

WAR SERVICE LAND SETTLEMENT.

No. 5 of 1962.

AN ACT to amend the *War Service Land Settlement Act 1950*. [19 April 1962.]

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—(1) This Act may be cited as the *War Service Land Settlement Act 1962*. Short title and citation.

(2) The *War Service Land Settlement Act 1950*, as subsequently amended, is in this Act referred to as the Principal Act.

2 The third schedule to the Principal Act is amended by adding at the end thereof the following item:— Third schedule.

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LOCAL COURTS.

No. 6 of 1962.

AN ACT to amend the *Local Courts Act 1896*. [19 April 1962.]

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—(1) This Act may be cited as the *Local Courts Act 1962*. Short title, citation, and commencement.

(2) The *Local Courts Act 1896*, as subsequently amended, is in this Act referred to as the Principal Act.

(3) The provisions of sections four, five, six, seven, eight, nine, ten, and eleven shall commence on such dates respectively as may be fixed by proclamation in relation to each of those provisions, and the other provisions of this Act shall commence on the date on which the Governor gives his assent to this Act.

2 After section twelve of the Principal Act the following section is inserted:—

Offices of registrars.

“12A—(1) The Governor may by notice in the *Gazette* require that the office of the registrar of any court shall be kept at the place at which some other court is holden and so long as that requirement is in force the registrar shall keep an office at that place.

“(2) The Governor may by notice in the *Gazette* rescind any requirement made under this section.

“(3) The keeping of any office by a registrar of a court in accordance with a requirement under this section shall for the purposes of the provisions of this Act (other than this section) be deemed to be the keeping of an office at the place where that court is holden.”.

Preparation of process by registrars.

3 Section twenty-eight of the Principal Act is amended by omitting therefrom the words “one shilling” and substituting therefor the words “ten shillings”.

Commencement of suits by plaintiff.

4 Section forty-one of the Principal Act is amended by omitting the words “stating the substance of the action, and bearing the number of the plaintiff in the margin thereof” and substituting therefor the words “bearing a copy of the plaintiff”.

Notice of defence.

5 Section forty-five of the Principal Act is amended—

(a) by omitting therefrom the words “such time as may be directed by the Rules of Practice” and substituting therefor the words “the appropriate time”;

(b) by omitting the words “such Rules” and substituting therefor the words “the Rules of Practice”; and

(c) by adding at the end thereof the following subsection:—

“(2) In this section ‘appropriate time’ means such time after service of the summons as may be prescribed in the Rules of Practice, or such longer time as may be allowed by the court or agreed on between the parties.”.

Replies to set-offs and counter-claims.

6 Section forty-five A of the Principal Act is amended—

(a) by omitting from subsection (1) the words “ten days after the delivery to him or to his attorney of the notice of defence” and substituting therefor the words “the appropriate time”;

- (b) by omitting subsection (3) ;
- (c) by omitting from subsection (4) the words "time prescribed or such further time as may be allowed as aforesaid," and substituting therefor the words "appropriate time"; and
- (d) by adding at the end thereof the following subsection:—

"(6) In this section 'appropriate time' means the period of ten days, or such longer period as may be allowed by the court or agreed on by the parties, following the delivery to the defendant or his attorney of the notice of defence."

7 After section forty-six of the Principal Act the following section is inserted:—

46A—(1) Where in any action a defendant claims as against any person not already a party to the action (in this section referred to as the third party)—

Third party procedure.

- (a) that he is entitled to contribution or indemnity;
- (b) that he is entitled to any relief or remedy relating to or connected with the original subject-matter of the action, and substantially the same as some relief or remedy claimed by the plaintiff; or
- (c) that any question or issue relating to or connected with that subject-matter is substantially the same as some question or issue arising between the plaintiff and the defendant, and should properly be determined not only as between the plaintiff and defendant, but as between the plaintiff and the defendant and the third party, or between any or either of them,

the court may give leave to the defendant to issue and serve a third party notice.

"(2) Such leave as is referred to in subsection (1) of this section shall be given, if the court directs a summons to the plaintiff to be issued, only on the hearing of that summons, but otherwise may be given on an *ex parte* application supported by affidavit.

