

73. Remitting action to the Court

- (1) When an action or matter is brought in the Supreme Court that might have been brought in the Court without the consent of the defendant —
 - (a) the defendant may, at any time, apply to the Supreme Court or a Judge thereof for an order remitting the action or matter to the Court sitting at such place as the order specifies, and the Supreme Court or Judge thereof shall make an order accordingly, unless it or he considers that under the circumstances of the case it is advisable that the action or matter should be tried in the Supreme Court; or
 - (b) the Supreme Court or a Judge thereof, without any such application, may make such an order, if it or he thinks fit.
- (2) When, in an action or matter brought in the Supreme Court —
 - (a) the claim, though it originally exceeded \$250 000, is reduced by payment into Court, an admitted set-off, or otherwise, to a sum not exceeding \$250 000;
 - (b) in which the claim exceeds \$250 000, the plaintiff obtains judgment on part of the claim and the remainder of the claim does not exceed \$250 000; or
 - (c) there is an interlocutory judgment for damages to be assessed and the action or matter or a question or issue therein is otherwise within the jurisdiction of the District Court,

any of the parties to the action or matter may, at any time, apply to the Supreme Court or a Judge thereof for an order remitting the action or matter, or question or issue, as the case may be, to the Court sitting at such place as the order specifies, and the Supreme Court or Judge thereof shall make an order accordingly unless it or he considers that under the circumstances of the case it is advisable that the action, matter, question or issue should be tried in the Supreme Court.

- (3) A sum of money referred to in subsection (2) does not include any interest which may be payable in the particular action.
- (4) The Supreme Court or a Judge thereof may make an order referred to in subsection (2), if it or he thinks fit, without an application from any of the parties.
- (5) The Chief Justice of Western Australia may make an order, at any time after hearing the parties concerned, remitting to the Court any action or matter that —
 - (a) is commenced under the *Supreme Court Act 1935*;
 - (b) is pending on the date of the coming into operation of any written law amending the jurisdiction of the Court; and
 - (c) could have been commenced under this Act if the written law referred to in paragraph (b) had been in operation when the action was so commenced,

unless the Chief Justice of Western Australia considers that under the circumstances of the case it is advisable that the action or matter should be tried in the Supreme Court.

[Section 73 amended by No. 122 of 1984 s.11; No. 53 of 1992 s.11 (4).]

