



New South Wales

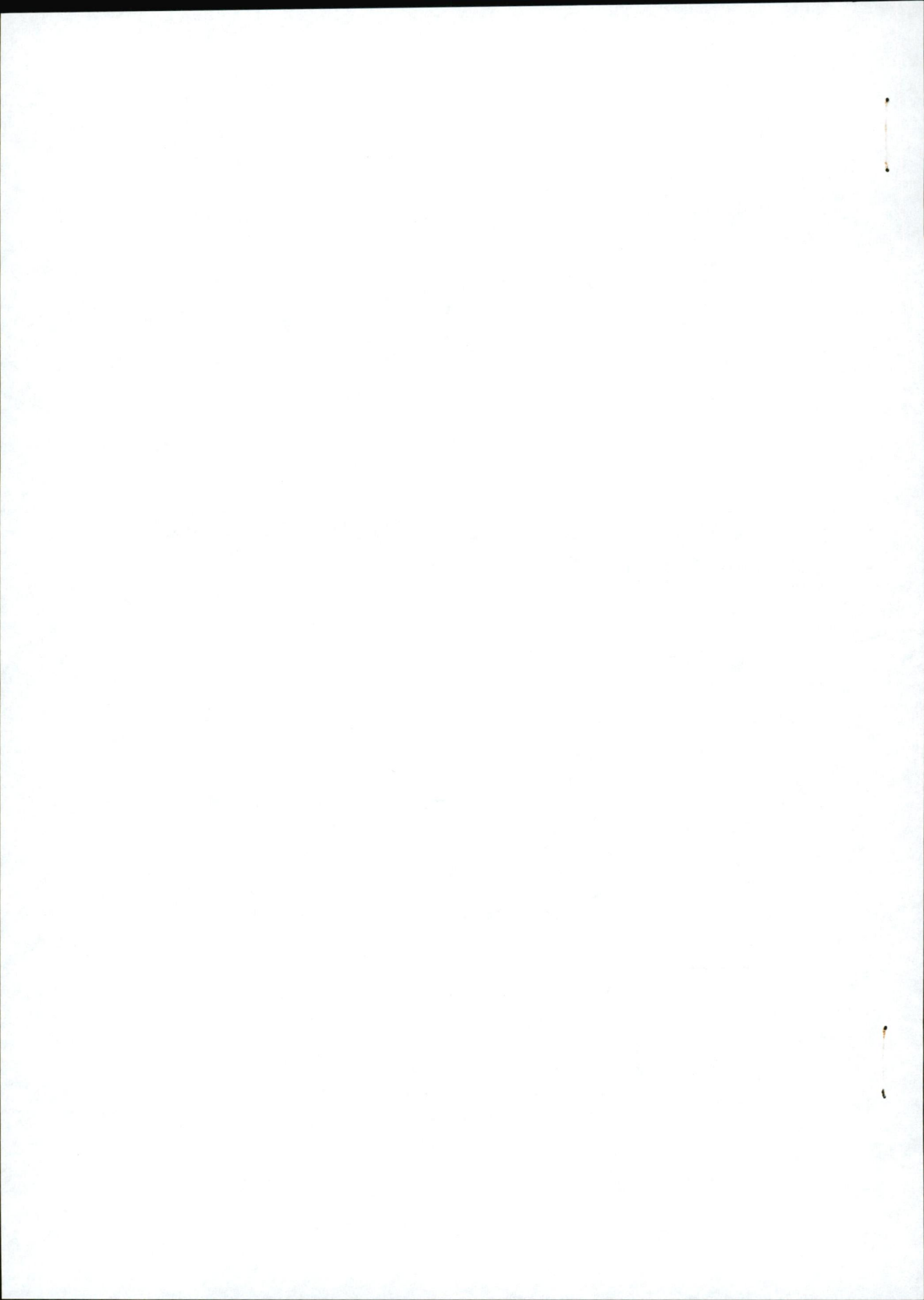
Courts Legislation Amendment Act 1997 No 47

