

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 15 March, 1967.*

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1967.

An Act to regulate the procedure relating to writs of habeas corpus; for this purpose to amend the Common Law Procedure Act, 1899–1965, and the Supreme Court and Circuit Courts Act, 1900–1965; and for purposes connected therewith.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Common Law Procedure and Supreme Court and Circuit Courts (Amendment) Act, 1967".

Short title
and
citation.

(2)

*Common Law Procedure and Supreme Court and Circuit Courts
(Amendment).*

(2) The Common Law Procedure Act, 1899, as amended by subsequent Acts and by this Act, may be cited as the Common Law Procedure Act, 1899-1967.

(3) The Supreme Court and Circuit Courts Act, 1900, as amended by subsequent Acts and by this Act, may be cited as the Supreme Court and Circuit Courts Act, 1900-1967.

2. An application made but not finally dealt with before the commencement of this Act for an order nisi or an order absolute in the first instance for a writ of habeas corpus, and any proceedings under an application so made, may be continued and completed as if the amendments made by this Act had not been enacted.

Pending applications.

3. The Common Law Procedure Act, 1899-1965, is amended by omitting Part XXII and by inserting in lieu thereof the following Part :—

Amendment of Act No. 21, 1899. Subst. Part XXII.

PART XXII.

HABEAS CORPUS.

252. Proceedings for habeas corpus shall be taken in accordance with this Part and the Supreme Court and Circuit Courts Act, 1900, as amended by subsequent Acts, and not otherwise.

Proceedings—how taken.

253. (1) Every application for an order nisi or an order absolute in the first instance for a writ of habeas corpus shall be made to a Judge or to the Court of Appeal.

Application.

(2) The application may, if made to a Judge, be made ex parte in the manner prescribed, and, if made to the Court of Appeal, may be made ex parte in the manner prescribed by rules made under section 21K of the Supreme Court and Circuit Courts Act, 1900, as amended by subsequent Acts.

*Common Law Procedure and Supreme Court and Circuit Courts
(Amendment).*

5 254. Notwithstanding anything in any enactment or rule of law, where an application for an order nisi or an order absolute in the first instance for a writ of habeas corpus has been made by or in respect of any person, no such application shall again be made by or in respect of that person on the same grounds, whether to the same Judge or to any other Judge or to the Court of Appeal, unless fresh evidence is adduced in support of the application.

Further application.
cf. 8 & 9 Eliz. 2 c. 65, s. 14 (2).

10 254A. (1) Every order nisi for a writ of habeas corpus made—

Return of order nisi.

15 (a) by a Judge shall be made returnable before a Judge sitting in public chambers whether in term or not or, where the Judge considers that it should be returnable before the Court of Appeal, before that Court; or

(b) by the Court of Appeal shall be returnable before the Court of Appeal.

20 (2) On the return of the order the Judge or the Court of Appeal may make such order disposing of the case as the circumstances appear to require and may make such order as to costs as the Judge or the Court of Appeal thinks fit.

25 (3) The provisions of subsections two and three of section twenty of the Supreme Court and Circuit Courts Act, 1900, as amended by subsequent Acts, apply mutatis mutandis to proceedings on the return of an order nisi for a writ of habeas corpus made returnable before the Court of Appeal.

30 254B. Any order made by a Judge under section two hundred and fifty-three or subsection two of section 254A of this Act shall be subject to appeal to the Court of Appeal within the same time and in the same manner as prescribed for motions for a new trial.

*Common Law Procedure and Supreme Court and Circuit Courts
(Amendment).*

4. The Supreme Court and Circuit Courts Act, 1900—
1965, is amended—

Amendment
of Act No.
35, 1900.

- 5 (a) (i) by omitting from subsection one of section twenty the words “or for an order for the issue of a writ of habeas corpus”;
- (ii) by omitting from subsection two of the same section the words “or to make absolute an order for the issue of a writ of habeas corpus”;
- 10 (b) (i) by omitting from paragraph (b) of subsection three of section 21F the words “to make absolute an order for the issue of” and by inserting in lieu thereof the words “made to the Court of Appeal for an order nisi or an order absolute in the first instance for”;
- 15 (ii) by inserting next after the same paragraph the following new paragraph :—
- 20 (b1) proceedings on the return of an order nisi for a writ of habeas corpus made returnable before the Court of Appeal pursuant to subsection one of section 254A of the Common Law Procedure Act, 1899, as amended by subsequent Acts.

Sec. 20.
(Exercise
of powers
by single
Judge or
Judge of
Appeal in
certain
cases.)

Sec. 21F.
(Jurisdic-
tion of
Court of
Appeal.)

