

FIRST PRINT

**LAND AND ENVIRONMENT COURT (AMENDMENT)  
BILL 1987**

NEW SOUTH WALES



**EXPLANATORY NOTE**

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

The object of this Bill is to amend the Land and Environment Court Act 1979 so as—

- (a) to enable the Chief Judge to direct that the Court shall be assisted by 1 assessor, not 2 assessors, in hearing certain proceedings arising under the Aboriginal Land Rights Act 1983 (Schedule 1 (1) (c));
  - (b) to enable a Judge to hear certain proceedings without the assistance of assessors who would otherwise be required under section 37 of the Land and Environment Court Act 1979 to sit with the Judge (Schedule 1 (1) (d)); and
  - (c) to make it clear that an appeal may, with the leave of the Supreme Court, lie to the Supreme Court under sections 57 and 58 of the Land and Environment Court Act 1979 against an interlocutory order or decision of the Land and Environment Court in Class 1, 2, 3 and 4 proceedings (Schedule 1 (2) and (3)).
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**LAND AND ENVIRONMENT COURT (AMENDMENT)  
BILL 1987**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

1. Short title
2. Amendment of Act No. 204, 1979

SCHEDULE 1—AMENDMENTS TO THE LAND AND ENVIRONMENT COURT  
ACT 1979

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**LAND AND ENVIRONMENT COURT (AMENDMENT)  
BILL 1987**

NEW SOUTH WALES



No.           , 1987

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**A BILL FOR**

An Act to amend the Land and Environment Court Act 1979 in relation to assessors of the Land and Environment Court and appeals from decisions of that Court; and for other purposes.

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*Land and Environment Court (Amendment) 1987*

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**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 "Land and Environment Court (Amendment) Act 1987".

**Amendment of Act No. 204, 1979**

2. The Land and Environment Court Act 1979 is amended in the  
10 manner set forth in Schedule 1.

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**SCHEDULE 1**

(Sec. 2)

**AMENDMENTS TO THE LAND AND ENVIRONMENT COURT ACT  
1979**

15 (1) Section 37 (**Assessors sitting with a Judge**)—

(a) Section 37 (1)—

Omit "Except as provided by subsection (2), where", insert instead "Where".

(b) Section 37 (2)—

20 Omit "Where", insert instead "Notwithstanding subsection (1), where".

(c) Section 37 (2)—

After "assessors", insert "or, if the Chief Judge so directs, by one assessor".

*Land and Environment Court (Amendment) 1987*

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SCHEDULE 1—*continued*

AMENDMENTS TO THE LAND AND ENVIRONMENT COURT ACT  
1979—*continued*

(d) Section 37 (4)—

After section 37 (3), insert:

5 (4) A Judge before whom proceedings referred to in subsection (1) or (2) are pending may commence or continue the hearing of the proceedings, or any part of the proceedings—

(a) without the assistance of an assessor who is not available or has ceased to be available to assist in the hearing of the proceedings or part of the proceedings; and

10 (b) without the assistance of assessors generally if, in the opinion of the Judge, the proceedings or part of the proceedings concern or concerns a question of law only.

(2) Section 57 (**Class 1, 2 and 3 proceedings—appeals**)—

(a) Section 57 (1)—

15 After “decision”, insert “(including an interlocutory order or decision)”.

(b) Section 57 (4)—

After section 57 (3), insert:

20 (4) Notwithstanding subsection (1), an appeal against an interlocutory order or decision shall not lie to the Supreme Court under that subsection except by leave of the Supreme Court.

(3) Section 58 (**Class 4 proceedings—appeals**)—

(a) Section 58 (1)—

After “decision” where firstly occurring, insert “(including an interlocutory order or decision)”.

*Land and Environment Court (Amendment) 1987*

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SCHEDULE 1—*continued*

AMENDMENTS TO THE LAND AND ENVIRONMENT COURT ACT  
1979—*continued*

(b) Section 58 (3)—

After section 58 (2), insert:

(3) Notwithstanding subsection (1), an appeal against an interlocutory order or decision shall not lie to the Supreme Court under that subsection except by leave of the Supreme Court.

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**LAND AND ENVIRONMENT COURT (AMENDMENT)  
ACT 1987 No. 162**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

1. Short title
2. Amendment of Act No. 204, 1979

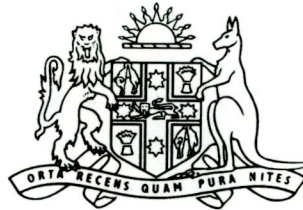
**SCHEDULE 1—AMENDMENTS TO THE LAND AND ENVIRONMENT COURT  
ACT 1979**

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**LAND AND ENVIRONMENT COURT (AMENDMENT)  
ACT 1987 No. 162**

NEW SOUTH WALES



**Act No. 162, 1987**

An Act to amend the Land and Environment Court Act 1979 in relation to assessors of the Land and Environment Court and appeals from decisions of that Court; and for other purposes. [Assented to 18 November 1987]

*Land and Environment Court (Amendment) 1987*

**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 "Land and Environment Court (Amendment) Act 1987".

**Amendment of Act No. 204, 1979**

2. The Land and Environment Court Act 1979 is amended in the manner set forth in Schedule 1.

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SCHEDULE 1

(Sec. 2)

AMENDMENTS TO THE LAND AND ENVIRONMENT COURT ACT  
1979

(1) Section 37 (**Assessors sitting with a Judge**)—

(a) Section 37 (1)—

Omit "Except as provided by subsection (2), where", insert instead "Where".

(b) Section 37 (2)—

Omit "Where", insert instead "Notwithstanding subsection (1), where".

(c) Section 37 (2)—

After "assessors", insert "or, if the Chief Judge so directs, by one assessor".

*Land and Environment Court (Amendment) 1987*

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SCHEDULE 1—*continued*

AMENDMENTS TO THE LAND AND ENVIRONMENT COURT ACT  
1979—*continued*

(d) Section 37 (4)—

After section 37 (3), insert:

(4) A Judge before whom proceedings referred to in subsection (1) or (2) are pending may commence or continue the hearing of the proceedings, or any part of the proceedings—

(a) without the assistance of an assessor who is not available or has ceased to be available to assist in the hearing of the proceedings or part of the proceedings; and

(b) without the assistance of assessors generally if, in the opinion of the Judge, the proceedings or part of the proceedings concern or concerns a question of law only.

(2) Section 57 (**Class 1, 2 and 3 proceedings—appeals**)—

(a) Section 57 (1)—

After “decision”, insert “(including an interlocutory order or decision)”.

(b) Section 57 (4)—

After section 57 (3), insert:

(4) Notwithstanding subsection (1), an appeal against an interlocutory order or decision shall not lie to the Supreme Court under that subsection except by leave of the Supreme Court.

(3) Section 58 (**Class 4 proceedings—appeals**)—

(a) Section 58 (1)—

After “decision” where firstly occurring, insert “(including an interlocutory order or decision)”.

*Land and Environment Court (Amendment) 1987*

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SCHEDULE 1—*continued*

AMENDMENTS TO THE LAND AND ENVIRONMENT COURT ACT  
1979—*continued*

(b) Section 58 (3)—

After section 58 (2), insert:

(3) Notwithstanding subsection (1), an appeal against an interlocutory order or decision shall not lie to the Supreme Court under that subsection except by leave of the Supreme Court.





