

STATEMENT OF PUBLIC INTEREST

Need: Why is the policy needed based on factual evidence and stakeholder input?

Schedules 1 and 2 of the Bill will change the title of judicial officers presiding in the Local Court of New South Wales from 'magistrate' to 'judge' and make similar changes to other titles of judicial officers within the Local Court framework by amending the *Local Court Act 2007* and other legislation.

As officers of the busiest court in Australia, Local Court judicial officers make more than 90% of judicial decisions in NSW. Adopting the title 'judge' will better reflect the increasing seriousness, volume and complexity of matters heard in the Local Court

Changing the title also acknowledges that all judicial officers presiding in the Local Court are now required to be legally trained and that their role is judicial in nature. It will also reduce confusion or misunderstanding experienced by the public by providing a consistent title of 'judge' for all members of the judiciary across the NSW court system.

Schedule 3 of the Bill relates to s 70A of the *Bail Act 2013*, which was introduced in 2024 and prevents authorised justices from making bail decisions. Schedule 3 introduces amendments to the *Bail Act 2013* and other legislation to ensure consistency with s 70A. While the provisions that Schedule 3 of the Bill amends have already been legally superseded by s 70A and bail decisions are only being made by judicial officers and police officers in practice, amendments are nonetheless required to ensure the statute book is clear and consistent.

Objectives: What is the policy's objective couched in terms of the public interest?

Changing the title of 'magistrates' to 'judges' will modernise public understanding of the role of judicial officers in the Local Court. It will more accurately reflect the important work undertaken within the State's summary jurisdiction and acknowledge the vital role that the Local Court plays in the NSW justice system.

The technical amendments relating to s 70A of the *Bail Act 2013* provide clarity about bail decision-making for practitioners, courts and the public.

Options: What alternative policies and mechanisms were considered in advance of the bill?

Changing the title of 'magistrate' to 'judge' of the Local Court and removing statutory references to people other than judicial officers and police officers making bail decisions are reforms that can only be achieved through legislative amendment.

Analysis: What were the pros/cons and benefits/costs of each option considered?

The continued use of 'magistrate' for judicial officers presiding in the Local Court would fail to reflect the increasing volume and complexity of the Court's workload. The title is a legacy from a previous era when magistrates were appointed from the ranks of career public servants and did not require legal qualifications.

The change of title reform under Schedules 1 and 2 of the Bill acknowledges that all judicial officers presiding in the Local Court are legally trained, that their role is judicial in nature and that they are held to the same standards of judicial conduct as judicial officers who are already known as judges.

While the provisions in Schedule 3 of the Bill have been legally superseded by s 70A of the *Bail Act 2013*, the passage of these amendments will ensure the legislation is clear about who has the power to make bail decisions.

Importantly, both these reforms carry no financial implications.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

Schedules 1 and 2 of the Bill will commence by proclamation to ensure necessary operational and transitional tasks are completed to support implementation of the change of title reform. These tasks will be carried out by the Department of Communities and Justice in close consultation with impacted stakeholders. Key steps include:

- updating court systems, technology, infrastructure, forms, guides, documents, websites, intranets and emails to reflect the change in title;
- updating appointment protocols, processes and forms for judicial officers in the Local Court;
- communicating the change in title to relevant stakeholders including other Australian jurisdictions.

The Judicial Commission of NSW and the courts will also update the Local Court Bench Book and relevant Practice Notes and Guides to reflect the change in title.

The change of title reform is also dependent on complementary amendments to certain Commonwealth laws, particularly where federal jurisdiction is vested in the Local Court or where functions are assigned to magistrates in a personal capacity. Accordingly, the commencement of Schedules 1 and 2 of the Bill will be aligned to the passage and commencement of these relevant Commonwealth amendments.

Schedule 3 of the Bill will commence on assent. Section 70A of the *Bail Act 2013* commenced on 14 March 2025 following operational implementation, and the amendments in Schedule 3 are to ensure legislative consistency with that provision. No further operational changes are required for the amendments in Schedule 3 to commence.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

In relation to the change of title reform, the Department of Communities and Justice has consulted on the draft Bill with all heads of jurisdiction including the Chief Magistrate's Office, as well as targeted legal stakeholders, impacted NSW Government agencies and the Commonwealth Attorney-General's Department. All heads of jurisdiction expressed support for the reform, and no stakeholder raised any substantive concerns.

The consultation process was designed to ensure that giving effect to the reform preserves existing policy settings and does not give rise to unintended legal or operational consequences.

In relation to the amendments related to s 70A of the *Bail Act 2013*, the Department of Communities and Justice consulted with Heads of Jurisdiction and affected NSW Government departments and agencies. Stakeholders were overall supportive of, or had no objection to, the amendments.