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1967

[5c]

COMMON LAW PROCEDURE AND SUPREME COURT AND CIRCUIT COURTS (AMENDMENT) BILL, 1967

EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to extend the jurisdiction to deal with applications for writs of habeas corpus to any Judge of the Supreme Court;
- (b) to limit the right of an applicant for such a writ to making his application to one Judge only or to the Court of Appeal, and to confer on an applicant aggrieved by the decision of a Judge a right of appeal to the Court of Appeal;
- (c) to make other provisions consequential upon or ancillary to the foregoing.

THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT

LECTURE NOTES

PHYSICS 311

1962

1963

1964

1965

1966

1967

1968

1969

1970

1971

1972

PROOF

No. , 1967.

A BILL

To regulate the procedure relating to writs of habeas corpus; for this purpose to amend the Common Law Procedure Act, 1899–1965, and the Supreme Court and Circuit Courts Act, 1900–1965; and for purposes connected therewith.

[MR McCaw—14 March, 1967.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Common Law Procedure and Supreme Court and Circuit Courts (Amendment) Act, 1967".

Short title
and
citation.

(2)

*Common Law Procedure and Supreme Court and Circuit Courts
(Amendment).*

(2) The Common Law Procedure Act, 1899, as amended by subsequent Acts and by this Act, may be cited as the Common Law Procedure Act, 1899–1967.

(3) The Supreme Court and Circuit Courts Act, 1900, as amended by subsequent Acts and by this Act, may be cited as the Supreme Court and Circuit Courts Act, 1900–1967.

2. An application made but not finally dealt with before the commencement of this Act for an order nisi or an order absolute in the first instance for a writ of habeas corpus, and any proceedings under an application so made, may be continued and completed as if the amendments made by this Act had not been enacted.

3. The Common Law Procedure Act, 1899–1965, is amended by omitting Part XXII and by inserting in lieu thereof the following Part :—

PART XXII.

HABEAS CORPUS.

252. Proceedings for habeas corpus shall be taken in accordance with this Part and the Supreme Court and Circuit Courts Act, 1900, as amended by subsequent Acts, and not otherwise.

253. (1) Every application for an order nisi or an order absolute in the first instance for a writ of habeas corpus shall be made to a Judge or to the Court of Appeal.

(2) The application may, if made to a Judge, be made ex parte in the manner prescribed, and, if made to the Court of Appeal, may be made ex parte in the manner prescribed by rules made under section 21K of the Supreme Court and Circuit Courts Act, 1900, as amended by subsequent Acts.

254.

*Common Law Procedure and Supreme Court and Circuit Courts
(Amendment).*

5 254. Notwithstanding anything in any enactment or rule of law, where an application for an order nisi or an order absolute in the first instance for a writ of habeas corpus has been made by or in respect of any person, no such application shall again be made by or in respect of that person on the same grounds, whether to the same Judge or to any other Judge or to the Court of Appeal, unless fresh evidence is adduced in support of the application.

Further application. cf. 8 & 9 Eliz. 2 c. 65, s. 14 (2).

10 254A. (1) Every order nisi for a writ of habeas corpus made—

Return of order nisi.

15 (a) by a Judge shall be made returnable before a Judge sitting in public chambers whether in term or not or, where the Judge considers that it should be returnable before the Court of Appeal, before that Court; or

(b) by the Court of Appeal shall be returnable before the Court of Appeal.

20 (2) On the return of the order the Judge or the Court of Appeal may make such order disposing of the case as the circumstances appear to require and may make such order as to costs as the Judge or the Court of Appeal thinks fit.

25 (3) The provisions of subsections two and three of section twenty of the Supreme Court and Circuit Courts Act, 1900, as amended by subsequent Acts, apply mutatis mutandis to proceedings on the return of an order nisi for a writ of habeas corpus made returnable before the Court of Appeal.

30 254B. Any order made by a Judge under section two hundred and fifty-three or subsection two of section 254A of this Act shall be subject to appeal to the Court of Appeal within the same time and in the same manner as prescribed for motions for a new trial.

Appeal.

*Common Law Procedure and Supreme Court and Circuit Courts
(Amendment).*

4. The Supreme Court and Circuit Courts Act, 1900—
1965, is amended—

Amendment
of Act No.
35, 1900.

- 5 (a) (i) by omitting from subsection one of section twenty the words “or for an order for the issue of a writ of habeas corpus”;
- (ii) by omitting from subsection two of the same section the words “or to make absolute an order for the issue of a writ of habeas corpus”;
- 10 (b) (i) by omitting from paragraph (b) of subsection three of section 21F the words “to make absolute an order for the issue of” and by inserting in lieu thereof the words “made to the Court of Appeal for an order nisi or an order absolute in the first instance for”;
- 15 (ii) by inserting next after the same paragraph the following new paragraph :—
- 20 (b1) proceedings on the return of an order nisi for a writ of habeas corpus made returnable before the Court of Appeal pursuant to subsection one of section 254A of the Common Law Procedure Act, 1899, as amended by subsequent Acts.

