



New South Wales

# Courts Legislation Further Amendment Act 2002 No 70

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New South Wales

## **Courts Legislation Further Amendment Act 2002 No 70**

Act No 70, 2002

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An Act to amend the *Bail Act 1978* in relation to bail undertakings, the *Land and Environment Court Act 1979* in relation to the issue of process, the *Liquor Act 1982* in relation to licensing magistrates under that Act, the *Local Courts Act 1982* in relation to the preservation of entitlements of persons appointed as Magistrates, and the *Supreme Court Act 1970* in relation to arbitration; and for other purposes.  
[Assented to 10 September 2002]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Courts Legislation Further Amendment Act 2002*.

**2 Commencement**

- (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).
- (2) Schedule 4 [1] commences on the date of assent.

**3 Amendment of Acts**

The Acts specified in Schedules 1–6 are amended in the manner set out in those Schedules.

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## **Schedule 1 Amendment of Bail Act 1978 No 161**

(Section 3)

### **[1] Section 35**

Omit the section. Insert instead:

#### **35 Giving of bail undertakings**

A bail undertaking may be given to any of the following:

- (a) a court,
- (b) an authorised officer,
- (c) an officer of the Department of Corrective Services who is authorised by the Commissioner of Corrective Services for the purposes of this section.

### **[2] Sections 36 (3) (d) and 39B**

Omit “authorised officer or court” wherever occurring.

Insert instead “officer or court”.

### **[3] Section 39 Entry into agreement and acceptance of acknowledgment or security**

Omit “authorised officer or court” where secondly occurring.

Insert instead “officer or court”.

## **Schedule 2    Amendment of Land and Environment Court Act 1979 No 204**

(Section 3)

### **[1]    Section 65 Issue of process**

Omit “and be signed by the officer issuing the process and marked with the Court office stamp”.

Insert instead “and be signed or otherwise authenticated in accordance with the rules”.

### **[2]    Schedule 3 Savings, transitional and other provisions**

Insert at the end of the Schedule, with appropriate numbering:

#### **Provision consequent on enactment of Courts Legislation Further Amendment Act 2002**

Anything that was done or omitted to be done on or after 1 July 2002 and before the commencement of the amendment made by Schedule 2 to the *Courts Legislation Further Amendment Act 2002*, and that would have been valid if that amendment had been in force when the thing was done or omitted to be done, is validated.

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## **Schedule 3 Amendment of Liquor Act 1982 No 147**

(Section 3)

### **Section 8 Appointment of licensing magistrates**

Insert after section 8 (3):

- (3A) A licensing magistrate who is a Magistrate with limited tenure within the meaning of the *Local Courts Act 1982* is entitled to be paid (and is taken always to have been entitled to be paid) remuneration payable in respect of Magistrates with limited tenure under section 24 (2) of that Act.

## **Schedule 4 Amendment of Local Courts Act 1982 No 164**

(Section 3)

### **[1] Section 14A**

Insert after section 14:

#### **14A Special provision relating to certain Chief Magistrate**

- (1) This section applies to a person:
  - (a) who was a Judge of the District Court before being appointed as the Chief Magistrate, and
  - (b) who was the first person appointed as Chief Magistrate after the commencement of this section, and
  - (c) whose instrument of appointment declared that this section applies to the person's appointment as Chief Magistrate.
- (2) The appointment of the person as Chief Magistrate, or service by the person as Chief Magistrate, does not affect:
  - (a) the person's tenure as a Judge of the District Court, or
  - (b) the person's rank, title, status, remuneration or other rights or privileges as a Judge of the District Court.
- (3) The person's service as Chief Magistrate is, for all purposes, taken to be service as the holder of the office of Judge of the District Court.
- (4) Despite anything to the contrary in this section, the person is not to exercise the jurisdiction of the District Court while holding office as Chief Magistrate (except, with the approval of the Chief Judge of the District Court, in respect of a matter that was being dealt with by the person immediately before being appointed as Chief Magistrate).

### **[2] Section 25 Superannuation and certain other rights**

Insert after section 25 (4):

- (5) This section is subject to section 25A.

**[3] Section 25A**

Insert after section 25:

**25A Extended, annual and sick leave accrued or accruing at time of appointment**

- (1) A person who was employed in a public sector service (within the meaning of Schedule 5A to the *Public Sector Management Act 1988*) before the person's appointment as a Magistrate does not retain, on his or her appointment, any entitlement to extended, annual or sick leave accrued or accruing to the person as such an employee.
- (2) Subsection (1) does not apply in relation to a Magistrate with limited tenure.
- (3) Nothing in subsection (1) prevents the payment to a person to whom that subsection applies of the money value of any extended, annual or sick leave accrued or accruing to the person as an employee in a public sector service before the person's appointment as a Magistrate.
- (4) This section applies only in relation to a person appointed as a Magistrate on or after the commencement of this section.

Courts Legislation Further Amendment Act 2002 No 70

Schedule 5      Amendment of Statutory and Other Offices Remuneration Act 1975 (1976  
No 4)

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**Schedule 5      Amendment of Statutory and Other Offices  
Remuneration Act 1975 (1976 No 4)**

(Section 3)

**Schedule 1 Public offices**

Insert “or a Magistrate who has limited tenure within the meaning of the  
*Local Courts Act 1982*” at the end of the matter relating to Licensing  
magistrate (under the *Liquor Act 1982*).

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## **Schedule 6 Amendment of Supreme Court Act 1970 No 52**

(Section 3)

**[1] Section 76B Arbitration under Arbitration (Civil Actions) Act 1983**

Omit section 76B (3) (b) and (c).

**[2] Fourth Schedule Savings and transitional provisions**

Insert at the end of the Schedule, with appropriate numbering:

### **Part Provision consequent on enactment of Courts Legislation Further Amendment Act 2002**

#### **Arbitration**

The amendment made by Schedule 6 [1] to the *Courts Legislation Further Amendment Act 2002* extends to proceedings commenced, but not determined, before the commencement of the amendment.

[Second reading speech made in—

Legislative Assembly on 28 June 2002

Legislative Council on 4 September 2002]