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Compensation Court Act 1984 No 89	2
4 Amendment of Coroners Act 1980 No 27	2
5 Amendment of District Court Act 1973 No 9	2
6 Amendment of Land and Environment Court Act 1979 No 204	2
7 Amendment of Supreme Court Act 1970 No 52	2

Schedules

1 Amendment of Compensation Court Act 1984	3
2 Amendment of Coroners Act 1980	4
3 Amendment of District Court Act 1973	5
4 Amendment of Land and Environment Court Act 1979	7
5 Amendment of Supreme Court Act 1970	9





New South Wales

Courts Legislation Amendment Act 1997 No 47

Act No 47, 1997

An Act to make miscellaneous amendments to the *Compensation Court Act 1984*, the *Coroners Act 1980*, the *District Court Act 1973*, the *Land and Environment Court Act 1979* and the *Supreme Court Act 1970*. [Assented to 2 July 1997]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Courts Legislation Amendment Act 1997*.

2 Commencement

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

3 Amendment of Compensation Court Act 1984 No 89

The *Compensation Court Act 1984* is amended as set out in Schedule 1.

4 Amendment of Coroners Act 1980 No 27

The *Coroners Act 1980* is amended as set out in Schedule 2.

5 Amendment of District Court Act 1973 No 9

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

6 Amendment of Land and Environment Court Act 1979 No 204

The *Land and Environment Court Act 1979* is amended as set out in Schedule 4.

7 Amendment of Supreme Court Act 1970 No 52

The *Supreme Court Act 1970* is amended as set out in Schedule 5.

**Schedule 1 Amendment of Compensation Court
Act 1984**

(Section 3)

[1] Section 39 Costs of operation of the Court

Omit "May in each year".

Insert instead "December in each year (or, if some other month is prescribed by the regulations, that other month)".

[2] Section 39

Omit "for the next following year".

Insert instead "for the year commencing on the next following 1 July".

Schedule 2 Amendment of Coroners Act 1980

(Section 4)

Section 6 Age qualification for coroners and assistant coroners

Insert at the end of section 6:

- (2) However, a person of or above the age of 70 years may be appointed as a coroner if the Minister recommends to the Governor that the appointment of that person as a coroner is appropriate. In that case:
 - (a) the appointment is to be made for such term (not exceeding 3 years) as is specified in the instrument of appointment of that coroner, and
 - (b) section 6A does not apply to that coroner.
- (3) A coroner appointed under subsection (2) is eligible for reappointment under that subsection from time to time.

Schedule 3 Amendment of District Court Act 1973

(Section 5)

[1] Section 126 Order of the Court for new trial

Insert at the end of section 126 (1) (b):

, or

- (c) the action is tried without a jury and a party to the action:
 - (i) in the presence of the other party and on the day on which judgment in the action is given, or
 - (ii) in the absence of the other party but after such notice as the Court thinks reasonable has been given to the other party and, in any case, within 21 days after judgment in the action is given,

makes application for the order.

[2] Section 127 Right of appeal to Supreme Court

Omit section 127 (2) (c). Insert instead:

- (c) an appeal from a final judgment or order, being a judgment or order for the payment of a sum of money, where the appeal seeks a variation of that sum and the amount by which that sum is sought to be varied is less than \$100,000 or, if some other amount is prescribed by the regulations, that other amount.

[3] Section 183B

Insert after section 183A:

**183B Provisions consequent on enactment of Courts
Legislation Amendment Act 1997**

- (1) Section 126, as amended by the *Courts Legislation Amendment Act 1997*, applies to judgments given before the commencement of Schedule 3 [1] to that Act in the same way as it applies to judgments given after that commencement.
- (2) Section 127, as amended by the *Courts Legislation Amendment Act 1997*, applies to judgments and orders given or made before the commencement of Schedule 3 [2] to that Act in the same way as it applies to judgments and orders given or made after that commencement.

Schedule 4 Amendment of Land and Environment Court Act 1979

(Section 6)

[1] Section 52 Judge may order payment of costs

Omit "such costs as to the Judge seem just and reasonable".
Insert instead "costs of such amount as are specified in the conviction or order or, if the conviction or order so directs, as may be determined under subsection (2)".

