



New South Wales

Courts Legislation Further Amendment Bill 2002

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Bail Act 1978* to allow bail undertakings to be given to authorised officers of the Department of Corrective Services,
- (b) to amend the *Land and Environment Court Act 1979* to facilitate electronic filing in the Court and electronic issue of process out of the Court,
- (c) to amend the *Liquor Act 1982* (and the *Statutory and Other Offices Remuneration Act 1975*) to make it clear that licensing magistrates who are Magistrates with limited tenure are entitled to be paid remuneration payable in respect of Magistrates with limited tenure under section 24 (2) of the *Local Courts Act 1982*,
- (d) to amend the *Local Courts Act 1982* to prevent new appointees to the Magistracy from carrying forward leave entitlements from previous employment in a public sector service,

- (e) to amend the *Supreme Court Act 1970* to remove restrictions on certain civil matters being referred to arbitration if they are complex or if the hearing of the proceedings is likely to be lengthy.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Bail Act 1978* set out in Schedule 1, to the *Land and Environment Court Act 1979* set out in Schedule 2, to the *Liquor Act 1982* set out in Schedule 3, to the *Local Courts Act 1982* set out in Schedule 4, to the *Statutory and Other Offices Remuneration Act 1975* set out in Schedule 5 and to the *Supreme Court Act 1970* set out in Schedule 6.

Schedule 1 Amendment of Bail Act 1978 No 161

Schedule 1 [1] enables bail undertakings to be given to officers of the Department of Corrective Services who are authorised by the Commissioner of Corrective Services for that purpose.

Schedule 1 [2] and [3] make amendments consequential on that made by Schedule 1 [1].

Schedule 2 Amendment of Land and Environment Court Act 1979 No 204

Schedule 2 [1] enables all process issued out of the Land and Environment Court to be signed or otherwise authenticated in accordance with the rules of the Court, rather than being required to be signed by the issuing officer and marked with the Court office stamp. The amendment will facilitate electronic filing in the Court and electronic issue of process out of the Court in accordance with rules of the Court that have effect from 1 July 2002.

Schedule 2 [2] inserts a provision that validates acts or omissions occurring on or after 1 July 2002 and before the commencement of the amendment made by Schedule 2 that would have been valid had that amendment been in force when the things were done or omitted to be done.

Schedule 3 Amendment of Liquor Act 1982 No 147

Schedule 3 provides that licensing magistrates under the Act who are Magistrates with limited tenure under the *Local Courts Act 1982* (colloquially referred to as “acting” magistrates) are entitled to be paid remuneration payable in respect of Magistrates with limited tenure under section 24 (2) of that Act.

Schedule 4 Amendment of Local Courts Act 1982 No 164

Schedule 4 [2] inserts new section 25A which provides that a person who was employed in a public sector service before being appointed as a Magistrate does not retain existing leave entitlements accrued or accruing to the person as such an employee. The new section applies only in relation to persons appointed as Magistrates on or after the commencement of the section.

Schedule 4 [1] makes a consequential amendment.

Schedule 5 Amendment of Statutory and Other Offices Remuneration Act 1975 (1976 No 4)

Schedule 5 makes an amendment consequential on the amendment made by Schedule 3.

Schedule 6 Amendment of Supreme Court Act 1970 No 52

Schedule 6 [1] omits provisions that prevent the Supreme Court referring certain civil matters to arbitration if the proceedings involve complex questions of law or fact or if the hearing of the proceedings is expected to be lengthy.

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Schedule 6 [2] extends the amendment made by Schedule 6 [1] to proceedings commenced, but not determined, before the commencement of the amendment.



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New South Wales

Courts Legislation Further Amendment Bill 2002

No. , 2002

A Bill for

An Act to amend the *Bail Act 1978* in relation to bail undertakings, the *Land and Environment Court Act 1979* in relation to the issue of process, the *Liquor Act 1982* in relation to licensing magistrates under that Act, the *Local Courts Act 1982* in relation to the preservation of entitlements of persons appointed as Magistrates, and the *Supreme Court Act 1970* in relation to arbitration; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Courts Legislation Further Amendment Act 2002</i> .	3
2 Commencement	4
This Act commences on a day or days to be appointed by proclamation.	5 6
3 Amendment of Acts	7
The Acts specified in Schedules 1–6 are amended in the manner set out in those Schedules.	8 9