Sec. 20.
(Exercise
of powers
by single
Judge or
Judge of
Appeal in
certain
cases.)

Sec. 21F.
(Jurisdic-
tion of
Court of
Appeal.)

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1967

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 11, 1967.

An Act to regulate the procedure relating to writs of habeas corpus; for this purpose to amend the Common Law Procedure Act, 1899-1965, and the Supreme Court and Circuit Courts Act, 1900-1965; and for purposes connected therewith. [Assented to, 23rd March, 1967.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Common Law Procedure and Supreme Court and Circuit Courts (Amendment) Act, 1967".

Short title and citation.

*Common Law Procedure and Supreme Court and Circuit Courts
(Amendment).*

(2) The Common Law Procedure Act, 1899, as amended by subsequent Acts and by this Act, may be cited as the Common Law Procedure Act, 1899–1967.

(3) The Supreme Court and Circuit Courts Act, 1900, as amended by subsequent Acts and by this Act, may be cited as the Supreme Court and Circuit Courts Act, 1900–1967.

Pending applica-
tions.

2. An application made but not finally dealt with before the commencement of this Act for an order nisi or an order absolute in the first instance for a writ of habeas corpus, and any proceedings under an application so made, may be continued and completed as if the amendments made by this Act had not been enacted.

Amendment
of Act No.
21, 1899.
Subst.
Part XXII.

3. The Common Law Procedure Act, 1899–1965, is amended by omitting Part XXII and by inserting in lieu thereof the following Part :—

PART XXII.

HABEAS CORPUS.

Proceedings
—how
taken.

252. Proceedings for habeas corpus shall be taken in accordance with this Part and the Supreme Court and Circuit Courts Act, 1900, as amended by subsequent Acts, and not otherwise.

Applica-
tion.

253. (1) Every application for an order nisi or an order absolute in the first instance for a writ of habeas corpus shall be made to a Judge or to the Court of Appeal.

(2) The application may, if made to a Judge, be made ex parte in the manner prescribed, and, if made to the Court of Appeal, may be made ex parte in the manner prescribed by rules made under section 21K of the Supreme Court and Circuit Courts Act, 1900, as amended by subsequent Acts.

*Common Law Procedure and Supreme Court and Circuit Courts
(Amendment).*

254. Notwithstanding anything in any enactment or rule of law, where an application for an order nisi or an order absolute in the first instance for a writ of habeas corpus has been made by or in respect of any person, no such application shall again be made by or in respect of that person on the same grounds, whether to the same Judge or to any other Judge or to the Court of Appeal, unless fresh evidence is adduced in support of the application.

Further application.
cf. 8 & 9
Eliz. 2 c. 65,
s. 14 (2).

254A. (1) Every order nisi for a writ of habeas corpus made—

Return of order nisi.

(a) by a Judge shall be made returnable before a Judge sitting in public chambers whether in term or not or, where the Judge considers that it should be returnable before the Court of Appeal, before that Court; or

(b) by the Court of Appeal shall be returnable before the Court of Appeal.

(2) On the return of the order the Judge or the Court of Appeal may make such order disposing of the case as the circumstances appear to require and may make such order as to costs as the Judge or the Court of Appeal thinks fit.

(3) The provisions of subsections two and three of section twenty of the Supreme Court and Circuit Courts Act, 1900, as amended by subsequent Acts, apply mutatis mutandis to proceedings on the return of an order nisi for a writ of habeas corpus made returnable before the Court of Appeal.

254B. Any order made by a Judge under section two hundred and fifty-three or subsection two of section 254A of this Act shall be subject to appeal to the Court of Appeal within the same time and in the same manner as prescribed for motions for a new trial.

*Common Law Procedure and Supreme Court and Circuit Courts
(Amendment).*

Amendment of Act No. 35, 1900. **4.** The Supreme Court and Circuit Courts Act, 1900–1965, is amended—

Sec. 20.
(Exercise of powers by single Judge or Judge of Appeal in certain cases.)

- (a) (i) by omitting from subsection one of section twenty the words “or for an order for the issue of a writ of habeas corpus”;
- (ii) by omitting from subsection two of the same section the words “or to make absolute an order for the issue of a writ of habeas corpus”;

Sec. 21F.
(Jurisdiction of Court of Appeal.)

- (b) (i) by omitting from paragraph (b) of subsection three of section 21F the words “to make absolute an order for the issue of” and by inserting in lieu thereof the words “made to the Court of Appeal for an order nisi or an order absolute in the first instance for”;
- (ii) by inserting next after the same paragraph the following new paragraph :—
- (b1) proceedings on the return of an order nisi for a writ of habeas corpus made returnable before the Court of Appeal pursuant to subsection one of section 254A of the Common Law Procedure Act, 1899, as amended by subsequent Acts.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1967

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 16 March, 1967.*

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 11, 1967.