[2] Section 52 (2)

Omit the subsection. Insert instead:

- (2) The costs payable by a prosecutor or defendant in accordance with a direction under this section are to be determined:
- (a) by agreement between the prosecutor and defendant, or
 - (b) if no such agreement can be reached, in accordance with the regulations.

[3] Section 79

Insert after section 78:

79 Savings, transitional and other provisions

Schedule 3 has effect.

[4] Schedule 3

Insert after Schedule 2:

Schedule 3 Savings, transitional and other provisions

(Section 79)

1 Provisions consequent on enactment of Courts Legislation Amendment Act 1997

Section 52, as amended by the *Courts Legislation Amendment Act 1997*, does not apply to or in respect of any conviction or order arising out of proceedings determined before the commencement of Schedule 4 to that Act.

Schedule 5 Amendment of Supreme Court Act 1970

(Section 7)

[1] Section 46A Certain appeals may be heard by 2 Judges of Appeal

Insert “and to an appeal from an award of compensation made by the Compensation Court” after “person” in section 46A (1).

[2] Section 101 Appeal in proceedings before the Court

Insert at the end of section 101 (2):

- (q) a judgment or order in proceedings of the Court with respect to the taxation or assessment of costs, or
- (r) a final judgment or order in proceedings of the Court, being a judgment or order for the payment of a sum of money, where the appeal seeks a variation of that sum and the amount by which that sum is sought to be varied is less than \$100,000 or, if some other amount is prescribed by the regulations, that other amount.

[3] Fourth Schedule Savings and transitional provisions

Insert after clause 3:

4 Courts Legislation Amendment Act 1997

- (1) Section 46A, as amended by the *Courts Legislation Amendment Act 1997*, applies to awards of compensation made by the Compensation Court before the commencement of Schedule 5 [1] to that Act in the same way as it applies to awards of compensation made after that commencement.

- (2) Section 101, as amended by the *Courts Legislation Amendment Act 1997*, applies to judgments and orders given or made before the commencement of Schedule 5 [2] to that Act in the same way as it applies to judgments and orders given or made after that commencement.

[Minister's second reading speech made in—
Legislative Council on 16 June 1997
Legislative Assembly on 27 June 1997 p.m.]

BY AUTHORITY

First print



New South Wales

Courts Legislation Amendment Bill 1997

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

- (a) to amend the *Compensation Court Act 1984* so as to require the annual estimates that are forwarded to WorkCover to be prepared in December, or such other month as may be prescribed by the regulations under that Act, instead of in May, and
 - (b) to amend the *Coroners Act 1980* so as to allow a person who is of or above the age of 70 years to be appointed as a coroner for a specified term if the Minister so recommends, and
 - (c) to amend the *District Court Act 1973* so as:
 - (i) to allow the District Court to order an action to be retried not only, as is presently the case, where the action has originally been tried with a jury but also where it has been tried without a jury, and
-

- (ii) to require leave to be granted by the Supreme Court for an appeal against a final judgment or order of the District Court for the payment of money where the appeal seeks a variation of the sum ordered to be paid and the amount by which the sum is sought to be varied is less than \$100,000 or such other amount as is prescribed by the regulations under that Act, and
- (d) to amend the *Land and Environment Court Act 1979* so as to allow the costs payable by a prosecutor or defendant in respect of a conviction or order arising out of Class 5 proceedings determined by the Land and Environment Court to be determined otherwise than by the Judge by whom the proceedings are determined, and
- (e) to amend the *Supreme Court Act 1970* so as:
 - (i) to enable the Court of Appeal to be constituted by two Judges of Appeal for appeals against awards of compensation by the Compensation Court, and
 - (ii) to require leave to be given by the Court of Appeal for an appeal against a judgment or order of the Supreme Court with respect to the taxation or assessment of costs, and
 - (iii) to require leave to be given by the Court of Appeal for an appeal against a final judgment or order of the Supreme Court for the payment of money where the appeal seeks a variation of the sum ordered to be paid and the amount by which the sum is sought to be varied is less than \$100,000 or such other amount as is prescribed by the regulations under that Act.

