

South Australia



ANNO QUINQUAGESIMO
ELIZABETHAE II REGINAE
A.D. 2001

**STATUTES AMENDMENT (COURTS AND JUDICIAL
ADMINISTRATION) ACT 2001**

No. 69 of 2001

[Assented to 6 December 2001]

An Act to amend the Building Work Contractors Act 1995, the Courts Administration Act 1993, the Criminal Law Consolidation Act 1935, the De Facto Relationships Act 1996, the District Court Act 1991, the Judicial Administration (Auxiliary Appointments and Powers) Act 1988, the Magistrates Court Act 1991, the Mining Act 1971, the Opal Mining Act 1995, the Petroleum Act 2000, the Retail and Commercial Leases Act 1995, the Summary Procedure Act 1921, the Supreme Court Act 1935, the Unclaimed Goods Act 1987 and the Workers Rehabilitation and Compensation Act 1986.

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The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Statutes Amendment (Courts and Judicial Administration) Act 2001*.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Interpretation

3. A reference in this Act to the principal Act is a reference to the Act referred to in the heading to the Part in which the reference occurs.

**PART 2
AMENDMENT OF BUILDING WORK CONTRACTORS ACT 1995**

Amendment of s. 40—Magistrates Court and substantial monetary claims

4. Section 40 of the principal Act is amended by striking out from subsection (1) "\$30 000" (twice occurring) and substituting, in each case, "\$40 000".

Transitional provision

5. The amendments made to the principal Act by this Part—

- (a) do not apply in respect of proceedings commenced before the commencement of this Part (and those proceedings may continue as if this Act had not been enacted); and
- (b) apply in respect of proceedings commenced after the commencement of this Part (including proceedings in respect of a claim arising before the commencement of this Part).

**PART 3
AMENDMENT OF COURTS ADMINISTRATION ACT 1993**

Insertion of s. 28A

6. The following section is inserted after section 28 of the principal Act:

Special provisions in relation to publication of sentencing remarks

28A. (1) The following provisions apply in respect of the publication on an Internet site maintained by the Courts Administration Authority of the sentencing remarks made by the Supreme Court or the District Court:

- (a) a member of the Council, the Administrator and the other members of the staff of the Council have, in respect of that publication, the same privileges and immunities as if the publication consisted of a delivery by a judge of sentencing remarks in court; and
- (b) that publication is in all other respects to be treated as if the publication consisted of a delivery by a judge of sentencing remarks in court.

(2) Subsection (1)—

- (a) does not apply unless the sentencing remarks published on the Internet site were released by the sentencing judge before their publication in accordance with the procedures approved by the Chief Justice or the Chief Judge, as the case may be; and
- (b) does not give rise to any privileges or immunities with respect to any subsequent publication of the sentencing remarks by a third party.

PART 4**AMENDMENT OF CRIMINAL LAW CONSOLIDATION ACT 1935****Amendment of s. 85—Damaging property****7. Section 85 of the principal Act is amended—**

- (a) by striking out from paragraph (a)(i) of the penalty clause in subsection (1) "\$25 000" and substituting "\$30 000";
- (b) by striking out subparagraph (ii) of paragraph (a) of the penalty clause in subsection (1) and substituting the following subparagraph:
 - (ii) where the damage exceeds \$2 500 but does not exceed \$30 000—imprisonment for 5 years;;
- (c) by striking out from paragraph (a)(iii) of the penalty clause in subsection (1) "\$2 000" and substituting "\$2 500";
- (d) by striking out from paragraph (b)(i) of the penalty clause in subsection (1) "\$25 000" and substituting "\$30 000";
- (e) by striking out subparagraph (ii) of paragraph (b) of the penalty clause in subsection (1) and substituting the following subparagraph:
 - (ii) where the damage would, if the offence had been completed, have exceeded \$2 500 but would not have exceeded \$30 000—imprisonment for 3 years;;
- (f) by striking out from paragraph (b)(iii) of the penalty clause in subsection (1) "\$2 000" and substituting "\$2 500";
- (g) by striking out from paragraph (a)(i) of the penalty clause in subsection (3) "\$25 000" and substituting "\$30 000";
- (h) by striking out subparagraph (ii) of paragraph (a) of the penalty clause in subsection (3) and substituting the following subparagraph:
 - (ii) where the damage exceeds \$2 500 but does not exceed \$30 000—imprisonment for 3 years;;
- (i) by striking out from paragraph (a)(iii) of the penalty clause in subsection (3) "\$2 000" and substituting "\$2 500";

