

Courts Legislation Amendment (Civil Juries) Act 2001 No 124

[2001-124]



New South Wales

Status Information

Currency of version

Repealed version for 19 December 2001 to 21 July 2003 (accessed 18 July 2024 at 3:32)

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.

Notes—

- **Repeal**

The Act was repealed by the [Statute Law \(Miscellaneous Provisions\) Act 2003 No 40](#), Sch 3 with effect from 22.7.2003.

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](#).

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Courts Legislation Amendment (Civil Juries) Act 2001 No 124



New South Wales

An Act to amend the *District Court Act 1973* and *Supreme Court Act 1970* to restrict the use of juries in civil proceedings; and for other purposes.

1 Name of Act

This Act is the *Courts Legislation Amendment (Civil Juries) Act 2001*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of *District Court Act 1973 No 9*

The *District Court Act 1973* is amended as set out in Schedule 1.

4 Amendment of *Supreme Court Act 1970 No 52*

The *Supreme Court Act 1970* is amended as set out in Schedule 2.

5 Amendment of *Defamation Act 1974 No 18*

The *Defamation Act 1974* is amended by omitting “To the extent that section 88 of the *Supreme Court Act 1970* applies to proceedings for defamation, it” from section 7A (5) and by inserting instead “Section 86 of the *Supreme Court Act 1970*”.

Schedule 1 Amendment of *District Court Act 1973*

(Section 3)

[1] Section 76A

Insert after section 76:

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 150, 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.

[2] Section 77 Questions of fact and law

Omit subsection (3).

[3] Section 77 (5)

Omit the subsection. Insert instead:

- (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.

[4] Sections 78-79A

Omit the sections.

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

Insert at the end of clause 1 (1):

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

[6] Schedule 3

Insert after Part 4:

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.

Schedule 2 Amendment of *Supreme Court Act 1970*

(Section 4)

[1] Sections 85-89

Omit the sections. Insert instead:

85 Trial without jury unless jury required in interests of justice

- (1) Proceedings in any Division are to be tried without a jury, unless the Court orders otherwise.
- (2) The Court may make an order under subsection (1) that proceedings are to be tried with a jury if:
 - (a) any party to the proceedings:
 - (i) files a requisition for trial with a jury, and
 - (ii) pays the fee prescribed by the regulations made under section 130, and
 - (b) the Court is satisfied that the interests of justice require a trial by jury in the proceedings.
- (3) The rules may prescribe the time within which a requisition must be filed for the purposes of subsection (2) (a).
- (4) A fee paid under this section is to be treated as costs in the proceedings, unless the Court orders otherwise.
- (5) In any proceedings in which the Court has ordered a trial by jury, 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.

(6) This section does not apply to proceedings referred to in section 86.

86 Common law claim—defamation

- (1) Proceedings on a common law claim in which there are issues of fact on a claim in respect of defamation are to be tried with a jury.
- (2) Despite subsection (1), the Court may order that all or any issue of fact be tried without a jury if:
 - (a) any prolonged examination of documents or scientific or local investigation is required and cannot conveniently be made with a jury, or
 - (b) all parties consent to the order.

87 Questions of fact

The Court may order that any question of fact in proceedings (whether the proceedings are to be tried with or without a jury) be tried before any other question of fact in the proceedings.

[2] Fourth Schedule Savings and transitional provisions

Insert at the end of clause 1 (2):

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

[3] Fourth Schedule

Insert after Part 11:

Part 12 Provision consequent on enactment of [Courts Legislation Amendment \(Civil Juries\) Act 2001](#)

19 Application of amendment

Section 85, 86, 87, 88 or 89, as in force immediately before its amendment by the [Courts Legislation Amendment \(Civil Juries\) Act 2001](#), continues to apply in relation to proceedings commenced but not finally determined before the commencement of that amendment as if the section had not been amended.