

Passed by both Houses



New South Wales

Courts Legislation Further Amendment Bill 2006

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2006*



New South Wales

Courts Legislation Further Amendment Bill 2006

Act No , 2006

*An Act to amend the *Civil Procedure Act 2005*, the *Drug Court Act 1998* and the *Land and Environment Court Act 1979* with respect to courts, court procedures and other matters; and for other purposes.*

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Courts Legislation Further Amendment Act 2006*.

2 Commencement

- (1) This Act commences on the date of assent except as provided by subsection (2).
- (2) Schedule 2 commences on the commencement of Schedule 1 [5] to the *Compulsory Drug Treatment Correctional Centre Act 2004*.

3 Amendment of Acts

Each Act set out in Schedules 1–3 is amended as set out in those Schedules.

4 Repeal of Act

- (1) This Act is repealed on the day following the day on which all the provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendment of Civil Procedure Act 2005 No 28

(Section 3)

[1] Section 18 Fees

Omit “, (d) or (e)” from section 18 (2). Insert instead “or (d)”.

[2] Section 77 Payment of money recovered on behalf of person under legal incapacity

Omit section 77 (3) and (4). Insert instead:

- (3) Despite subsection (2), the court may order that the whole or any part of such money not be paid into court but be paid instead to such person as the court may direct, including:
 - (a) if the person is a minor, to the Public Trustee, or
 - (b) if the person is a protected person, to the manager of the protected person’s estate.
- (4) Money paid into court under subsection (2) is to be paid to such person as the court may direct, including:
 - (a) if the person is a minor, to the Public Trustee, or
 - (b) if the person is a protected person, to the manager of the protected person’s estate.

[3] Section 81 Definitions and application

Insert after section 81 (2):

Note. Clause 11 of Schedule 6 to this Act provides that the reference in subsection (2) to an award of damages to which Chapter 5 of the *Motor Accidents Compensation Act 1999* applies includes a reference to an award of damages to which Part 6 of the *Motor Accidents Act 1988* applies.

[4] Section 97 Arrest warrants

Omit “this or any other Act or under rules of court” from section 97 (1) (a).

Insert instead “this Act or any other law”.

[5] Section 113 Sale or mortgage by judgment debtor of land affected by order

Omit section 113 (6) (b). Insert instead:

- (b) the Sheriff, on production of the agreement for the sale or the mortgage instrument, must endorse:
 - (i) in the case of a sale, the agreement for sale, or
 - (ii) in the case of a mortgage, the mortgage instrument.

[6] Section 113 (7)

Omit “agreement”. Insert instead “agreement or mortgage instrument”.

[7] Schedule 6 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Courts Legislation Further Amendment Act 2006 (but only to the extent that it amends this Act)

Schedule 2 Amendment of Drug Court Act 1998 No 150

(Section 3)

[1] Section 5A Definition of “eligible convicted offender”

Omit section 5A (1) (b). Insert instead:

- (b) the person has been sentenced to a term of imprisonment for the offence to be served by way of full-time detention and the unexpired non-parole period in relation to that sentence is:
 - (i) at the time the Drug Court is determining whether to make a compulsory drug treatment order with respect to the person—a period of no more than 3 years, and
 - (ii) at the time that the sentence was imposed—a period of at least 18 months, and

[2] Section 5A (1) (c)

Omit “3 other offences”. Insert instead “2 other offences”.

[3] Section 5A (1) (d) and (e)

Omit “in the opinion of the Drug Court,” wherever occurring.

[4] Section 5A (2) (d)

Omit the paragraph.

[5] Section 18E Assessment of eligibility and suitability by the multi-disciplinary team

Insert after section 18E (2) (c):

- (c1) the offender’s history of committing offences involving violence,

**Schedule 3 Amendment of Land and Environment
Court Act 1979 No 204**

(Section 3)

Section 39A Joinder of parties in certain appeals

Insert “96 (6), 96AA (3), 96A (5),” after “under section”.