

CRIMINAL PROCEDURE (FINES) AMENDMENT ACT 1989
No. 170

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
 2. Commencement
 3. Amendment of Criminal Procedure Act 1986 No. 209
-

WILLIAM W. WILSON, INC. (1917) 1001 15th St. N.W. Wash. D.C.

WILLIAM W. WILSON, INC.



CRIMINAL PROCEDURE (FINES) AMENDMENT ACT 1989
No. 170

NEW SOUTH WALES



Act No. 170, 1989

An Act to amend the Criminal Procedure Act 1986 to enable the reciprocal enforcement of fines against bodies corporate. [Assented to 14 December 1989]

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Criminal Procedure (Fines) Amendment Act 1989.

Commencement

2. This Act commences on a day to be appointed by proclamation.

Amendment of Criminal Procedure Act 1986 No. 209

3. The Criminal Procedure Act 1986 is amended by inserting at the end of that Act the following Part:

PART 8 - RECIPROCAL ENFORCEMENT OF FINES AGAINST BODIES CORPORATE

Definitions

25. In this Part:

"**conviction**" means a conviction or order entered or made (before or after the commencement of this Part) in the exercise of summary jurisdiction in proceedings for an offence;

"**fine**" includes:

- (a) a pecuniary penalty, pecuniary forfeiture and pecuniary compensation; and
- (b) fees, charges and costs payable by a body corporate under an order made in proceedings in which a conviction was entered in respect of the body corporate;

"**New South Wales fine**" means a fine payable under a conviction of a New South Wales court;

"**reciprocating court**" means a court, or a court included in a class of courts, declared under section 26 to be a reciprocating court or a class of reciprocating courts;

"**relevant officer**", in relation to a reciprocating court, means the registrar or other corresponding officer of the court;

"**State**" does not include the State of New South Wales, but includes a Territory.

Declaration of reciprocating court

26. Where a State has laws providing for enforcement in the State of a New South Wales fine against a body corporate, the Minister may, by notice in the Gazette:

- (a) declare a court which exercises summary jurisdiction in that State to be a reciprocating court; or
- (b) declare a class of courts which exercise summary jurisdiction in that State to be a class of reciprocating courts.

Enforcement of fine

27. (1) Where, under a conviction of a reciprocating court, a fine is payable by a body corporate having or appearing to have property in New South Wales and the registrar of the Local Court held for the district in which the body corporate has or appears to have property receives a request in writing from the relevant officer of the reciprocating court for the enforcement of the conviction, accompanied by:

- (a) a copy, certified by the relevant officer to be correct, of the conviction; and
- (b) a certificate under the hand of the relevant officer specifying the amount of the fine that remains unpaid,

the registrar is required:

- (c) to register the conviction by filing in the court the certified copy of the conviction; and
- (d) to note, on the certified copy, the date of registration.

(2) A conviction may be registered even though the amount of the fine that remains unpaid is greater than the amount which may be claimed in an action in a Local Court pursuant to the Local Courts (Civil Claims) Act 1970.

(3) On registration of a conviction:

- (a) the conviction is, for the purposes of this Part, to be taken to be a civil judgment of the Local Court entered up against the

body corporate in the amount specified as unpaid in the certificate relating to the conviction; and

- (b) the registrar is required to issue a writ of execution for the purpose of recovering the amount; and
- (c) subject to this section, this Part applies to and in relation to the writ of execution, and the execution of the writ, as if the writ had been issued under section 58 of the Local Courts (Civil Claims) Act 1970 in connection with a judgment of the court.

(4) Where a request is made under this section in respect of a fine payable under a conviction of a reciprocating court and the registrar, after the request, receives a notification from the relevant officer of the reciprocating court of payment of an amount in satisfaction in whole or in part of the amount of the fine, the registrar must note the particulars of the payment on the certified copy of the conviction filed in accordance with subsection (1) (c).

(5) Where:

- (a) a writ of execution is issued as referred to in subsection (3)
 - (b) in respect of a fine; and
- (b) before execution of the writ, the registrar receives a notification of payment referred to in subsection (4) relating to the fine,

the registrar is required to notify the sheriff of the amount of the payment.

