

FIRST PRINT

DISTRICT COURT (AMENDMENT) BILL 1986

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Director of Public Prosecutions Bill 1986.

The object of this Bill is to amend the District Court Act 1973 so as—

- (a) to make amendments consequentially on the provisions of the Criminal Procedure Bill 1986 that—
 - (i) deal with the criminal jurisdiction of the District Court; and
 - (ii) abolish the office of Clerk of the Peace;
- (b) to provide that registrars of the District Court exercise functions for the Court in its criminal jurisdiction as well as its civil jurisdiction and to abolish the concept of "appointed places" in favour of proclaimed places (which at present relate only to the civil jurisdiction of the Court); and
- (c) to enable rules to be made respecting the staying of indictments.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day to be appointed by the Governor-in-Council.

Clauses 3 and 4 are formal provisions that give effect to the Schedules.

SCHEDULE 1—AMENDMENTS TO THE DISTRICT COURT ACT 1973

Schedule 1 (7), (8) and (9) (a) relate to paragraph (a) above.

Schedule 1 (1)-(6) and (10)-(14) relate to paragraph (b) above.

Schedule 1 (9) (b) relates to paragraph (c) above.

SCHEDULE 2—SAVINGS AND TRANSITIONAL PROVISIONS

The Schedule contains savings and transitional provisions respecting the matters mentioned in paragraph (b) above.

DISTRICT COURT (AMENDMENT) BILL 1986

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 9, 1973
4. Savings and transitional provisions

SCHEDULE 1—AMENDMENTS TO THE DISTRICT COURT ACT 1973
SCHEDULE 2—SAVINGS AND TRANSITIONAL PROVISIONS

THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT

PHYSICS 354: QUANTUM MECHANICS

PROFESSOR OF PHYSICS

DISTRICT COURT (AMENDMENT) BILL 1986

NEW SOUTH WALES



No. , 1986

A BILL FOR

An Act to amend the District Court Act 1973 with respect to the places at which the criminal jurisdiction of the District Court may be exercised and with respect to the exercise of registry functions for that jurisdiction; and for other purposes.

District Court (Amendment) 1986

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:

5 Short title

1. This Act may be cited as the "District Court (Amendment) Act 1986".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this
10 Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment of Act No. 9, 1973

15 3. The District Court Act 1973 is amended in the manner set forth in Schedule 1.

Savings and transitional provisions

4. Schedule 2 has effect.

SCHEDULE 1

20

(Sec. 3)

AMENDMENTS TO THE DISTRICT COURT ACT 1973

(1) Section 4 (**Interpretation: general**)—

(a) Section 4 (1)—

Omit the definition of "proclaimed place", insert instead:

25

"proclaimed place" means a place for the time being specified in a proclamation under section 18F;

*District Court (Amendment) 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE DISTRICT COURT ACT 1973—*continued*

(b) Section 4 (10)—

After section 4 (9), insert:

(10) In this Act—

- 5 (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

(2) Part II, Divisions 4 and 5—

10 After Division 3, insert:

DIVISION 4—*Proclaimed Places***Proclaimed places**

15 18F. (1) The Governor may, by proclamation, specify places at which the Court may sit, and one of those places shall be Sydney.

(2) In this section, “place” means city, town or other place.

DIVISION 5—*Registrars***Registrars**

20 18G. (1) There shall be a registrar of the Court for each proclaimed place.

(2) The registrar for Sydney, and for any other proclaimed place specified for the purposes of this subsection by the Minister by order published in the Gazette, shall be appointed subject to and in accordance with the Public Service Act 1979.

25 (3) The registrar for any proclaimed place not referred to in subsection (2) shall be—

- (a) the Clerk of the Local Court for that place; or

*District Court (Amendment) 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE DISTRICT COURT ACT 1973—*continued*

(b) if there is no such Clerk—the Clerk of the Local Court for some other place (whether or not that place is a proclaimed place) specified for the purposes of this subsection by the Minister by order published in the Gazette.

5 (4) If the Minister so directs by order published in the Gazette, there may be 2 registrars for a particular proclaimed place—

(a) one of whom shall be the registrar of the Court in its civil jurisdiction for the place; and

10 (b) the other of whom shall be the registrar of the Court in its criminal jurisdiction for the place,

and references in this Act to the registrar for the place shall be read as applying to whichever of the registrars is appropriate in the circumstances.

15 (5) In this section, “Clerk of the Local Court”, in relation to a place, includes a person for the time being exercising the functions of the Clerk of the Local Court for the place.

Functions of registrars

20 18H. The registrar for a proclaimed place shall have and may exercise such functions as may be prescribed by the civil procedure rules and the criminal procedure rules.

