

JUSTICES.

6° Elizabeth II., No. IX.

No. 9 of 1957.

AN ACT to amend the Justices Act, 1902-1954.

[Assented to 29th August, 1957.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title
and citation.

1. (1) This Act may be cited as the *Justices Act Amendment Act, 1957.*

(2) In this Act the Justices Act, 1902-1954,

Act No. 11 of 1902 as reprinted with amendments to and including Act No. 11 of 1936 incorporated, and as further amended by Acts Nos. 14 of 1942, 29 of 1948, and 73 of 1954.

Reprinted
in the
Appendix to
the Sessional
Volume of
Statutes,
1936.

is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Justices Act, 1902-1957.

2. This Act shall come into operation on a day to be fixed by proclamation.

Commence-
ment.

3. The principal Act is amended by adding after section one hundred and thirty-six and before the subheading, "Hearing," the following subheading and section:—

New sub-
heading and
s. 136A
added.
Cf. s. 66 of
the Justices
Act, 1928 of
Victoria,
No. 3708.

Jurisdiction of Justices to Set Aside Decisions
Given in Default of Appearance of
Any Party.

136A. (1) Where, after the coming into operation of the Justices Act Amendment Act, 1957, a decision is given by Justices pursuant to jurisdiction conferred on them by this Act, but in default of appearance by the complainant or by the defendant, the party who did not appear may, within twenty-one days next after the giving of the decision, serve on the clerk of the court of petty sessions at which the decision was given, notice in writing of his intention to apply to the court to set the decision aside, and of the grounds of the application.

(2) On payment by the applicant of the fee prescribed as that payable on a complaint, the clerk of the court of petty sessions shall appoint a time and place for the hearing of the application by the court of petty sessions and shall in writing notify the applicant of the time and place.

(3) The provisions of sections one hundred and eighty-seven and one hundred and eighty-eight of this Act, which provisions relate to security for appearance, apply as if repeated in this section, but as if any reference in those sections to the expressions, "appellant" and "appeal" respectively, were references to the expressions, "applicant" and "application" respectively.

(4) At the time and place appointed by the clerk of the court of petty sessions for the hearing of the application, the court of petty sessions shall, if the applicant has complied with the requirements of this section relating to security for appearance of the applicant, proceed to hear the application and may

- (a) refuse the application to set aside the decision; or
- (b) adjourn the hearing of the application to a time and place appointed by the court, and direct that the applicant give to the other party written notice of the time and place so appointed by the court and that the other party may, if he thinks fit, then and there appear to oppose the application, and the court may at the time and place appointed by the court set aside the decision in respect of which the application is made on such terms as the court thinks fit, or the court may refuse to set aside the decision; and
- (c) in any case, make such order as to costs as the court thinks fit.

(5) If the court to which the application to set aside the decision is made, refuses the application pursuant to paragraph (a) of subsection (4) of this section, or refuses to set aside the decision pursuant to paragraph (b) of that

subsection, and if the decision contained a sentence of imprisonment but the appellant was released from custody on recognisance pending the decision of the application, the court may order the return of the applicant to custody according to the decision in respect of which the application was made.

(6) The provisions of this section are in addition to, and not in derogation of, any of the provisions of Part VIII. of this Act, which latter provisions, if applicable in the circumstances of the case, may be applied in respect of a decision of Justices in respect of an application made under this section.

4. Section one hundred and forty-five of the principal Act is amended by adding after subsection (2) the following subsection:—

S. 145
amended.

(3) In order to resolve any doubt, it is expressly enacted that an award made pursuant to subsection (1), or an order made pursuant to subsection (2) of this section, has, and shall be given, effect according to its tenor, and is not, and shall be deemed never to have been, affected by the Fines and Penalties Appropriation Act, 1909.

Cf. No. 4 of
1909.

5. Section one hundred and eighty-seven of the principal Act is amended—

S. 187
amended.

- (a) by substituting for the word, "Justice" where it appears twice in line four, and once in each of lines five, nine, thirteen, and twenty-one, the words, "Court of Petty Sessions"; and
- (b) by adding after the word, "Court" where it appears twice in line eight, the words, "to which the appeal is made".