



## LOCAL COURTS AMENDMENT ACT 1985

No. 13 of 1985

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**AN ACT to amend the Local Courts Act 1896 as a consequence of the enactment of the Court of Requests (Small Claims Division) Act 1985.**

[Royal Assent 1 May 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 *Local Courts Amendment Act* Short title. 1985.

Commence-  
ment.

**2**—This Act shall commence on the day fixed by proclamation under section 2 (2) of the *Court of Requests (Small Claims Division) Act 1985*.

Principal Act.

**3**—In this Act, the *Local Courts Act 1896\** is referred to as the Principal Act.

Amendment of  
section 7 of  
Principal Act  
(Interpre-  
tation).

**4**—Section 7 of the Principal Act is amended as follows:—

(a) by omitting “hereof.” from the definition of “rules of practice” and substituting “of this Act;”;

(b) by inserting the following definitions after the definition of “rules of practice”:—

“small claim” has the meaning assigned to that expression by section 3 of the *Court of Requests (Small Claims Division) Act 1985*;

“small claims division”, in relation to a court, means the division of that court established by the *Court of Requests (Small Claims Division) Act 1985*;

“Special Commissioner” means the person appointed and holding office as Special Commissioner under the *Court of Requests (Small Claims Division) Act 1985*.

Insertion in  
Principal Act  
of new  
section 29A.

**5**—After section 29 of the Principal Act, the following section is inserted:—

Service of  
notices and  
orders under  
the *Court of  
Requests  
(Small Claims  
Division) Act  
1985*.

29A—(1) The bailiff of a court shall, by himself or by one of his assistants appointed under section 26, serve, as provided by section 38 of the *Court of Requests (Small Claims Division) Act 1985*, any notice given, or any order made, under that Act that relates to a small claim referred to the Special Commissioner in his jurisdiction in relation to the small claims division of that court.

(2) A bailiff of a court or one of his assistants appointed under section 26 shall, when serving any notice or order referred to in subsection (1), comply with any directions with respect to the service of the notice or order that are given to him by the registrar or deputy registrar of that court.

\* 60 Vict. No. 48. For this Act, as amended as at 1st July 1977, see the continuing Reprint of Statutes. Subsequently amended by No. 99 of 1982, Nos. 47 and 79 of 1983, and No. 29 of 1984.

6—Section 43 of the Principal Act is repealed and the following section is substituted:—

Substitution of section 43 of Principal Act.

43—(1) Where process is required to be served or executed under this Act at a place nearer to another court than to the court from which the process was issued—

Provision for service of process, &c., by bailiff of another court.

- (a) the process may be served by the bailiff of that other court;
- (b) such a service or execution is as valid as if it had been made by the bailiff of the court from which the process was issued; and
- (c) the bailiff of that other court shall serve that process on its being transmitted to him by the registrar or bailiff of the court from which it was issued.

(2) Where any notice or order under the *Court of Requests (Small Claims Division) Act 1985* referred to in section 29A (1) is required to be served under this Act by a bailiff at a place nearer to another court than to the court for which he has been appointed bailiff (in this subsection referred to as “the original court”)—

- (a) the notice or order may be served by the bailiff of that other court;
- (b) such a service is as valid as if it had been made by the bailiff of the original court; and
- (c) the bailiff of that other court shall serve that notice or order on its being transmitted to him by the registrar or deputy registrar of the original court or the bailiff of the original court.

(3) In this section, a reference to a bailiff of a court includes a reference to an assistant of the bailiff appointed under section 26.

7—After section 44 of the Principal Act, the following section is inserted:—

Insertion in Principal Act of new section 44A.

44A—(1) The bailiff of a court or an assistant of that bailiff appointed under section 26 shall give to the registrar or deputy registrar of the court written notice of the service by him of any notice or order under the *Court of Requests (Small Claims Division) Act 1985* referred to in section 29A (1).

Proof of service of notices and orders under the *Court of Requests (Small Claims Division) Act 1985*.

(2) A document purporting to be a notice under subsection (1) and stating that a notice or an order specified in that notice was, on a day specified in that notice, served on a person specified in that notice is evidence in proceedings before the Special Commissioner of the matters stated in that notice.

Amendment of section 143 of Principal Act (Appropriation of fees, fines, and penalties).

8—Section 143 of the Principal Act is amended as follows:—

- (a) by inserting “(1)” before “All”;
- (b) by inserting “and the *Court of Requests (Small Claims Division) Act 1985*” after “Act”, where twice occurring;
- (c) by adding the following subsection as subsection (2) of that section:—

(2) In subsection (1), “court” includes a small claims division of a court.