



New South Wales

# Justice Legislation Amendment (Civil) Bill 2024

## Explanatory note

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

## Overview of Bill

The object of this Bill is to make various amendments to the following Acts in the Communities and Justice portfolio—

- (a) *Births, Deaths and Marriages Registration Act 1995*,
- (b) *Land and Environment Court Act 1979*,
- (c) *Legal Profession Uniform Law Application Act 2014*,
- (d) *Modern Slavery Act 2018*,
- (e) *Police Act 1990*,
- (f) *Powers of Attorney Act 2003*,
- (g) *Status of Children Act 1996*.

## Outline of provisions

**Clause 1** sets out the name, also called the short title, of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act.

**Clause 3** provides that explanatory notes in schedules of the proposed Act do not form part of the proposed Act.

**Schedules 1–7** contain amendments to the Acts specified in the overview and explanatory notes for the amendments.



New South Wales

# Justice Legislation Amendment (Civil) Bill 2024

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*This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly*

*Clerk of the Legislative Assembly*



New South Wales

## **Justice Legislation Amendment (Civil) Bill 2024**

No. \_\_\_\_\_, 2024

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### **A Bill for**

An Act to amend various Acts in the Communities and Justice portfolio.

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*The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.*

*Legislative Council*

*Clerk of the Parliaments*

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**Tabling copy**

<b>The Legislature of New South Wales enacts—</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Justice Legislation Amendment (Civil) Act 2024</i> .	3
<b>2 Commencement</b>	4
This Act commences on the date of assent to this Act.	5
<b>3 Explanatory notes</b>	6
An explanatory note in a schedule of this Act does not form part of this Act.	7

<b>Schedule 1</b>	<b>Amendment of Births, Deaths and Marriages Registration Act 1995 No 62</b>	1
		2
<b>[1] Section 4 Definitions</b>		3
	Omit section 4(1), definition of <i>Registrar</i> . Insert instead—	4
	<i>Registrar</i> means a Public Service senior executive, within the meaning of the <i>Government Sector Employment Act 2013</i> , employed as the Registrar of Births, Deaths and Marriages.	5
		6
		7
<b>[2] Section 7</b>		8
	Omit the section. Insert instead—	9
	<b>7 Registrar’s staff</b>	10
	(1) Persons may be employed in the Public Service under the <i>Government Sector Employment Act 2013</i> to enable the Registrar to exercise the Registrar’s functions under this Act and the <i>Relationships Register Act 2010</i> .	11
		12
		13
	(2) The Registrar may engage persons under a contract to provide services to enable the Registrar to exercise the Registrar’s functions under this Act and the <i>Relationships Register Act 2010</i> , including engaging persons through a labour hire arrangement.	14
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		16
		17
<b>[3] Section 8 Delegation</b>		18
	Omit section 8(3), definition of <i>authorised person</i> . Insert instead—	19
	<i>authorised person</i> means the following—	20
	(a) a Public Service employee, within the meaning of the <i>Government Sector Employment Act 2013</i> ,	21
		22
	(b) a person engaged under a contract to provide services to enable the Registrar to exercise the Registrar’s functions under this Act or the <i>Relationships Register Act 2010</i> , including a person engaged through a labour hire arrangement,	23
		24
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		26
	(c) a person prescribed by the regulations.	27
	<b>Explanatory note</b>	28
	Item [2] of the proposed amendments enables the Registrar of Births, Deaths and Marriages (the <i>Registrar</i> ) to engage persons under a contract to provide services to the Registrar. Item [3] authorises the Registrar to delegate certain functions to Public Service employees, certain persons engaged to provide services to the Registrar and persons prescribed by the regulations.	29
		30
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		32
	Items [1] and [2] remove references to the repealed <i>Public Sector Management Act 1988</i> .	33

