

DISTRICT COURT (AMENDMENT) BILL 1987

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Supreme Court (Amendment) Bill 1987.

The objects of this Bill are—

- (a) to empower the District Court to order that certain civil actions be tried without a jury; and
- (b) to extend the power to sell by auction under a writ of execution to any kind of property.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will commence on assent, except for the amendments relating to the power of sale, which will commence on a day to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the Schedule of amendments.

Clause 4 (1) provides that the amendments relating to juries apply to pending proceedings as well as new proceedings. Clause 4 (2) provides that the amendments relating to the power of sale extend to writs of execution issued before the commencement of the amendments.

Schedule 1 (1) and (2) give effect to the object mentioned in paragraph (a) above. The amendments will empower the District Court to order that certain civil actions be tried without a jury.

The amendments will override section 78 (where a party requisitions a jury) and section 79 (running-down cases).

Schedule 1 (3) and (4) give effect to the object mentioned in paragraph (b) above. The amendments will remove certain references to "land" in section 109 (seizing and taking under writ of execution) and section 111 (auctioneers).

District Court (Amendment) 1987

The result is that any kind of property will be able to be sold by auction under a writ of execution, not merely land.

DISTRICT COURT (AMENDMENT) BILL 1987

NEW SOUTH WALES



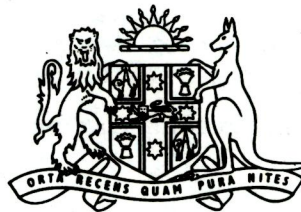
TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 9, 1973
4. Application of amendments

SCHEDULE 1—AMENDMENTS

DISTRICT COURT (AMENDMENT) BILL 1987

NEW SOUTH WALES



No. , 1987

A BILL FOR

An Act to amend the District Court Act 1973 in relation to the hearing of certain civil actions without juries and the sale of property under writs of execution.

*District Court (Amendment) 1987***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the District Court (Amendment) Act 1987.

Commencement

- 5 2. (1) Except as provided by this section, this Act shall commence on the date of assent to this Act.

(2) Section 3, in its application to a provision of Schedule 1, shall commence on the date of commencement of the provision.

- 10 (3) Schedule 1 (3) and (4) shall commence on a day to be appointed by proclamation.

Amendment of Act No. 9, 1973

3. The District Court Act 1973 is amended as set out in Schedule 1.

Application of amendments

- 15 4. (1) The amendments made by Schedule 1 (1) and (2) apply to actions pending in the District Court at the commencement of those amendments, as well as to actions commenced afterwards.

(2) Subject to the rules of the District Court, the amendments made by Schedule 1 (3) and (4) extend to writs of execution issued before the commencement of those amendments.

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SCHEDULE 1—AMENDMENTS

(Sec. 3)

- (1) Section 77 (**Questions of fact and law**)—

Section 77 (5) (a)—

Omit the paragraph.

- 25 (2) Section 79A—

After section 79, insert:

Power to dispense with jury

79A. In any action, the Court may order, despite sections 77, 78 and 79, that all or any questions of fact be tried without a jury.

- 30 (3) Section 109 (**Seizing and taking under writ of execution**)—

Section 109 (7)—

Omit “, in the case of land,”.

District Court (Amendment) 1987

SCHEDULE 1—AMENDMENTS—*continued*

(4) Section 111 (Auctioneers)—

Omit “land” wherever occurring, insert instead “property”.

DISTRICT COURT (AMENDMENT) ACT 1987 No. 164

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 9, 1973
4. Application of amendments

SCHEDULE 1—AMENDMENTS

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D. C.

OFFICE OF THE ATTORNEY GENERAL

MEMORANDUM FOR THE ATTORNEY GENERAL
SUBJECT: [Illegible]

DISTRICT COURT (AMENDMENT) ACT 1987 No. 164

NEW SOUTH WALES



Act No. 164, 1987

An Act to amend the District Court Act 1973 in relation to the hearing of certain civil actions without juries and the sale of property under writs of execution. [Assented to 18 November 1987]

*District Court (Amendment) 1987***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the District Court (Amendment) Act 1987.

Commencement

2. (1) Except as provided by this section, this Act shall commence on the date of assent to this Act.

(2) Section 3, in its application to a provision of Schedule 1, shall commence on the date of commencement of the provision.

(3) Schedule 1 (3) and (4) shall commence on a day to be appointed by proclamation.

Amendment of Act No. 9, 1973

3. The District Court Act 1973 is amended as set out in Schedule 1.

Application of amendments

4. (1) The amendments made by Schedule 1 (1) and (2) apply to actions pending in the District Court at the commencement of those amendments, as well as to actions commenced afterwards.

(2) Subject to the rules of the District Court, the amendments made by Schedule 1 (3) and (4) extend to writs of execution issued before the commencement of those amendments.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

- (1) Section 77 (**Questions of fact and law**)—

Section 77 (5) (a)—

Omit the paragraph.

- (2) Section 79A—

After section 79, insert:

Power to dispense with jury

79A. In any action, the Court may order, despite sections 77, 78 and 79, that all or any questions of fact be tried without a jury.

- (3) Section 109 (**Seizing and taking under writ of execution**)—

Section 109 (7)—

Omit “, in the case of land.”.

District Court (Amendment) 1987

SCHEDULE 1—AMENDMENTS—*continued*

(4) Section 111 (Auctioneers)—

Omit “land” wherever occurring, insert instead “property”.