Assistant registrars

25 18I. (1) Subject to and in accordance with the Public Service Act 1979, one or more assistant registrars may be appointed for a proclaimed place.

(2) If the Governor by proclamation so directs, the Clerk of the Local Court for a place specified in the proclamation (whether or not that place is a proclaimed place) shall be an assistant registrar for the proclaimed place specified in the proclamation.

30 (3) In this section, “Clerk of the Local Court”, in relation to a place, includes a person for the time being exercising the functions of the Clerk of the Local Court for the place.

SCHEDULE 1—*continued*AMENDMENTS TO THE DISTRICT COURT ACT 1973—*continued***Functions of assistant registrars**

5 18J. (1) An assistant registrar for a proclaimed place shall have and may exercise such of the functions of the registrar for that proclaimed place as may be specified in the civil procedure rules or the criminal procedure rules.

10 (2) Anything done or omitted to be done by an assistant registrar for a proclaimed place in the exercise of the assistant registrar's functions under this Act shall, for the purposes of this Act, have the same effect as if it had been done or omitted by the registrar for that proclaimed place.

(3) Nothing in this section affects the functions of any registrar.

(3) Part III, Division 1, Subdivision 1 (**Registrars**)—

Omit the Subdivision (sections 19-23).

(4) Section 31 (**Proclaimed places**)—

15 Omit the section.

(5) Section 34 (**Permanent substitution of proclaimed place**)—

Section 34 (1)—

Omit "section 31", insert instead "section 18F".

(6) Section 165 (**Interpretation**)—

20 Omit the definition of "appointed place".

(7) Section 166—

Omit the section, insert instead:

Criminal jurisdiction of the Court

25 166. (1) The Court has the criminal jurisdiction conferred or imposed on it by or under this Act, the Criminal Procedure Act 1986 and any other Act.

*District Court (Amendment) 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE DISTRICT COURT ACT 1973—*continued*

(2) The Court has generally the same criminal jurisdiction as each Court of Quarter Sessions had immediately before the commencement of this Act, except as regards any offences prescribed for the purposes of section 5 (2) of the Criminal Procedure Act 1986.

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(8) Section 170 (**Clerk of the Peace**)—

Omit the section.

(9) Section 171 (**Criminal procedure rules**)—

(a) Section 171 (2) (a)—

10

Omit “Clerk of the Peace”, insert instead “registrars”.

(b) Section 171 (2) (f)—

After “quash”, insert “or stay”.

(10) Section 172 (**Appointed places**)—

Omit the section.

15 (11) Section 173 (**Directions as to the sittings of the Court in its criminal jurisdiction**)—

Section 173 (2)—

Omit “appointed places”, insert instead “proclaimed places”.

(12) Section 174 (**General provisions as to sittings**)—

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Section 174 (1)—

Omit “appointed” wherever occurring, insert instead “proclaimed”.

(13) Section 175—

Omit the section, insert instead:

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Hearing of appeals

175. (1) An appeal to the Court in its criminal jurisdiction may be heard and disposed of by the Court sitting at any proclaimed place.

*District Court (Amendment) 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE DISTRICT COURT ACT 1973—*continued*

(2) Subsection (1) has effect subject to any other Act or any instrument under any other Act.

(14) Section 185 (**Savings as to Judges and officers**)—

Section 185 (1), (6)—

5 Omit the subsections.

SCHEDULE 2

(Sec. 4)

SAVINGS AND TRANSITIONAL PROVISIONS

Proclaimed places

10 1. (1) A proclamation in force under section 31 of the District Court Act 1973 immediately before the commencement of this Act shall be deemed to be a proclamation in force under section 18F of that Act.

(2) A proclamation in force under section 172 of the District Court Act 1973 immediately before the commencement of this Act shall be deemed to be a proclamation in force under section 18F of that Act, to the extent that it specifies a place not specified in a proclamation referred to in subclause (1).

(3) An order in force under section 173 of the District Court Act 1973 immediately before the commencement of this Act in relation to appointed places shall be deemed to be an order in force under that section in relation to proclaimed places.

20 (4) A reference in any other Act, in any instrument made under any Act or in any other instrument of any kind to an "appointed place" (being an appointed place under the District Court Act 1973) shall be read as a reference to a proclaimed place under that Act at which the Court sits in its criminal jurisdiction.

Registrars

25 2. (1) A person holding office as registrar for Sydney or any other proclaimed place under section 19 (2) of the District Court Act 1973 immediately before the commencement of this Act shall be deemed to have been appointed to that office under section 18G (2) of that Act.

