

# Courts Legislation Amendment Act 2004 No 68

[2004-68]



New South Wales

## Status Information

### Currency of version

Repealed version for 1 July 2005 to 27 September 2020 (accessed 18 July 2024 at 2:38)

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—

- **Repeal**

This Act was repealed by sec 4 of the [Stronger Communities Legislation Amendment \(Courts and Civil\) Act 2020 No 24](#) with effect from 28.9.2020.

### 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 28 September 2020

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# Courts Legislation Amendment Act 2004 No 68



New South Wales

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

## 1 Name of Act

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

## 2 Commencement

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

## 3 Amendment of Acts

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

## Schedules 1-4 (Repealed)

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

(Section 3)

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

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

Insert instead “lodging”.

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

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

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

Omit “giving”. Insert instead “lodgment”.

**[4] Section 10**

Omit the section. Insert instead:

**10 Method and time for making appeal**

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

lodging the relevant notice of intention with the registrar of the court, the person in charge of the place where the appellant is in custody or the registrar of the court of trial, and

- (b) an appeal against a conviction or sentence is taken to be pending in the court if the relevant notice of intention has been duly lodged with the registrar of the court, the person in charge of the place where the appellant is in custody or the registrar of the court of trial, unless the appeal or application has not been made within any time it is required to be made by the rules of court.

(7) In this clause:

**relevant notice of intention** means:

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

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

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

Omit section 19 (3). Insert instead:

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

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

Insert after clause 8:

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

- (1) This Act, as amended by Schedule 5 to the *Courts Legislation Amendment Act 2004*, applies in respect of any appeal made after the commencement of that Schedule.
- (2) Subclause (1) extends to apply in respect of an appeal in respect of which a relevant notice of intention (within the meaning of section 10) has been given before the commencement of the Schedule referred to in that subclause, but does not so apply as to require a further relevant notice of intention to be lodged.

### **Schedules 6-9 (Repealed)**