

Supreme Court (Summary Jurisdiction) Act 1967 No 72

[1967-72]



New South Wales

Status Information

Currency of version

Repealed version for 8 December 2000 to 6 July 2003 (accessed 25 November 2024 at 17:45)

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The Act was repealed by the [Justices Legislation Repeal and Amendment Act 2001 No 121](#), Sch 1 with effect from 7.7.2003.

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](#).

File last modified 7 July 2003

Supreme Court (Summary Jurisdiction) Act 1967 No 72



New South Wales

Contents

Long title	4
1 Name of Act and commencement	4
2 Definitions	4
3 Summary jurisdiction of the Supreme Court.....	4
4 Orders for appearance or apprehension of defendants	4
5 Powers of Judge where defendant apprehended	5
5A Notices to be given to prosecutor	5
6 Defects and variances in process	5
7 How defendant dealt with during adjournment	6
8 Practice and procedure for taking and receiving evidence	6
9 Procedure where prosecutor does not, but defendant does appear	6
10 Procedure where defendant does not obey order to appear.....	6
11 Procedure where either party does not appear at adjourned hearing	7
12 Where both parties appear Judge to hear and determine the case	7
13 Provision for hearing cases together	7
13A Pre-trial procedure.....	7
14 Judge may order payment of costs.....	7
15 Enforcement of fines or orders	8
16 (Repealed)	8
17 Aiding, abetting, counselling or procuring the commission of offences.....	8
18-28 (Repealed)	8
28A Termination of Local Court proceedings on commencement of proceedings under this Act.....	8

28B Effect of convictions under this Act 8
29 Rules..... 8

Supreme Court (Summary Jurisdiction) Act 1967 No 72



New South Wales

An Act to confer a summary jurisdiction on the Supreme Court of New South Wales; and for purposes connected therewith.

1 Name of Act and commencement

- (1) This Act may be cited as the *Supreme Court (Summary Jurisdiction) Act 1967*.
- (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2 Definitions

In this Act, unless inconsistent with the context or subject-matter:

Court means the Supreme Court of New South Wales.

Judge means Judge of the Court.

Rules means rules made under the *Supreme Court Act 1970*.

3 Summary jurisdiction of the Supreme Court

- (1) Where, under any Act, proceedings for an offence may be taken before the Court in its summary jurisdiction, the Court shall have jurisdiction to hear and determine those proceedings in a summary manner.
- (2) The summary jurisdiction conferred on the Court by subsection (1) shall be exercised by a Judge sitting alone, and not otherwise.

4 Orders for appearance or apprehension of defendants

- (1) Upon an application being made by any person (in this Act referred to as the **prosecutor**) in accordance with the rules, a Judge shall make an order:
 - (a) ordering any person alleged in the application to have committed an offence punishable in the Court in its summary jurisdiction to appear at a time and place specified in the order to answer to the offence charged in the order, or

(b) ordering the apprehension of any such person for the purpose of the person's being brought before a Judge to answer to the offence charged in the order.

- (2) An order under subsection (1) may be made *ex parte*.
- (3) An order in respect of an offence alleged to have been committed by a person may be made under paragraph (b) of subsection (1) whether or not an order in respect of that offence has been made under paragraph (a) of that subsection.
- (4) An order under paragraph (b) of subsection (1):
- (a) shall be addressed to all members of the police force,
 - (b) may be addressed to any other person specified in the order, and
 - (c) may be executed by any member of the police force or by any person to whom it is addressed at any place at which, had the offence specified in the order been committed at that place, that offence would be triable in the Court.

5 Powers of Judge where defendant apprehended

Where any person apprehended pursuant to an order made under section 4 (1) (b) is brought before a Judge, the Judge shall, subject to the *Bail Act 1978*, by warrant commit the person to prison and order the person to be there detained until the person is brought before a Judge at a time and place specified in the order to answer to the offence with which the person is charged.

5A Notices to be given to prosecutor

- (1) The Prothonotary shall, as soon as practicable after the making of any order under section 5, cause notice of the order to be given to the prosecutor.
- (2) The Prothonotary shall, as soon as practicable after a notice is given or sent (as referred to in section 34 of the *Bail Act 1978*) to a person referred to in section 5, cause a copy of the notice to be given to the prosecutor.

6 Defects and variances in process

- (1) No objection shall be taken or allowed to any application referred to in, or to any order or warrant made or issued under, section 4 or 5 by reason of any alleged defect in it in substance or in form or by reason of any variance between it and the evidence adduced at the proceedings for the offence charged in the application or order.
- (2) The Judge hearing the proceedings for any such offence shall:
- (a) where it appears to the Judge that any variance between any such application or order and the evidence adduced in respect of the offence charged in the application or order is such that the defendant has been misled by the variance, and

- (b) the defendant applies for an adjournment of the hearing,
adjourn the hearing.

7 How defendant dealt with during adjournment

Where the hearing of the proceedings for an offence punishable in the summary jurisdiction of the Court is adjourned, whether under section 6 or otherwise, the Judge before whom the proceedings are taken may, subject to the *Bail Act 1978*, by warrant commit the defendant to prison and order him or her to be there detained until he or she is brought before the Judge at a time and place specified in the order to answer further to the offence with which he or she is charged.

8 Practice and procedure for taking and receiving evidence

Subject to this Act and the rules, the practice and procedure of the Court in relation to the taking and receiving of evidence at the trial of accused persons on indictment apply to the taking and receiving of evidence in proceedings in the summary jurisdiction of the Court.