- (j) by striking out from paragraph (b)(i) of the penalty clause in subsection (3) "\$25 000" and substituting "\$30 000";
- (k) by striking out subparagraph (ii) of paragraph (b) of the penalty clause in subsection (3) and substituting the following subparagraph:
 - (ii) where the damage would, if the offence had been completed, have exceeded \$2 500 but would not have exceeded \$30 000—imprisonment for 2 years;;
- (l) by striking out from paragraph (b)(iii) of the penalty clause in subsection (3) "\$2 000" and substituting "\$2 500".

Transitional provision

8. The amendments made to the principal Act by this Part do not apply in respect of an offence committed before the commencement of this Part.

**PART 5
AMENDMENT OF DE FACTO RELATIONSHIPS ACT 1996**

Amendment of s. 3—Interpretation

9. Section 3 of the principal Act is amended by striking out from paragraph (c) of the definition of "court" "\$60 000" and substituting "\$80 000".

Amendment of s. 13—Small claims

10. Section 13 of the principal Act is amended by striking out from subsection (1) "\$5 000" and substituting "\$6 000".

Transitional provision

11. The amendments made to the principal Act by this Part—

- (a) do not apply in respect of proceedings commenced before the commencement of this Part (and those proceedings may continue as if this Act had not been enacted); and
- (b) apply in respect of proceedings commenced after the commencement of this Part (including proceedings in respect of a claim arising before the commencement of this Part).

**PART 6
AMENDMENT OF DISTRICT COURT ACT 1991**

Repeal of s. 47

12. Section 47 of the principal Act is repealed.

Substitution of s. 48

13. Section 48 of the principal Act is repealed and the following section is substituted:

Contempt of Court

48. (1) The Court has the same power to deal with contempts as the Supreme Court has in respect of contempts of the Supreme Court.

(2) This section extends not only to contempts committed in the face of the Court but also to acts and omissions that would, assuming the Court were the Supreme Court, amount to a contempt of that Court.

PART 7
AMENDMENT OF JUDICIAL ADMINISTRATION
(AUXILIARY APPOINTMENTS AND POWERS) ACT 1988

Amendment of s. 2—Interpretation

14. Section 2 of the principal Act is amended—

- (a) by striking out from paragraph (b) of the definition of "judicial office" "or Judge of the Children's Court" and substituting ", Judge of the Youth Court or Judge of the Environment, Resources and Development Court";
- (b) by inserting after paragraph (b) of the definition of "judicial office" the following paragraph:
 - (ba) the office of Deputy President of the Workers Compensation Tribunal;.

Amendment of s. 5—Power of judicial officer to act in co-ordinate and less senior offices

15. Section 5 of the principal Act is amended—

- (a) by striking out from subsection (1) "subsection (2)" and substituting "subsection (1a) and (2)";
- (b) by inserting after subsection (1) the following subsection:
 - (1a) Subsection (1) does not apply to a judicial officer holding or acting in the judicial office of Deputy President of the Workers Compensation Tribunal (unless the judicial officer otherwise holds or is acting in another judicial office).