Schedule 1	Amendment of Bail Act 1978 No 161	1
	(Section 3)	2
[1]	Section 35	3
	Omit the section. Insert instead:	4
	35 Giving of bail undertakings	5
	A bail undertaking may be given to any of the following:	6
	(a) a court,	7
	(b) an authorised officer,	8
	(c) an officer of the Department of Corrective Services who is authorised by the Commissioner of Corrective Services for the purposes of this section.	9 10 11
[2]	Sections 36 (3) (d) and 39B	12
	Omit “authorised officer or court” wherever occurring.	13
	Insert instead “officer or court”.	14
[3]	Section 39 Entry into agreement and acceptance of acknowledgment or security	15 16
	Omit “authorised officer or court” where secondly occurring.	17
	Insert instead “officer or court”.	18

Schedule 2	Amendment of Land and Environment Court Act 1979 No 204	1
		2
	(Section 3)	3
[1]	Section 65 Issue of process	4
	Omit “and be signed by the officer issuing the process and marked with the Court office stamp”.	5
		6
	Insert instead “and be signed or otherwise authenticated in accordance with the rules”.	7
		8
[2]	Schedule 3 Savings, transitional and other provisions	9
	Insert at the end of the Schedule, with appropriate numbering:	10
	Provision consequent on enactment of Courts Legislation Further Amendment Act 2002	11
		12
	Anything that was done or omitted to be done on or after 1 July 2002 and before the commencement of the amendment made by Schedule 2 to the <i>Courts Legislation Further Amendment Act 2002</i> , and that would have been valid if that amendment had been in force when the thing was done or omitted to be done, is validated.	13
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Schedule 3	Amendment of Liquor Act 1982 No 147	1
	(Section 3)	2
Section 8	Appointment of licensing magistrates	3
	Insert after section 8 (3):	4
	(3A) A licensing magistrate who is a Magistrate with limited tenure within the meaning of the <i>Local Courts Act 1982</i> is entitled to be paid (and is taken always to have been entitled to be paid) remuneration payable in respect of Magistrates with limited tenure under section 24 (2) of that Act.	5 6 7 8 9

Schedule 4	Amendment of Local Courts Act 1982	1
	No 164	2
	(Section 3)	3
[1]	Section 25 Superannuation and certain other rights	4
	Insert after section 25 (4):	5
	(5) This section is subject to section 25A.	6
[2]	Section 25A	7
	Insert after section 25:	8
25A	Extended, annual and sick leave accrued or accruing at time of appointment	9
	(1) A person who was employed in a public sector service (within the meaning of Schedule 5A to the <i>Public Sector Management Act 1988</i>) before the person's appointment as a Magistrate does not retain, on his or her appointment, any entitlement to extended, annual or sick leave accrued or accruing to the person as such an employee.	11
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	(2) Subsection (1) does not apply in relation to a Magistrate with limited tenure.	17
		18
	(3) Nothing in subsection (1) prevents the payment to a person to whom that subsection applies of the money value of any extended, annual or sick leave accrued or accruing to the person as an employee in a public sector service before the person's appointment as a Magistrate.	19
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	(4) This section applies only in relation to a person appointed as a Magistrate on or after the commencement of this section.	24
		25

Schedule 5	Amendment of Statutory and Other Offices Remuneration Act 1975 (1976 No 4)	1
		2
	(Section 3)	3
Schedule 1 Public offices		4
Insert “or a Magistrate who has limited tenure within the meaning of the <i>Local Courts Act 1982</i> ” at the end of the matter relating to Licensing magistrate (under the <i>Liquor Act 1982</i>).		5 6 7

Schedule 6	Amendment of Supreme Court Act 1970	1
	No 52	2
	(Section 3)	3
[1]	Section 76B Arbitration under Arbitration (Civil Actions) Act 1983	4
	Omit section 76B (3) (b) and (c).	5
[2]	Fourth Schedule Savings and transitional provisions	6
	Insert at the end of the Schedule, with appropriate numbering:	7
Part	Provision consequent on enactment of Courts	8
	Legislation Further Amendment Act 2002	9
	Arbitration	10
	The amendment made by Schedule 6 [1] to the <i>Courts</i>	11
	<i>Legislation Further Amendment Act 2002</i> extends to	12
	proceedings commenced, but not determined, before the	13
	commencement of the amendment.	14