Outline of provisions

Clause 1 specifies the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the Schedule of amendments to the *Compensation Court Act 1984*.

Clause 4 is a formal provision giving effect to the Schedule of amendments to the *Coroners Act 1980*.

Clause 5 is a formal provision giving effect to the Schedule of amendments to the *District Court Act 1973*.

Clause 6 is a formal provision giving effect to the Schedule of amendments to the *Land and Environment Court Act 1979*.

Courts Legislation Amendment Bill 1997

Explanatory note

Clause 7 is a formal provision giving effect to the Schedule of amendments to the *Supreme Court Act 1970*.

Schedule 1 amends the *Compensation Court Act 1984* so as to give effect to the objects referred to in paragraph (a) above.

Schedule 2 amends the *Coroners Act 1980* so as to give effect to the objects referred to in paragraph (b) above.

Schedule 3 amends the *District Court Act 1973* so as to give effect to the objects referred to in paragraph (c) above.

Schedule 4 amends the *Land and Environment Court Act 1979* so as to give effect to the objects referred to in paragraph (d) above.

Schedule 5 amends the *Supreme Court Act 1970* so as to give effect to the objects referred to in paragraph (e) above.

First print



New South Wales

Courts Legislation Amendment Bill 1997

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Compensation Court Act 1984 No 89	2
4 Amendment of Coroners Act 1980 No 27	2
5 Amendment of District Court Act 1973 No 9	2
6 Amendment of Land and Environment Court Act 1979 No 204	2
7 Amendment of Supreme Court Act 1970 No 52	2

Schedules

1 Amendment of Compensation Court Act 1984	3
2 Amendment of Coroners Act 1980	4
3 Amendment of District Court Act 1973	5
4 Amendment of Land and Environment Court Act 1979	7
5 Amendment of Supreme Court Act 1970	9



New South Wales

Courts Legislation Amendment Bill 1997

No. , 1997

A Bill for

An Act to make miscellaneous amendments to the *Compensation Court Act 1984*, the *Coroners Act 1980*, the *District Court Act 1973*, the *Land and Environment Court Act 1979* and the *Supreme Court Act 1970*.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Courts Legislation Amendment Act 1997*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation. 5

3 Amendment of Compensation Court Act 1984 No 89

The *Compensation Court Act 1984* is amended as set out in Schedule 1.

4 Amendment of Coroners Act 1980 No 27

10

The *Coroners Act 1980* is amended as set out in Schedule 2.

5 Amendment of District Court Act 1973 No 9

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

6 Amendment of Land and Environment Court Act 1979 No 204

The *Land and Environment Court Act 1979* is amended as set out in Schedule 4. 15

7 Amendment of Supreme Court Act 1970 No 52

The *Supreme Court Act 1970* is amended as set out in Schedule 5.

**Schedule 1 Amendment of Compensation Court
Act 1984**

(Section 3)

[1] Section 39 Costs of operation of the Court

Omit "May in each year".

5

Insert instead "December in each year (or, if some other month is prescribed by the regulations, that other month)".

[2] Section 39

Omit "for the next following year".

Insert instead "for the year commencing on the next following 1
July".

10

Schedule 2 Amendment of Coroners Act 1980

(Section 4)

Section 6 Age qualification for coroners and assistant coroners

Insert at the end of section 6:

- (2) However, a person of or above the age of 70 years may be appointed as a coroner if the Minister recommends to the Governor that the appointment of that person as a coroner is appropriate. In that case:
 - (a) the appointment is to be made for such term (not exceeding 3 years) as is specified in the instrument of appointment of that coroner, and
 - (b) section 6A does not apply to that coroner.
- (3) A coroner appointed under subsection (2) is eligible for reappointment under that subsection from time to time.

