



ANNO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1959

No. 36 of 1959

An Act to amend the Local Courts Act, 1926-1956.

[Assented to 10th December, 1959.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. (1) This Act may be cited as the "Local Courts Act Short titles.
Amendment Act, 1959".

(2) The Local Courts Act, 1926-1956, as amended by this Act, may be cited as the "Local Courts Act, 1926-1959".

(3) The Local Courts Act, 1926-1956, is hereinafter referred to as "the principal Act".

2. This Act is incorporated with the principal Act and that Incorporation.
Act and this Act shall be read as one Act.

3. Subsection (2) of section 27 of the principal Act is Amendment of
principal Act
s. 27—
Execution of
warrants.
amended—

(a) by striking out the words "or any warrant of commitment" in sub-paragraph iv thereof :

(b) by inserting the following sub-paragraph therein after sub-paragraph iv thereof :—

iva. He shall cause to be executed every warrant of commitment with all despatch after receiving such warrant and shall indorse

on every warrant the time and mode of executing the same and any amount received and disbursed or retained on account thereof; and in case of non-execution within one calendar month after receiving such warrant from the clerk of the court he shall report to the clerk of the court such fact and the cause thereof:

Amendment of
principal Act,
s. 28—
Rules of
Court.

4. Subsection (1) of section 28 of the principal Act is amended by adding the following paragraph after paragraph III:—

IIIa. Defining any area as the area of the jurisdiction of a local court.

Amendment of
principal Act,
s. 114—
In what
courts actions
to be com-
menced.

5. Section 114 of the principal Act is amended by adding at the end thereof the following subsection (the previous part of section 114 being read as subsection (1) thereof):—

(2) The local court within any area defined by Rules of Court made pursuant to paragraph IIIa of section 28 (1) of this Act shall for the purposes of this Act be deemed to be the nearest local court to any place within that area.

Amendment of
principal Act,
s. 174f—
Notification
of satisfaction
of judgment.

6. Section 174f of the principal Act is amended—

- (a) by striking out paragraph (b) of subsection (1) thereof;
- (b) by inserting after subsection (2) thereof the following subsections:—

(3) The clerk of a local court in which a certificate has been registered shall, on request by or on behalf of either party, forward to the clerk of the court in which the judgment or order was given or made, particulars of the processes, if any, issued upon such certificate.

(4) No proceeding shall be taken in any local court (except the issue of a further certificate of judgment) for the enforcement of any judgment or order given or made therein of which a certificate has been registered in any other local court unless—

- (a) a notification under subsection (3) of this section under the seal of the court in which the certificate was registered has first been received by the clerk of the court; and

- (b) an affidavit is first filed in the local court in which the judgment or order was given or made. The affidavit shall be made by the person in whose favour the judgment or order was given or made or by some other person cognizant of the facts of the case and shall state that the amount for which execution is proposed to be issued or in respect of which other proceedings are proposed to be taken, is actually due and unpaid. No execution shall be issued for or other proceedings taken in respect of a larger amount than that sworn to.

7. Subsection (2) of section 175 of the principal Act is repealed and the following subsection is enacted in lieu thereof:—

**Amendment of
principal Act,
s. 175—
Summons on
unsatisfied
judgment.**

(2) Such summons shall be issued—

(a) in the case of the judgment or order of a local court, from the court in which the judgment or order was obtained or made, or from any local court (having jurisdiction to the amount claimed) situated not more than one mile further from the place where the person to whom it is directed resides or carries on his business at the time of such issue than the local court nearest to such place or from the local court nearest to such place ;

(b) in the case of a judgment, decree, or order of the Supreme Court or any court of competent jurisdiction, not being a local court, from any local court situated not more than one mile further from the place where the person to whom it is directed resides or carries on his business at the time of such issue than the local court nearest to such place, or from the local court nearest to such place, or, by order of a judge or special magistrate, from the Local Court of Adelaide.

Where a defendant against whom an unsatisfied judgment summons has been issued and served does not object to the jurisdiction of the court from which it was issued before any order is made in respect of the said unsatisfied judgment summons the jurisdiction of the said local court

shall not thereafter be questioned in any proceedings on any ground based on this subsection.

Amendment of
principal Act,
s. 176—
Unsatisfied
judgment
against
partners.

8. Subsection (2) of section 176 of the principal Act is repealed and the following subsection is enacted in lieu thereof :—

(2) No such unsatisfied judgment summons shall be issued, except by leave of a judge or special magistrate (which leave may be obtained without notice to the person against whom it is sought to issue it), out of any local court that is situated further by more than one mile from the place where the defendant at the time of such issue resides or carries on business than is the local court nearest to such place.

Amendment of
principal Act,
s. 179—
Non-attend-
ance of
parties
summoned.

9. Paragraph (a) of section 179 of the principal Act is amended by striking out the words “if the court is that having jurisdiction nearest to which” in the fifth and sixth lines thereof and by inserting in lieu thereof the words “if there is no other court having jurisdiction nearer by at least one mile to the place where” and by adding at the end of the said paragraph (a) the words “than the local court nearest to such place”.

Amendment of
principal Act,
s. 181—
Compensation
in vexatious
cases.

10. Subsection (2) of section 181 of the principal Act is amended by striking out the word “five” in the seventh line thereof and inserting the word “twenty” in lieu thereof.

In the name and on behalf of Her Majesty, I hereby assent to this Bill. -

R. A. GEORGE, Governor.