

LOCAL COURTS.

6° Elizabeth II., No. X.

No. 10 of 1957.

AN ACT to amend the Local Courts Act, 1904-1954.

[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 *Local Courts Act Amendment Act, 1957*.

(2) In this Act, the Local Courts Act, 1904-1954

Reprinted in
Appendix to
Sessional
Volume, 1912.

Act No. 51 of 1904 as reprinted with amendments to and including Act No. 5 of 1912 incorporated, and as further amended by Acts Nos. 21 of 1921, 35 of 1930, 31 of 1931, 13 of 1938, 10 of 1953 and 26 and 73 of 1954,

is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Local Courts Act, 1904-1957.

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

3. Section forty-six of the principal Act is amended S. 46 amended.

- (a) by adding after the word, "shall" in line one of subsection (1), the passage, ", on application being made to him to list the action for trial by any party, list the action accordingly, and shall";
- (b) by adding after the word, "orders" being the last word in subsection (1), the passage, ", nor unless any of the parties has applied to the clerk to list the action"; and
- (c) by adding after the word, "costs" being the last word in paragraph (a) of subsection (2), the passage, ", or may, in so far as the claim is for pecuniary damages not exceeding twenty-five pounds, apply for and obtain final judgment against the defendant for the amount not exceeding twenty-five pounds claimed for pecuniary damages without the necessity of the case being set down for assessment of the damages by the Court".

4. Section forty-seven b of the principal Act is amended by substituting for the passage commencing with the words, "the claim" in line one of subsection (1) and ending with the word, "same" in line four of that subsection, the words, "a defendant has given notice of intention to defend an action". S. 47b amended. Cf. No. 21 of 1921, s. 3; and No. 26 of 1954, s. 10.

5. Section sixty-four of the principal Act is amended— S. 64 amended.

- (a) by adding after the section designation, "64", the subsection designation, "(1)"; and

(b) by adding the following subsection:—

Cf. s. 135.

(2) The provisions of section one hundred and thirty-five of this Act to the extent to which they apply in respect of warrants of commitment, apply in respect of warrants issued under subsection (1) of this Act, as if those provisions were repeated *mutatis mutandis* in this subsection.

S. 130
amended.

6. Section one hundred and thirty of the principal Act is amended by adding after subsection (5) the following subsections:—

(6) The Minister or the magistrate may by delegation in writing signed by the Minister, or as the case may be, the magistrate, delegate to the clerk authority to exercise generally, or in any particular case, or in any case of a class, the jurisdiction conferred upon the magistrate by the preceding subsections of this section; and the clerk who is the delegate

(a) may, subject to the provisions of subsection (7) of this section, exercise that jurisdiction as if references in those subsections to the magistrate were references to the clerk; and

Cf. ss. 62-64.

(b) may exercise any power conferred by this Act or the rules of court on the magistrate, as incidental or ancillary to the exercise of the jurisdiction referred to in paragraph (a) of this subsection, including any power of fining, or compelling the attendance of, any person who neglects or refuses to appear to be examined; or who, having appeared, refuses without lawful justification to answer to the best of his knowledge any question put to him in examination; or to produce anything he is required to produce for the purposes of examination.

(7) The effectiveness of an order made, or decision given, or direction issued, in exercise of jurisdiction mentioned in paragraph (a) of subsection (6) of this section by a clerk acting under power of delegation is, and shall be expressed to be, suspended until the order, decision, or direction, is reviewed by the magistrate, who shall review it as soon as is practicable after it has been made, given, or issued, but this subsection does not apply in respect of the exercise by the clerk of any power mentioned in paragraph (b) of subsection (6) of this section.

(8) The magistrate on reviewing under subsection (7) of this section, an order, or a decision or a direction,

- (a) may confirm it, and direct it to take effect from a day to be appointed by the magistrate;
- (b) may vary it and direct it to take effect as so varied from a day to be so appointed; or
- (c) may set it aside;

and the decision of the magistrate has, and shall be given, effect according to its tenor.

7. Section one hundred and forty-four of the principal Act is amended—

S. 144
amended.

- (a) by substituting for the words, “magistrate for an order that the judgment debtor” in line three of subsection (1), the words, “clerk for a summons to the judgment debtor to attend to”;
- (b) by substituting for the passage, “the magistrate may make an order for the examination of the judgment debtor, and for the production of” in lines five and six of subsection (1), the words, “to produce”;

- (c) by adding after subsection (1), the following subsection:—

(1a) If on application being made to him for a summons under subsection (1) of this section, the clerk refuses the application, the magistrate on application being made to him may direct the clerk to grant the application for the summons and the clerk shall give effect to the direction. ;

- (d) by substituting for the word, “order” in line two of subsection (2), the word, “summons”;

- (e) by substituting for the words, “subject to the penalties” in line two of subsection (2), the passage, “liable to incur any penalty or liable to arrest and compulsion to attend,”; and

- (f) by substituting for the word, “subject” being the last word in subsection (2), the word, “liable”.

S. 159
amended.

8. Section one hundred and fifty-nine of the principal Act is amended by deleting the passage, “A table of the fees shall be exhibited in some conspicuous place in the court-house, and in the clerk’s office.” in lines nine and ten.