Schedule 3 Amendment of District Court Act 1973

(Section 5)

[1] Section 126 Order of the Court for new trial

Insert at the end of section 126 (1) (b):

, or

5

(c) the action is tried without a jury and a party to the action:

(i) in the presence of the other party and on the day on which judgment in the action is given, or

10

(ii) in the absence of the other party but after such notice as the Court thinks reasonable has been given to the other party and, in any case, within 21 days after judgment in the action is given,

15

makes application for the order.

[2] Section 127 Right of appeal to Supreme Court

Omit section 127 (2) (c). Insert instead:

(c) an appeal from a final judgment or order, being a judgment or order for the payment of a sum of money, where the appeal seeks a variation of that sum and the amount by which that sum is sought to be varied is less than \$100,000 or, if some other amount is prescribed by the regulations, that other amount.

20

25

[3] Section 183B

Insert after section 183A:

**183B Provisions consequent on enactment of Courts
Legislation Amendment Act 1997**

- | | | |
|-----|--|----|
| (1) | Section 126, as amended by the <i>Courts Legislation Amendment Act 1997</i> , applies to judgments given before the commencement of Schedule 3 [1] to that Act in the same way as it applies to judgments given after that commencement. | 5 |
| (2) | Section 127, as amended by the <i>Courts Legislation Amendment Act 1997</i> , applies to judgments and orders given or made before the commencement of Schedule 3 [2] to that Act in the same way as it applies to judgments and orders given or made after that commencement. | 10 |

Schedule 4 Amendment of Land and Environment Court Act 1979

(Section 6)

[1] Section 52 Judge may order payment of costs

Omit "such costs as to the Judge seem just and reasonable". 5

Insert instead "costs of such amount as are specified in the conviction or order or, if the conviction or order so directs, as may be determined under subsection (2)".

[2] Section 52 (2)

Omit the subsection. Insert instead: 10

(2) The costs payable by a prosecutor or defendant in accordance with a direction under this section are to be determined:

(a) by agreement between the prosecutor and defendant, or 15

(b) if no such agreement can be reached, in accordance with the regulations.

[3] Section 79

Insert after section 78:

79 Savings, transitional and other provisions 20

Schedule 3 has effect.

Courts Legislation Amendment Bill 1997

Schedule 4 Amendment of Land and Environment Court Act 1979

[4] Schedule 3

Insert after Schedule 2:

Schedule 3 Savings, transitional and other provisions

(Section 79) 5

1 Provisions consequent on enactment of Courts Legislation Amendment Act 1997

Section 52, as amended by the *Courts Legislation Amendment Act 1997*, does not apply to or in respect of any conviction or order arising out of proceedings determined before the commencement of Schedule 4 to that Act. 10

**Schedule 5 Amendment of Supreme Court Act
1970**

(Section 7)

[1] Section 46A Certain appeals may be heard by 2 Judges of Appeal 5

Insert "and to an appeal from an award of compensation made by the Compensation Court" after "person" in section 46A (1).

[2] Section 101 Appeal in proceedings before the Court

Insert at the end of section 101 (2):

(q) a judgment or order in proceedings of the Court with respect to the taxation or assessment of costs, or 10

(r) a final judgment or order in proceedings of the Court, being a judgment or order for the payment of a sum of money, where the appeal seeks a variation of that sum and the amount by which that sum is sought to be varied is less than \$100,000 or, if some other amount is prescribed by the regulations, that other amount. 15

[3] Fourth Schedule Savings and transitional provisions 20

Insert after clause 3:

4 Courts Legislation Amendment Act 1997

(1) Section 46A, as amended by the *Courts Legislation Amendment Act 1997*, applies to awards of compensation made by the Compensation Court before the commencement of Schedule 5 [1] to that Act in the same way as it applies to awards of compensation made after that commencement. 25

Courts Legislation Amendment Bill 1997

Schedule 5 Amendment of Supreme Court Act 1970

- (2) Section 101, as amended by the *Courts Legislation Amendment Act 1997*, applies to judgments and orders given or made before the commencement of Schedule 5 [2] to that Act in the same way as it applies to judgments and orders given or made after that commencement.

5