(6) If the amount of the fine and any costs and expenses relating to the issue and execution of the writ are paid in full, the registrar is required to withdraw the writ.

(7) If part of the amount of the fine remains unpaid, the writ has effect only in relation to the amount unpaid (and any costs and expenses relating to the issue and execution of the writ).

(8) If a sum of money is paid to the registrar in satisfaction of the whole or part of a fine payable under a conviction registered under subsection (1) (c), the registrar is required to remit the sum of money to the relevant officer of the reciprocating court concerned.

(9) For the purposes of this section, a document that purports to have been signed by the relevant officer of a reciprocating court is to be taken to have been so signed unless the contrary is proved.

Effect of enforcement by reciprocating court

28. A sum of money received by the registrar of a court from a reciprocating court in satisfaction of the whole or part of a New South Wales fine is to be applied by the registrar as if the sum had been paid to the registrar by the body corporate by which the fine was payable in satisfaction of the whole or part of the fine.

Registrar to notify payment of New South Wales fine

29. If:

- (a) a conviction of a court under which a New South Wales fine is payable is registered by the relevant officer of a reciprocating court; and
- (b) a sum of money is received by the registrar of the court (otherwise than from the relevant officer) in satisfaction of the whole or part of the fine,

the registrar is required, as soon as practicable, to notify the relevant officer of the amount of the payment.

*[Minister's second reading speech made in -
Legislative Assembly on 14 November 1989
Legislative Council on 21 November 1989]*

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CRIMINAL PROCEDURE (FINES) AMENDMENT BILL 1989

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 Criminal Procedure Act 1986 so as to enact legislation which is reciprocal with legislation enacted by the other States and the Territories of the Commonwealth and thereby:

- (a) to facilitate the enforcement of a fine imposed on a body corporate by a court which exercises summary jurisdiction of another State or a Territory against property of the body corporate in New South Wales; and
- (b) to facilitate the enforcement of a fine imposed on a body corporate by a New South Wales court which exercises summary jurisdiction against property of the body corporate in another State or a Territory.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the proposed Act to commence on a day to be proclaimed.

Clause 3 amends the Principal Act to insert a new Part 8 - Reciprocal enforcement of fines against bodies corporate. The new Part contains the following provisions:

Proposed section 25 contains definitions for the purposes of the new Part. The definition of "conviction" is expressed to apply to a conviction whether imposed before or after the commencement of the new Part.

Proposed section 26 enables the Minister, by notice in the Gazette, to declare a court which exercises summary jurisdiction of a State or Territory to be a reciprocating court if the State or Territory has laws providing for the enforcement in the State or Territory of a New South Wales fine against a body corporate.

Criminal Procedure (Fines) Amendment 1989

Proposed section 27 enables the relevant officer of a reciprocating court, if a fine payable in respect of the conviction by the reciprocating court of a body corporate remains unpaid, to have the conviction registered by the registrar of the New South Wales Local Court for the district in which the body corporate has or appears to have property. The conviction, on registration, is to have effect as if it were a civil judgment of the Local Court. On registration of the conviction, the registrar of the Local Court is required to issue a writ of execution for the purpose of recovering the unpaid amount of the fine.

The proposed section provides for the procedures to be observed if, after the receipt of a request for the registration of a conviction, the whole or a part of the fine is paid either to the relevant officer of the reciprocating court or to the registrar of the Local Court.

Proposed section 28 provides that a payment received by the registrar of a New South Wales court from a reciprocating court in satisfaction of the whole or a part of a New South Wales fine against a body corporate is to be applied as if it had been paid by the body corporate.

Proposed section 29 requires the registrar of a New South Wales court to notify the relevant officer of a reciprocating court in which the recovery of a New South Wales fine imposed against a body corporate by the court is being enforced of any payment received by the registrar in satisfaction of the whole or a part of the fine.