30 (2) An order in force under section 19 (2) of the District Court Act 1973 immediately before the commencement of this Act shall be deemed to be an order in force under section 18G (2) of that Act.

District Court (Amendment) 1986

SCHEDULE 2—*continued*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

(3) An order in force under section 19 (3) of the District Court Act 1973 immediately before the commencement of this Act shall be deemed to be an order in force under section 18G (3) of that Act.

Assistant registrars

5 3. (1) A person holding office as assistant registrar for a proclaimed place under section 22 (1) of the District Court Act 1973 immediately before the commencement of this Act shall be deemed to have been appointed to that office under section 18i (1) of that Act.

10 (2) A proclamation in force under section 22 (2) of the District Court Act 1973 immediately before the commencement of this Act shall be deemed to be a proclamation in force under section 18i (2) of that Act.

DISTRICT COURT (AMENDMENT) ACT 1986 No. 210

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 9, 1973
4. Savings and transitional provisions

SCHEDULE 1—AMENDMENTS TO THE DISTRICT COURT ACT 1973
SCHEDULE 2—SAVINGS AND TRANSITIONAL PROVISIONS



DISTRICT COURT (AMENDMENT) ACT 1986 No. 210

NEW SOUTH WALES



Act No. 210, 1986

An Act to amend the District Court Act 1973 with respect to the places at which the criminal jurisdiction of the District Court may be exercised and with respect to the exercise of registry functions for that jurisdiction; and for other purposes. [Assented to 23 December 1986]

District Court (Amendment) 1986

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:

Short title

1. This Act may be cited as the "District Court (Amendment) Act 1986".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment of Act No. 9, 1973

3. The District Court Act 1973 is amended in the manner set forth in Schedule 1.

Savings and transitional provisions

4. Schedule 2 has effect.

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE DISTRICT COURT ACT 1973

(1) Section 4 (**Interpretation: general**)—

(a) Section 4 (1)—

Omit the definition of "proclaimed place", insert instead:

"proclaimed place" means a place for the time being specified in a proclamation under section 18F;

District Court (Amendment) 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE DISTRICT COURT ACT 1973—*continued*

(b) Section 4 (10)—

After section 4 (9), insert:

(10) In this Act—

- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

(2) Part II, Divisions 4 and 5—

After Division 3, insert:

DIVISION 4—*Proclaimed Places*

Proclaimed places

18F. (1) The Governor may, by proclamation, specify places at which the Court may sit, and one of those places shall be Sydney.

(2) In this section, “place” means city, town or other place.

DIVISION 5—*Registrars*

Registrars

18G. (1) There shall be a registrar of the Court for each proclaimed place.

(2) The registrar for Sydney, and for any other proclaimed place specified for the purposes of this subsection by the Minister by order published in the Gazette, shall be appointed subject to and in accordance with the Public Service Act 1979.

(3) The registrar for any proclaimed place not referred to in subsection (2) shall be—

- (a) the Clerk of the Local Court for that place; or

*District Court (Amendment) 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE DISTRICT COURT ACT 1973—*continued*

- (b) if there is no such Clerk—the Clerk of the Local Court for some other place (whether or not that place is a proclaimed place) specified for the purposes of this subsection by the Minister by order published in the Gazette.
- (4) If the Minister so directs by order published in the Gazette, there may be 2 registrars for a particular proclaimed place—
 - (a) one of whom shall be the registrar of the Court in its civil jurisdiction for the place; and
 - (b) the other of whom shall be the registrar of the Court in its criminal jurisdiction for the place,

and references in this Act to the registrar for the place shall be read as applying to whichever of the registrars is appropriate in the circumstances.

(5) In this section, “Clerk of the Local Court”, in relation to a place, includes a person for the time being exercising the functions of the Clerk of the Local Court for the place.

Functions of registrars

18H. The registrar for a proclaimed place shall have and may exercise such functions as may be prescribed by the civil procedure rules and the criminal procedure rules.

Assistant registrars

18I. (1) Subject to and in accordance with the Public Service Act 1979, one or more assistant registrars may be appointed for a proclaimed place.

(2) If the Governor by proclamation so directs, the Clerk of the Local Court for a place specified in the proclamation (whether or not that place is a proclaimed place) shall be an assistant registrar for the proclaimed place specified in the proclamation.

(3) In this section, “Clerk of the Local Court”, in relation to a place, includes a person for the time being exercising the functions of the Clerk of the Local Court for the place.

*District Court (Amendment) 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE DISTRICT COURT ACT 1973—*continued***Functions of assistant registrars**

18J. (1) An assistant registrar for a proclaimed place shall have and may exercise such of the functions of the registrar for that proclaimed place as may be specified in the civil procedure rules or the criminal procedure rules.

