

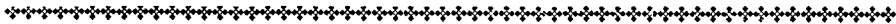


CIVIL PROCESS ACT 1985

No. 73 of 1985

TABLE OF PROVISIONS

- 1. Short title.
- 2. Commencement.
- 3. Purpose of Act.
- 4. Prevalence of this Act.
- 5. Construction of this Act.
- 6. Rules of Court.
- 7. Amendment of the *Supreme Court Civil Procedure Act 1932*.
- 8. Confirmation of *Rules of the Supreme Court 1965*.



AN ACT to simplify the commencement of civil proceedings in the Supreme Court and to amend the Supreme Court Civil Procedure Act 1932.

[Royal Assent 17 October 1985]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Civil Process Act 1985*.

Short title.

Commence-
ment.

2—(1) This section and section 1 shall commence on the day on which this Act receives the Royal assent.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be fixed by proclamation.

Purpose of Act.

3—The purpose of this Act is to expedite civil proceedings in the Supreme Court by simplifying their commencement and making that commencement more flexible and by simplifying the taking of interlocutory proceedings.

Prevalence of
this Act.

4—(1) The *Supreme Court Civil Procedure Act 1932* and all other enactments relating to procedure in the Supreme Court shall be read subject to this Act and the Rules of Court made pursuant to it.

(2) Nothing in this Act applies to the procedure or practice in—

(a) criminal causes, matters, or proceedings;

(b) proceedings in bankruptcy or insolvency;

(c) proceedings on petitions filed under Part XV of the *Electoral Act 1907*;

(d) proceedings under Part XI of the *Justices Act 1959*;

(e) proceedings under—

(i) the *Companies (Tasmania) Code*;

(ii) the *Companies (Acquisition of Shares) (Tasmania) Code*; or

(iii) the *Securities Industry (Tasmania) Code*;

(f) proceedings under the *Debtors Act 1870*;

(g) proceedings under the *Workers' Compensation Act 1927*;
or

(h) appeals.

(3) Where any enactment confers jurisdiction on the Supreme Court or a judge of that Court and prescribes procedure for its exercise that is different from the procedure prescribed by or under this Act, the latter procedure shall be deemed to be required by that enactment in lieu of the procedure prescribed by it.

Construction
of this Act.

5—Subject to sections 3 and 4, this Act shall be read and construed as if it were part of the *Supreme Court Civil Procedure Act 1932*.

6—(1) Rules of Court may be made under section 197 of the *Supreme Court Civil Procedure Act 1932* for the purposes of this Act, notwithstanding any want of power under that section. Rules of Court.

(2) In particular but without limiting the generality of subsection (1), Rules of Court made pursuant to that subsection may—

- (a) substitute for a writ of summons a notice of the plaintiff's claim and call the notice a writ and make it operate as a writ;
- (b) change the definition of “ action ”;
- (c) prescribe what jurisdiction shall be exercised in court and in chambers;
- (d) provide for changing the course of any proceeding before or during the proceeding;
- (e) provide for modes and forms of proceedings, originating and otherwise; and
- (f) provide for the lodging and filing of documents in the Registry and when those acts shall be deemed to have occurred.

7—Section 9 (1) of the *Supreme Court Civil Procedure Act 1932* is amended as follows:— Amendment of the *Supreme Court Civil Procedure Act 1932*.

(a) by omitting from paragraph (c) “ 1907 ” and substituting “ 1907; or ”;

(b) by inserting the following paragraph:—

(d) in proceedings under Part XI of the *Justices Act 1959*.

8—The *Rules of the Supreme Court 1965* and any similar rules amending, or in substitution for, those rules shall be deemed to have been duly made under the *Supreme Court Civil Procedure Act 1932*. Confirmation of *Rules of the Supreme Court 1965*.