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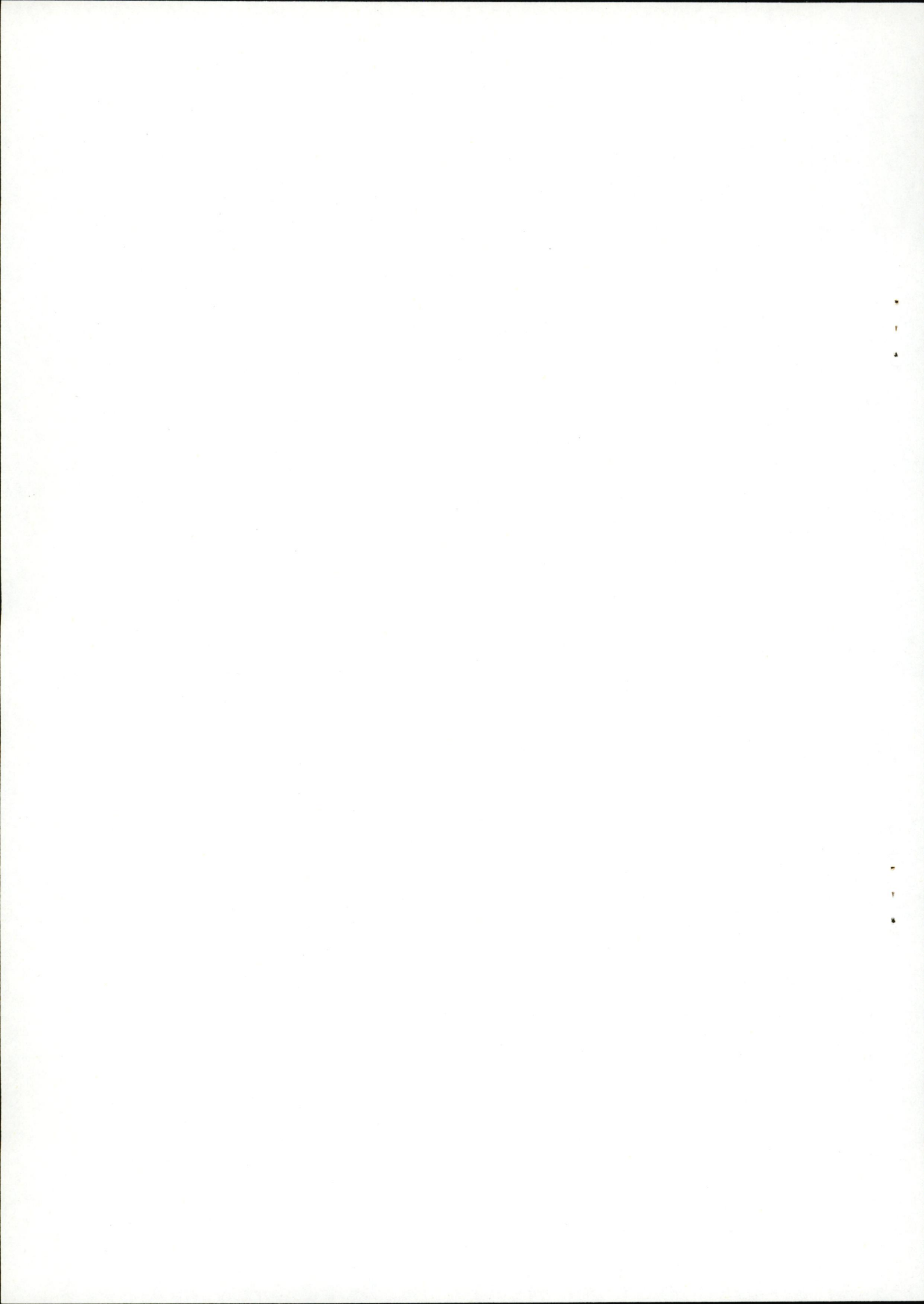
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CRIMINAL PROCEDURE (FINES) AMENDMENT BILL 1989

NEW SOUTH WALES



No. , 1989

A BILL FOR

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Criminal Procedure (Fines) Amendment 1989

body corporate in the amount specified as unpaid in the certificate relating to the conviction; and

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