PART 8
AMENDMENT OF MAGISTRATES COURT ACT 1991

Amendment of s. 3—Interpretation

16. Section 3 of the principal Act is amended—

- (a) by striking out paragraph (ba) of the definition of "minor statutory proceeding" in subsection (1) and substituting the following paragraph:
 - (ba) an application under the *Retail and Commercial Leases Act 1995*, other than an application that involves a monetary claim for more than \$12 000; or;
- (b) by striking out from the definition of "small claim" in subsection (1) "\$5 000" and substituting "\$6 000";
- (c) by striking out from subsection (4)(a) "5 000" and substituting "\$6 000";
- (d) by striking out from subsection (4)(b) "5 000" and substituting "\$6 000".

Amendment of s. 8—Civil jurisdiction

17. Section 8 of the principal Act is amended—

- (a) by striking out from subsection (1)(a)(i) "\$60 000" and substituting "\$80 000";
- (b) by striking out from subsection (1)(a)(ii) "\$30 000" and substituting "\$40 000";
- (c) by striking out from subsection (1)(b) "\$60 000" and substituting "\$80 000";
- (d) by striking out from subsection (1)(c) "\$60 000" and substituting "\$80 000".

Amendment of s. 10—Statutory jurisdiction

18. Section 10 of the principle Act is amended by striking out from subsection (1a)(ab) "*Retail Shop Leases Act 1995*" and substituting "*Retail and Commercial Leases Act 1995*".

Transitional provision

19. The amendments made to the principal Act by this Part—

- (a) do not apply in respect of proceedings commenced before the commencement of this Part (and those proceedings may continue as if this Act had not been enacted); and
- (b) apply in respect of proceedings commenced after the commencement of this Part (including proceedings in respect of a claim arising before the commencement of this Part).

**PART 9
AMENDMENT OF MINING ACT 1971**

Amendment of s. 6—Interpretation

20. Section 6 of the principal Act is amended—

- (a) by striking out from paragraph (c) of the definition of "**appropriate court**" in subsection (1) "\$100 000" and substituting "\$150 000";
- (b) by striking out the definition of "**warden**" from subsection (1) and substituting the following definition:

"**warden**" means a magistrate nominated by the Attorney-General to exercise the jurisdiction and powers of a warden under this Act;.

Amendment of s. 67—Jurisdiction relating to tenements and monetary claims

21. Section 67 of the principal Act is amended by inserting after subsection (1) the following subsection:

(1a) The Warden's Court will have jurisdiction to determine a monetary claim for not more than \$40 000 arising in relation to any contract, partnership or joint venture arrangement related to, or otherwise associated with—

- (a) the acquisition or holding of any mining tenement, or purported mining tenement, or any miner's right; or
- (b) the performance of any mining operations under this Act; or

- (c) the recovery of any minerals under this Act.

Transitional provisions

22. (1) The amendments made to the principal Act by section 20—

- (a) do not apply in respect of proceedings commenced before the commencement of that section (and those proceedings may continue as if this Act had not been enacted); and
- (b) apply in respect of proceedings commenced after the commencement of that section (including proceedings in respect of a claim arising before the commencement of that section).

(2) The amendments made to the principal Act by section 21 apply in respect of proceedings commenced after the commencement of that section (including proceedings in respect of a claim arising before the commencement of that section).

**PART 10
AMENDMENT OF OPAL MINING ACT 1995**

Amendment of s. 3—Interpretation

23. Section 3 of the principal Act is amended by striking out from paragraph (c) of the definition of "appropriate court" in subsection (1) "\$100 000" and substituting "\$150 000".

Amendment of s. 72—Jurisdiction relating to tenements and monetary claims

24. Section 72 of the principal Act is amended by inserting after subsection (2) the following subsection:

(2a) The Warden's Court will have jurisdiction to determine a monetary claim for not more than \$40 000 arising in relation to any contract, partnership or joint venture arrangement related to, or otherwise associated with—

- (a) the acquisition or holding of any tenement, or purported tenement, or a precious stones prospecting permit; or
- (b) the performance of any mining operations under this Act; or
- (c) the recovery of any precious stones under this Act.