(2) Anything done or omitted to be done by an assistant registrar for a proclaimed place in the exercise of the assistant registrar's functions under this Act shall, for the purposes of this Act, have the same effect as if it had been done or omitted by the registrar for that proclaimed place.

(3) Nothing in this section affects the functions of any registrar.

(3) Part III, Division 1, Subdivision 1 (**Registrars**)—

Omit the Subdivision (sections 19-23).

(4) Section 31 (**Proclaimed places**)—

Omit the section.

(5) Section 34 (**Permanent substitution of proclaimed place**)—

Section 34 (1)—

Omit "section 31", insert instead "section 18F".

(6) Section 165 (**Interpretation**)—

Omit the definition of "appointed place".

(7) Section 166—

Omit the section, insert instead:

Criminal jurisdiction of the Court

166. (1) The Court has the criminal jurisdiction conferred or imposed on it by or under this Act, the Criminal Procedure Act 1986 and any other Act.

*District Court (Amendment) 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE DISTRICT COURT ACT 1973—*continued*

(2) The Court has generally the same criminal jurisdiction as each Court of Quarter Sessions had immediately before the commencement of this Act, except as regards any offences prescribed for the purposes of section 5 (2) of the Criminal Procedure Act 1986.

(8) Section 170 (**Clerk of the Peace**)—

Omit the section.

(9) Section 171 (**Criminal procedure rules**)—

(a) Section 171 (2) (a)—

Omit “Clerk of the Peace”, insert instead “registrars”.

(b) Section 171 (2) (f)—

After “quash”, insert “or stay”.

(10) Section 172 (**Appointed places**)—

Omit the section.

(11) Section 173 (**Directions as to the sittings of the Court in its criminal jurisdiction**)—

Section 173 (2)—

Omit “appointed places”, insert instead “proclaimed places”.

(12) Section 174 (**General provisions as to sittings**)—

Section 174 (1)—

Omit “appointed” wherever occurring, insert instead “proclaimed”.

(13) Section 175—

Omit the section, insert instead:

Hearing of appeals

175. (1) An appeal to the Court in its criminal jurisdiction may be heard and disposed of by the Court sitting at any proclaimed place.

District Court (Amendment) 1986

SCHEDULE 1—*continued*AMENDMENTS TO THE DISTRICT COURT ACT 1973—*continued*

(2) Subsection (1) has effect subject to any other Act or any instrument under any other Act.

(14) Section 185 (Savings as to Judges and officers)—

Section 185 (1), (6)—

Omit the subsections.

SCHEDULE 2

(Sec. 4)

SAVINGS AND TRANSITIONAL PROVISIONS

Proclaimed places

1. (1) A proclamation in force under section 31 of the District Court Act 1973 immediately before the commencement of this Act shall be deemed to be a proclamation in force under section 18F of that Act.

(2) A proclamation in force under section 172 of the District Court Act 1973 immediately before the commencement of this Act shall be deemed to be a proclamation in force under section 18F of that Act, to the extent that it specifies a place not specified in a proclamation referred to in subclause (1).

(3) An order in force under section 173 of the District Court Act 1973 immediately before the commencement of this Act in relation to appointed places shall be deemed to be an order in force under that section in relation to proclaimed places.

(4) A reference in any other Act, in any instrument made under any Act or in any other instrument of any kind to an "appointed place" (being an appointed place under the District Court Act 1973) shall be read as a reference to a proclaimed place under that Act at which the Court sits in its criminal jurisdiction.

Registrars

2. (1) A person holding office as registrar for Sydney or any other proclaimed place under section 19 (2) of the District Court Act 1973 immediately before the commencement of this Act shall be deemed to have been appointed to that office under section 18G (2) of that Act.

(2) An order in force under section 19 (2) of the District Court Act 1973 immediately before the commencement of this Act shall be deemed to be an order in force under section 18G (2) of that Act.

District Court (Amendment) 1986

SCHEDULE 2—*continued*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

(3) An order in force under section 19 (3) of the District Court Act 1973 immediately before the commencement of this Act shall be deemed to be an order in force under section 18G (3) of that Act.

Assistant registrars

3. (1) A person holding office as assistant registrar for a proclaimed place under section 22 (1) of the District Court Act 1973 immediately before the commencement of this Act shall be deemed to have been appointed to that office under section 18i (1) of that Act.

(2) A proclamation in force under section 22 (2) of the District Court Act 1973 immediately before the commencement of this Act shall be deemed to be a proclamation in force under section 18i (2) of that Act.