May 2024 at 11:08)

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

### Provisions in force

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

### Responsible Minister

- Attorney General

For full details of Ministerial responsibilities, see the [Administrative Arrangements \(Minns Ministry—Administration of Acts\) Order 2023](#).

### 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 17 September 2002

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# Felons (Civil Proceedings) Act 1981 No 84



New South Wales

An Act to provide that a person convicted of, or found to have committed, a felony shall not be incapable of instituting and maintaining civil proceedings in any court.

## 1 Name of Act

This Act may be cited as the *Felons (Civil Proceedings) Act 1981*.

## 2 Commencement

- (1) Except as provided in subsection (2), this Act shall commence on the date of assent to this Act.
- (2) Sections 3–8 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## 3 (Repealed)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 Leave to sue required for persons convicted of serious indictable offences

A person who is in custody as a result of having been convicted of, or found to have committed, a serious indictable offence may not institute any civil proceedings in any court except by the leave of that court granted on application.

## 5 Grant of leave

A court shall not, under section 4, grant leave to a person to institute proceedings unless the court is satisfied that the proceedings are not an abuse of process and that there is prima facie ground for the proceedings.

## 6 Refusal of leave—appeal

- (1) Subject to subsection (2), a person to whom leave referred to in section 4 has been refused may appeal against the refusal as if the decision to refuse the leave were a decision on a point of law.
- (2) An appeal shall not lie to the Court of Appeal (within the meaning of the *Supreme Court Act 1970*) from an order refusing leave referred to in section 4 except by the leave of the Court of Appeal.

## **7 Right of appearance**

At the hearing or determination of an application or appeal under this Act, except by the leave of the court to which the application or appeal is made:

- (a) the applicant or appellant, as the case may be, is not entitled to appear in person, and
- (b) the person who would, if the proceedings to the institution of which the application or appeal relates were instituted, be the defendant in those proceedings, is not entitled to appear or be represented.

## **8 Rules of court**

Rules of court may be made for or with respect to the practice and procedure to be followed in relation to applications or appeals under this Act.

## **9 Provisions consequent on enactment of [Crimes Legislation Amendment \(Sentencing\) Act 1999](#)**

- (1) Section 3, as in force immediately before its repeal by the 1999 amending Act, continues to have effect in relation to any person who was convicted of a felony before the repeal of that section.
- (2) Sections 4–7, as in force immediately before their amendment by the 1999 amending Act, apply to a person who was convicted of a felony before their amendment as if the person had been convicted of a serious indictable offence.
- (3) In this section, **1999 amending Act** means the [Crimes Legislation Amendment \(Sentencing\) Act 1999](#).