Transitional provisions

25. (1) The amendments made to the principal Act by section 23—

- (a) do not apply in respect of proceedings commenced before the commencement of that section (and those proceedings may continue as if this Act had not been enacted); and
- (b) apply in respect of proceedings commenced after the commencement of that section (including proceedings in respect of a claim arising before the commencement of that section).

(2) The amendments made to the principal Act by section 24 apply in respect of proceedings commenced after the commencement of that section (including proceedings in respect of a claim arising before the commencement of that section).

**PART 11
AMENDMENT OF PETROLEUM ACT 2000**

Amendment of s. 4—Interpretation

26. Section 4 of the principal Act is amended by striking out from paragraph (a) of the definition of "relevant court" in subsection (1) "\$100 000" and substituting "\$150 000".

Transitional provision

27. The amendments made to the principal Act by this Part—

- (a) do not apply in respect of proceedings commenced before the commencement of the Part (and those proceedings may continue as if this Act had not been enacted); and
- (b) apply in respect of proceedings commenced after the commencement of this Part (including proceedings in respect of a claim arising before the commencement of this Part).

**PART 12
AMENDMENT OF RETAIL AND COMMERCIAL LEASES ACT 1995**

Amendment of s. 69—Substantial monetary claims

28. Section 69 of the principal Act is amended by striking out from subsection (1) "\$30 000" and substituting "\$40 000".

Transitional provision

29. The amendments made to the principal Act by this Part—

- (a) do not apply in respect of proceedings commenced before the commencement of this Part (and those proceedings may continue as if this Act had not been enacted); and
- (b) apply in respect of proceedings commenced after the commencement of this Part (including proceedings in respect of a claim arising before the commencement of this Part).

**PART 13
AMENDMENT OF SUMMARY PROCEDURE ACT 1921**

Amendment of s. 5—Classification of offences

30. Section 5 of the principal Act is amended—

- (a) by striking out from subsection (2)(c) "\$2 000" and substituting "\$2 500";
- (b) by striking out from subsection (2)(c)(ii) "\$2 000" and substituting "2 500";
- (c) by striking out from subsection (3)(a)(iii) "\$25 000" wherever occurring and substituting, in each case, "\$30 000".

Transitional provision

31. The amendments made to the principal Act by this Part do not apply in respect of an offence committed before the commencement of this Part.

PART 14
AMENDMENT OF SUPREME COURT ACT 1935

Amendment of s. 130—Court fees

32. Section 130 of the principal Act is amended—

(a) by striking out subsection (2) and substituting the following subsection:

(2) The court may remit or reduce a fee on account of the poverty of the party by whom the fee is payable or for any other proper reason.;

(b) by striking out subsection (3).

PART 15
AMENDMENT OF UNCLAIMED GOODS ACT 1987

Amendment of s. 3—Interpretation

33. Section 3 of the principal Act is amended by—

(a) striking out from paragraph (a) of the definition of "Court" in subsection (1) "\$60 000" and substituting "\$80 000";

(b) striking out from paragraph (b) of the definition of "Court" in subsection (1) "\$60 000" and substituting "\$80 000".

Transitional provision

34. The amendments made to the principal Act by this Part—

(a) do not apply in respect of proceedings commenced before the commencement of this Part (and those proceedings may continue as if this Act had not been enacted); and

(b) apply in respect of proceedings commenced after the commencement of this Part (including proceedings in respect of a claim arising before the commencement of this Part).

PART 16
AMENDMENT OF WORKERS REHABILITATION AND COMPENSATION ACT 1986

Amendment of s. 80A—The Deputy Presidents

35. Section 80A of the principal Act is amended by inserting after subsection (6) the following subsection:

(7) This section does not derogate from the operation of the *Judicial Administration (Auxiliary Appointments and Powers) Act 1988*.