



ANNO QUINTO

ELIZABETHAE II REGINAE

A.D. 1956.

No. 50 of 1956.

An Act to amend the Local Courts Act, 1926-1947.

[Assented to 29th November, 1956.]

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

Short titles.

1. (1) This Act may be cited as the "Local Courts Act Amendment Act, 1956".

(2) The Local Courts Act, 1926-1947, as amended by this Act, may be cited as the "Local Courts Act, 1926-1956".

(3) The Local Courts Act, 1926-1947, is hereinafter called "the principal Act".

Incorporation.

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

Commencement of Act.

3. This Act shall commence on a day to be fixed by the Governor by proclamation.

Amendment of
s. 25 of
principal Act—
Powers of
judge and
magistrate.

4. Section 25 of the principal Act is amended—

(a) by adding after sub-paragraph (a) of paragraph II of subsection (1) the following sub-paragraph :—

(aa) order, subject to any conditions which he thinks fit to impose, that any documents which a party is entitled to inspect shall be forwarded for inspection to the clerk of the court nearest to the place where that party resides or carries on business or to the clerk of some other convenient court:

(b) by adding after paragraph II of subsection (1) the following paragraphs :—

IIa. On the application of any party to an action or matter he may order that the action or matter be heard on a specified day (either before or after the day proclaimed for the sitting of the court) and shall order that such notice as he deems adequate of the day fixed for such hearing be given to the other party ;

IIb. On the application of any party to an action, made at any time after the issue of the summons, he may dispose summarily of the action or of any issue or question therein and make such other order on the application (being an order authorized by rules of court) as he deems just ; and for the purpose of dealing with such applications he shall have all such powers and jurisdiction as are conferred by rules of court ;

5. Section 26 of the principal Act is amended by inserting after paragraph VI of subsection (2) the following paragraph :—

Amendment of s. 26 of principal Act—
Duties of clerk.

VIa. He shall forthwith after setting a claim down for assessment of damages give notice of the day and time fixed for such assessment to all parties concerned.

6. Section 31 of the principal Act is amended by striking out the word “seven” wherever occurring in paragraphs I, II, and III thereof and inserting in lieu thereof in each case the word “twelve”.

Amendment of s. 31 of principal Act—
Jurisdiction of courts of full jurisdiction.

7. Section 40 of the principal Act is amended by striking out the word “seven” occurring in the fourth and tenth lines thereof and inserting in lieu thereof in each case the word “twelve”.

Amendment of s. 40 of principal Act—
Power of Supreme Court to order trial in local court.

8. Section 41 of the principal Act is amended by striking out the word “seven” in the fifth line and inserting in lieu thereof the word “twelve”.

Amendment of s. 41 of principal Act—
Amount claimed in the Supreme Court reduced by payment into court.

9. Section 42 of the principal Act is amended—

(a) by striking out the words “in covenant debt or assumption” in the fourth line and inserting in lieu thereof

Amendment of s. 42 of principal Act—
Costs in the Supreme Court in certain cases.

the words "an action founded on contract or on a quasi-contractual obligation" :

- (b) by striking out the word "seven" in the fifth line and inserting in lieu thereof the word "twelve" :
- (c) by striking out the words "in trespass, detinue, trover, or case" in the sixth line and inserting in lieu thereof the words "an action founded on tort" :
- (d) by striking out the word "one" in the seventh line and inserting in lieu thereof the word "two".

Amendment of
s. 80 of
principal Act—
Names of
parties and
particulars.

10. Section 80 of the principal Act is amended by adding at the end thereof the following subsection :—

(3) At any time before service of the summons and on the written request of the plaintiff or his solicitor, the clerk of the court may—

- (a) make any alteration in any particulars, as stated in the claim or summons, of the name, place of residence or business, occupation or description of any person ;
- (b) add to or delete from the summons any indorsement required by the Commonwealth Act known as the Service and Execution of Process Act, 1901-1953.

Amendment of
s. 101 of
principal Act—

11. Section 101 of the principal Act is amended so as to read as follows :—

Appearance to
counter-claim.

101. (1) Any person, whether originally a party to the action or not, against whom a counter-claim is set up shall, if he desires to dispute the counter-claim, enter an appearance to the counterclaim in the same way as an appearance is required to be entered to a plaintiff's claim, and within the time allowed by section 97 for appearance by a defendant.

(2) An appearance so entered shall have the like operation as an appearance filed pursuant to section 98, and subsections (3), (4), and (5), of section 98, shall apply in relation to such appearance.

(3) Default in entering an appearance to a counter-claim shall have the like effect as default by a defendant in entering an appearance to a claim.

