

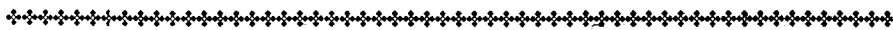


**SUPREME COURT CIVIL PROCEDURE AMENDMENT
ACT 1986**

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No. 40 of 1986
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TABLE OF PROVISIONS

1. Short title.
2. Principal Act.
3. Amendment of section 13 of Principal Act (Costs of action brought in Supreme Court which might have been brought in inferior court).
4. Application.



AN ACT to amend the Supreme Court Civil Procedure Act 1932.
[Royal Assent 9 May 1986]

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 *Supreme Court Civil Procedure Amendment Act 1986*. Short title.

2—In this Act, the *Supreme Court Civil Procedure Act 1932** is referred to as the Principal Act. Principal Act.

* 23 Geo. V No. 58. For this Act, as amended to 1st September 1977, see the continuing Reprint of Statutes. Subsequently amended by No. 52 of 1979, Nos. 9, 34, and 99 of 1982, and Nos. 29 and 39 of 1984.

Amendment of section 13 of Principal Act (Costs of action brought in Supreme Court which might have been brought in inferior court).

3—Section 13 of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following subsections:—

(1) Where an action which, having regard to the sum recovered, could have been properly instituted in some inferior court of civil jurisdiction is instituted in the Supreme Court, the Court, a judge thereof, or a judge, officer, referee, or registrar to whom subsection (2) (b) or (c) refers, may, notwithstanding that the sum recovered does not exceed the jurisdictional limit of the inferior court, make an order allowing the plaintiff the costs of the action.

(2) In any action to which subsection (1) applies—

- (a) the Supreme Court or a judge thereof;
- (b) (in the case of an interlocutory judgment or of a reference to a referee) the judge, judge of the inferior court of civil jurisdiction, officer of the court, or referee by or before whom the amount recovered in the action was ascertained or determined; or
- (c) (in the case of a final judgment by default) the registrar at the registry in which the judgment is signed or entered,

may allow the costs or any part of the costs of the action on any Supreme Court scale of costs, or any scale of costs in any inferior court of civil jurisdiction, as it or he, as the case may be, thinks fit.

(2A) In considering whether to make an order under subsection (1), the Supreme Court, a judge, or any other person referred to in subsection (2) shall take into account all the circumstances of the case, including (without in any way limiting the generality of this subsection) —

- (a) the sum sought to be recovered;
- (b) the sum recovered; and
- (c) where applicable, any counter-claim, set off, or contributory negligence.

Application.

4—Section 13 of the Principal Act as amended by this Act applies in relation to any application for costs made after the commencement of this Act.