<b>Schedule 2</b>	<b>Amendment of Land and Environment Court Act</b>	1
	<b>1979 No 204</b>	2
	<b>Section 20 Class 4—environmental planning and protection, development contract and strata renewal plan civil enforcement</b>	3
		4
	Insert after section 20(1)(cic)—	5
	(cid) proceedings under the <i>Protection of the Environment Operations Act 1997</i> , sections 296P and 296Q,	6
		7
	<b>Explanatory note</b>	8
	The proposed amendment confers jurisdiction on the Land and Environment Court in relation to the forfeiture of chemical substances and containers of chemical substances to the Crown.	9
		10

<b>Schedule 3</b>	<b>Amendment of Legal Profession Uniform Law Application Act 2014 No 16</b>	1
		2
<b>Section 166 Local regulations</b>		3
Omit “services.” from section 166(2)(d). Insert instead—		4
services, and		5
(e) enabling the designated tribunal to make a costs order under the <i>Legal Profession Uniform Law (NSW)</i> , section 303(1) or (2) in favour of a specified person, body or fund instead of the designated local regulatory authority, and		6
		7
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		9
(f) nominating a person, body or fund under the <i>Legal Profession Uniform Law (NSW)</i> , section 303(3)(b) or (4)(b) for the purposes of the section.		10
		11
<b>Explanatory note</b>		12
The proposed amendment enables regulations to be made relating to costs orders made under the <i>Legal Profession Uniform Law (NSW)</i> , section 303.		13
		14

## Schedule 4 Amendment of Modern Slavery Act 2018 No 30

### Section 19 Annual and other reports to Parliament

Insert after section 19(5)—

- (6) A report given to the Presiding Officer of a House of Parliament under this section, or section 22(3), must be laid before the House within 5 sitting days of the House after it is received by the Presiding Officer.
- (7) If the House is not sitting, a report under this section or section 22(3) may instead be given to the Clerk of the House.
- (8) A report given to the Clerk of a House under subsection (7)—
  - (a) is taken to have been given to the Presiding Officer of the House and laid before the House, and
  - (b) may be printed or published by the Clerk, and
  - (c) if printed or published by the Clerk—is taken to be a document printed or published by the House, and
  - (d) must be recorded, on the first sitting day of the House after the Clerk receives the report—
    - (i) for the Legislative Council—in the Minutes of the Proceedings of the Legislative Council, or
    - (ii) for the Legislative Assembly—in the Votes and Proceedings of the Legislative Assembly.

#### Explanatory note

The proposed amendment provides that a report of the Anti-Slavery Commissioner may be given to the Clerk of a House of Parliament instead of the Presiding Officer of the House if the House is not sitting.



<b>Schedule 5</b>	<b>Amendment of Police Act 1990 No 47</b>	1
	<b>Section 94 Requirements as to citizenship</b>	2
	Insert “, and includes a New Zealand citizen who holds a special category visa within the meaning of the <i>Migration Act 1958</i> of the Commonwealth, section 32” after “law” in section 94(3).	3 4 5
	<b>Explanatory note</b>	6
	The proposed amendment makes it clear that a New Zealand citizen who resides in Australia on a special category visa is eligible to be appointed as a member of the NSW Police Force.	7 8

## Schedule 6 Amendment of Powers of Attorney Act 2003 No 53

### Section 25 Recognition of enduring powers of attorney made in other States and Territories

Omit section 25(5). Insert instead—

(5) In this section—

*interstate enduring power of attorney*—

- (a) means a power of attorney made by instrument in another State or Territory that, under the law of the State or Territory, has effect in the State or Territory as a valid power of attorney even if the principal loses capacity through mental incapacity after the execution of the instrument, and
- (b) includes an instrument in the nature of an enduring power of attorney, however described.

#### Explanatory note

The proposed amendment makes it clear that an interstate enduring power of attorney includes an instrument made in another State or Territory in the nature of an enduring power of attorney, however described.

**Schedule 7 Amendment of Status of Children Act 1996 No 76**

**Section 3 Definitions**

Omit “holding office as such under Part 2 of the *Public Sector Management Act 1988*” from section 3(1), definition of **Registrar**.

**Explanatory note**

The proposed amendment updates a reference to the Registrar of Births, Deaths and Marriages to remove a reference to the repealed *Public Sector Management Act 1988*.

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