An Act to regulate the procedure relating to writs of habeas corpus; for this purpose to amend the Common Law Procedure Act, 1899–1965, and the Supreme Court and Circuit Courts Act, 1900–1965; and for purposes connected therewith. [Assented to, 23rd March, 1967.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Common Law Procedure and Supreme Court and Circuit Courts (Amendment) Act, 1967".

Short title
and
citation.

(2)

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

G. R. CRAWFORD,
Chairman of Committees of the Legislative Assembly.

*Common Law Procedure and Supreme Court and Circuit Courts
(Amendment).*

(2) The Common Law Procedure Act, 1899, as amended by subsequent Acts and by this Act, may be cited as the Common Law Procedure Act, 1899-1967.

(3) The Supreme Court and Circuit Courts Act, 1900, as amended by subsequent Acts and by this Act, may be cited as the Supreme Court and Circuit Courts Act, 1900-1967.

Pending applications.

2. An application made but not finally dealt with before the commencement of this Act for an order nisi or an order absolute in the first instance for a writ of habeas corpus, and any proceedings under an application so made, may be continued and completed as if the amendments made by this Act had not been enacted.

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3. The Common Law Procedure Act, 1899-1965, is amended by omitting Part XXII and by inserting in lieu thereof the following Part :—

PART XXII.

HABEAS CORPUS.

Proceedings—how taken.

252. Proceedings for habeas corpus shall be taken in accordance with this Part and the Supreme Court and Circuit Courts Act, 1900, as amended by subsequent Acts, and not otherwise.

Application.

253. (1) Every application for an order nisi or an order absolute in the first instance for a writ of habeas corpus shall be made to a Judge or to the Court of Appeal.

(2) The application may, if made to a Judge, be made ex parte in the manner prescribed, and, if made to the Court of Appeal, may be made ex parte in the manner prescribed by rules made under section 21K of the Supreme Court and Circuit Courts Act, 1900, as amended by subsequent Acts.

*Common Law Procedure and Supreme Court and Circuit Courts
(Amendment).*

254. Notwithstanding anything in any enactment or rule of law, where an application for an order nisi or an order absolute in the first instance for a writ of habeas corpus has been made by or in respect of any person, no such application shall again be made by or in respect of that person on the same grounds, whether to the same Judge or to any other Judge or to the Court of Appeal, unless fresh evidence is adduced in support of the application.

Further application.
cf. 8 & 9 Eliz. 2 c. 65, s. 14 (2).

254A. (1) Every order nisi for a writ of habeas corpus made—

Return of order nisi.

- (a) by a Judge shall be made returnable before a Judge sitting in public chambers whether in term or not or, where the Judge considers that it should be returnable before the Court of Appeal, before that Court; or
- (b) by the Court of Appeal shall be returnable before the Court of Appeal.

(2) On the return of the order the Judge or the Court of Appeal may make such order disposing of the case as the circumstances appear to require and may make such order as to costs as the Judge or the Court of Appeal thinks fit.

(3) The provisions of subsections two and three of section twenty of the Supreme Court and Circuit Courts Act, 1900, as amended by subsequent Acts, apply mutatis mutandis to proceedings on the return of an order nisi for a writ of habeas corpus made returnable before the Court of Appeal.

254B. Any order made by a Judge under section two hundred and fifty-three or subsection two of section 254A of this Act shall be subject to appeal to the Court of Appeal within the same time and in the same manner as prescribed for motions for a new trial.

*Common Law Procedure and Supreme Court and Circuit Courts
(Amendment).*

Amendment
of Act No.
35, 1900.

4. The Supreme Court and Circuit Courts Act, 1900–1965, is amended—

Sec. 20.
(Exercise
of powers
by single
Judge or
Judge of
Appeal in
certain
cases.)

- (a) (i) by omitting from subsection one of section twenty the words “or for an order for the issue of a writ of habeas corpus”;
- (ii) by omitting from subsection two of the same section the words “or to make absolute an order for the issue of a writ of habeas corpus”;

Sec. 21F.
(Jurisdiction
of
Court of
Appeal.)

- (b) (i) by omitting from paragraph (b) of subsection three of section 21F the words “to make absolute an order for the issue of” and by inserting in lieu thereof the words “made to the Court of Appeal for an order nisi or an order absolute in the first instance for”;
- (ii) by inserting next after the same paragraph the following new paragraph :—
- (b1) proceedings on the return of an order nisi for a writ of habeas corpus made returnable before the Court of Appeal pursuant to subsection one of section 254A of the Common Law Procedure Act, 1899, as amended by subsequent Acts.

*In the name and on behalf of Her Majesty I assent to
this Act.*

A. R. CUTLER,

Governor.

Government House,

Sydney, 23rd March, 1967.