"(3) A third party notice shall state the nature and grounds of the claim or the nature of the question or issue sought to be determined, and the nature and extent of any relief or remedy claimed.

"(4) On a third party notice being presented to the registrar it shall be filed and signed by him, and thereupon it shall be deemed to be a summons issued under his hand to the third party.

"(5) Where a third party notice has been filed under this section this Act has effect, subject to this section and to the Rules of Practice and the Rules of Court, as if the notice that has been filed were a plaint in an action brought by the defendant against the third party and as if the copy of that notice deemed by virtue of subsection (4) of this section to be a summons were a summons issued on the filing of that plaint.

“(6) The third party shall, as from the service upon him of the third party notice, be a party to the action to which the notice relates with the same rights in respect of his defence against any claim made against him, and otherwise, as if an action had been brought against him under this Act by the defendant.”

8 Section forty-eight of the Principal Act is repealed and the following section is substituted therefor:—

Payments
into court.

“48—(1) The defendant in an action brought under this Act may, within such time as may be directed by the Rules of Practice, pay into court—

(a) such sum of money as he thinks a full satisfaction for the demand of the plaintiff, including costs; or

(b) a sum of money with a denial of liability.

“(2) Payment into court of any sum under paragraph (a) of subsection (1) of this section shall be taken to be an admission by the defendant of the claim in respect of which the payment is made.

“(3) The plaintiff or his attorney may, in the manner prescribed by the Rules of Practice, elect to accept any sum paid into court under this section, and, on notification in the manner prescribed by the Rules of Practice of that election, that sum shall be paid to him or his attorney.

“(4) Where the plaintiff, in accordance with this section, elects to accept any sum paid into court under paragraph (a) of subsection (1) of this section, the action abates and the defendant is not liable to any further costs.

“(5) Where the plaintiff, in accordance with this section, elects to accept any sum paid into court under paragraph (b) of subsection (1) of this section, the action abates, except as to costs.

“(6) Where the plaintiff does not elect to accept any money paid into court under this section and he recovers no further sum than has been paid into court under this section, he shall pay to the defendant the costs incurred by him in the action after the date of the payment of the money into court, and an order shall be made by the court accordingly.”

Attachment
of debts.

9 Section eighty-five of the Principal Act is amended by omitting subsection (2) and substituting therefor the following subsection:—

“(2) An affidavit under subsection (1) of this section shall be made and sworn by—

(a) the judgment creditor in person; or

(b) if the judgment creditor is a body corporate, the manager, secretary, or public officer thereof; or

(c) the attorney of the judgment creditor,

and, if it is made and sworn by an attorney of the judgment creditor, is sufficient if, instead of stating the matters required by subsection (1) to be stated therein, it states that the deponent to the best of his knowledge, information, and belief swears to those matters.”.

10 Section one hundred and thirty-five of the Principal Act is amended by inserting after the word “by” (first occurring) the words “section one hundred and thirty-five A and”. Taxation of costs.

11 After section one hundred and thirty-five of the Principal Act the following section is inserted:—

“135A Nothing in section one hundred and thirty-five requires the taxation of any costs agreed between the parties if, in respect of any matters in respect of which fees and charges are prescribed by the Rules of Court, the costs so agreed do not exceed the fees and charges so prescribed.”. No taxation where costs agreed.

12 Section one hundred and forty-three of the Principal Act is amended by omitting the two paragraphs contained therein and substituting therefor the following paragraphs:— Appropriation of fees, &c.

“(a) if received or imposed at or by a court the remuneration of the registrar of which is charged on the Consolidated Revenue, be paid into the Consolidated Revenue; or

“(b) if received or imposed at or by any other court, be paid into and form part of the municipal fund of the municipality in which the court is holden.”.

PUBLIC WORKS COMMITTEE.

No. 7 of 1962.

AN ACT to amend the *Public Works Committee Act 1914*. [19 April 1962.]

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—(1) This Act may be cited as the *Public Works Committee Act 1962*. Short title and citation

(2) The *Public Works Committee Act 1914*, as subsequently amended, is in this Act referred to as the Principal Act.