12. Section 102 of the principal Act is amended—

(a) by striking out at the end of subsection (1) thereof the words “file in duplicate with the clerk of the court a clear and concise statement of such special matter in reply” and insert in lieu thereof the words “state in his appearance the matter alleged to constitute such special defence”:

(b) by striking out subsection (2) thereof.

Amendment of
s. 102 of
principal Act—
Reply to
counter-claim.

13. Section 110 of the principal Act is amended by inserting after subsection (1) the following subsection:—

(1a) A defendant who has filed an admission of liability under this section may at any time before judgment is entered thereon withdraw or amend such admission by a notice, attested by one of the persons mentioned in subsection (1) of this section, or under the hand of a practitioner of the Supreme Court. Such notice together with a copy thereof shall be filed with the clerk of the court.

The clerk of the court shall send the copy of the notice to the plaintiff. If the effect of the notice is that the defendant still admits liability for some amount the clerk of the court shall at the request of the plaintiff enter judgment for the amount so admitted.

Amendment of
s. 110 of
principal Act—
Confession of
liability.

14. Section 111 of the principal Act is amended by inserting after the word “appearance” in the second line of subsection (1) the words “or at any time thereafter”.

Amendment of
s. 111 of
principal Act—
Payment into
court.

15. Section 174a of the principal Act is amended by striking out subsection (3) thereof.

Amendment of
s. 174a of
principal Act—
Registration of
certificate of
judgment.

16. Section 216 of the principal Act is amended by striking out the words “two hundred and eight” in the second line and inserting in lieu thereof the words “three hundred and twelve”.

Amendment of
s. 216 of
principal Act—
Proceedings
for recovery
of premises
and rent.

17. Section 228 of the principal Act is amended by striking out the words “two hundred and eight” in the second line of subsection (1) and inserting in lieu thereof the words “three hundred and twelve”.

Amendment of
s. 228 of
principal Act—
Recovery of
possession
when rent is
in arrear.

18. Section 230 of the principal Act is amended by striking out the word “two” in the third line of subsection (1) and in the last line of subsection (3) and inserting in lieu thereof in each case the word “four”.

Amendment of
s. 230 of
principal Act—
Proceedings
in ejectment.

Amendment of
s. 259 of
principal Act—
Equitable
Jurisdiction.

19. Section 259 of the principal Act is amended—

- (a) by striking out the words “five hundred” in the last line of paragraphs I, II, IV, VI, and VII and in the third line of paragraph III and inserting in lieu thereof in each case the words “twelve hundred and fifty” :
- (b) by striking out the word “two” in the last line of paragraph V and inserting in lieu thereof the word “four” :
- (c) by adding at the end thereof the following paragraphs :—

ix. For the determination of any question of construction arising under a deed will or other written instrument and for a declaration of the rights of the persons interested, where the property in respect of which the declaration is sought does not exceed in value the sum of twelve hundred and fifty pounds :

x. For the determination of any question that has arisen in respect of any requisition, objection, claim for compensation or other matter arising out of or connected with a contract for the sale of any freehold land the value of which does not exceed four thousand pounds or any leasehold estate where the rent payable under the lease is at a rate not greater than three hundred and twelve pounds a year :

xi. For relief against the forfeiture of a lease or tenancy for non-payment of rent in any case where the rent payable under the lease or tenancy is at a rate not greater than three hundred and twelve pounds a year :

xii. For the rectification of any written contract where the value of the subject matter of the contract does not exceed twelve hundred and fifty pounds.

Amendment of
s. 295 of
principal Act—
Cost.

20. Section 295 of the principal Act is amended by striking out subsection (1) thereof and inserting in lieu thereof the following subsection :—

(1) As between party and party the costs and charges payable in respect of the services of practitioners of the Supreme Court shall be those set out in the Fifth Schedule, and such costs and charges shall be taxed by the Clerk of the Court, but his taxation may be reviewed by a Judge or Special Magistrate.

21. Section 296 of the principal Act is amended by adding at the end of subsection (3) thereof the following words "nor where pursuant to a certificate given under section 295 of this Act the client is entitled as between party and party to costs in excess of those authorized by the Fifth Schedule".

Consequential amendment of s. 296 of principal Act—
Costs as between solicitor and client.

22. (1) This Act shall apply to every action commenced after the commencement of this Act, whether the cause of action arose before or arises after the commencement of this Act.

Operation of Act.

(2) Sections 4, 5, 10, 11, 12, 13, 14, 15, 20, and 21, of this Act shall, so far as practicable, also apply to actions and other proceedings pending in a local court at the time of the commencement of this Act; but no step in such proceedings properly taken before the commencement of this Act shall be invalid by reason of any provision of this Act.

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

R. A. GEORGE, Governor.