9 Procedure where prosecutor does not, but defendant does appear

- (1) If, upon the day and at the time and place appointed by an order made in respect of a defendant under paragraph (a) of subsection (1) of section 4, or under section 5, the prosecutor does not appear in person or by a counsel or attorney, but the defendant attends in accordance with the order and, in the case of an order under section 5, the prosecutor has received notice of the order, the Judge shall dismiss the charge unless for some reason the Judge thinks it proper to adjourn the hearing.
- (2) If, upon the day and at the time and place specified in a notice referred to in section 5A (2), the prosecutor does not appear in person or by a counsel or attorney, but the defendant attends, and the prosecutor has received a copy of the notice, the Judge shall dismiss the charge unless for some reason the Judge thinks it proper to adjourn the hearing.

10 Procedure where defendant does not obey order to appear

If, upon the day and at the time and place appointed by an order made in respect of a defendant under paragraph (a) of subsection (1) of section 4, the defendant does not appear, then upon proof of the due service, in accordance with the rules, of the order upon the defendant at a reasonable time before the time appointed for the defendant's appearance the Judge may either:

- (a) proceed to hear and determine the case and adjudicate thereon in the absence of the defendant, or
- (b) adjourn the hearing and make an order for the apprehension of the defendant as provided in paragraph (b) of subsection (1) of section 4.

11 Procedure where either party does not appear at adjourned hearing

- (1) If, upon the day at the time and place to which the hearing or further hearing of a charge has been adjourned, either or both of the parties does not, or do not, appear in person or by a counsel or attorney, the Judge then and there present may proceed with the hearing as if that party or those parties were present, and in a case where it is the prosecutor who does not so appear may dismiss the charge with or without costs.
- (2) Subsection (1) does not empower the Judge to order costs to be paid in proceedings for an offence referred to in section 475A (1) of the *Crimes Act 1900*.

12 Where both parties appear Judge to hear and determine the case

If, upon the day and at the time and place appointed for hearing or to which the hearing or further hearing has been adjourned, both parties appear in person or by their respective counsel or attorneys the Judge shall proceed to hear the case.

13 Provision for hearing cases together

- (1) Where a defendant is charged with two or more offences punishable in the summary jurisdiction of the Court, whether of a like or different nature, the Judge shall have jurisdiction to hear and determine the charges together.
- (2) Where two or more defendants are separately charged with any such offences, whether of a like or different nature, alleged to have been committed at the same time and place, the Judge shall have jurisdiction to hear and determine the charges together.

13A Pre-trial procedure

Nothing in this Act requires the Judge to proceed to hear and determine any case if any prescribed pre-trial procedures which are required by rules made under this Act to be completed before the trial of a case commences have not been completed.

14 Judge may order payment of costs

- (1) Where a Judge:
 - (a) convicts any person of an offence punishable in the summary jurisdiction of the Court,
 - (b) makes an order dismissing the charge for any such offence, or
 - (c) makes an order under section 10 of the *Crimes (Sentencing Procedure) Act 1999* in respect of any such offence,

the Judge may, in and by the conviction or order, order the defendant, in the case of a conviction or order referred to in paragraph (a) or (c), to pay to the prosecutor, or, in

the case of an order referred to in paragraph (b), order the prosecutor to pay to the defendant, such costs as to the Judge seem just and reasonable.

- (2) The amount so ordered to be paid for costs shall in all cases be specified in the conviction or order.
- (3) Subsection (1) does not empower the Judge to order costs to be paid in proceedings for an offence referred to in section 475A (1) of the [Crimes Act 1900](#).

15 Enforcement of fines or orders

The payment of any money ordered by a Judge exercising summary jurisdiction under this Act to be paid as a penalty or for costs may be enforced in accordance with the [Fines Act 1996](#).

16 (Repealed)

17 Aiding, abetting, counselling or procuring the commission of offences

A person who aids, abets, counsels or procures the commission by another person of an offence punishable in the summary jurisdiction of the Court is guilty of the like offence and may be tried at the same time as or before or after the trial of the principal offender.

18-28 (Repealed)

28A Termination of Local Court proceedings on commencement of proceedings under this Act

Any proceedings in a Local Court for an offence for which proceedings may be taken either under this Act or before a Local Court shall be terminated upon the Local Court being notified, in accordance with the rules, of the commencement of proceedings under this Act for that offence.

28B Effect of convictions under this Act

A conviction under this Act for an offence:

- (a) (Repealed)
- (b) that is of a kind that may be tried either on indictment or under this Act shall be deemed for all purposes, except the [Criminal Appeal Act 1912](#), to be a conviction on indictment.

29 Rules

- (1) Rules may be made under the [Supreme Court Act 1970](#) for or with respect to the practice and procedure of the Court in the exercise of its summary jurisdiction.
- (2) Without limiting the generality of subsection (1) the rules may make provision for or with respect to:

- (a) the service of orders made under section 4,
 - (a1) pre-trial procedures in any proceedings in the Court in the exercise of its summary jurisdiction and practice with respect thereto,
 - (b) the attendance or apprehension of defendants and witnesses,
 - (c) the examination of witnesses on oath, affirmation or declaration,
 - (d) the production by witnesses of books, documents and writings,
 - (e) the execution of warrants for the apprehension of any person,
 - (f) any matter which by this Act is required to be prescribed by rules or which is necessary or convenient for carrying out or giving effect to the provisions of this Act relating to the summary jurisdiction of the Court.
- (3) Subsections (1) and (2) do not limit the rule-making powers conferred by the *Supreme Court Act 1970*.
- (4) (Repealed)