

LOCAL COURTS.

21° GEO. V., No. XXXV.

No. 35 of 1930.

AN ACT to amend the Local Courts Act, 1904.

[Assented to 22nd December, 1930.]

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

1. This Act may be cited as the *Local Courts Act Amendment Act, 1930*, and shall come into operation on a date to be fixed by proclamation.

Short title and commencement.

2. Section three of the Local Courts Act, 1904 (hereinafter called the "principal Act") is hereby amended by the insertion in its appropriate place of a definition, as follows:—

Amendment of s. 3.

“‘Judge’ means a judge of the Supreme Court, and includes any Commissioner appointed under the Supreme Court Act, 1880.”

3. Section thirty of the principal Act is hereby amended by the substitution of the words “two hundred and fifty” for “one hundred,” in the second and sixth lines of the section.

Amendment of s. 30.

4. Sections thirty-one, thirty-two, fifty-nine, sixty, and eighty-seven of the principal Act are hereby amended by the substitution of the words “two hundred and fifty” for the words “one hundred” wherever occurring therein.

Amendment of ss. 31, 32, 59, 60, and 87.

Repeal of s. 70 and
substitution of new
section.

5. Section seventy of the principal Act is hereby repealed, and a new section is substituted therefor, as follows:—

Trial.

70. (1.) Save as in this Act is otherwise provided, all actions cognizable under this Act by a local court may be heard and determined in open court by and before a judge or the magistrate.

(2.) All proceedings other than actions cognizable in a local court shall be heard and determined by the magistrate.

(3.) For the purpose of the hearing and determination of any action and of giving an effective judgment therein, a judge shall have and may exercise all such powers as by this Act are vested in the magistrate or court and as the judge deems it necessary to exercise, and references in the relative provisions of this Act (including section one hundred and fifty-six) to the magistrate or court shall be deemed to extend to and include a judge.

(4.) All actions in any local court in which the amount or value of the claim exceeds one hundred pounds shall be heard and determined by a judge; but if both parties to any action to which this subsection applies agree by memorandum signed by them or by their solicitors that a magistrate may try the action, then such magistrate shall have jurisdiction to hear and determine such action accordingly; provided that this subsection shall not apply to actions to which Part V. or Part VI. of this Act applies.

(5.) All actions in the local court at Perth, or sent for trial in such court, to which subsection (4) of this section applies, may be heard and determined by a judge, either in the place appointed for the holding of the sittings of such court or in the Supreme Court House in Perth.

(6.) Subject to the last preceding subsection and to section sixty-one of this Act, any action, pending or proceeding in a local court which in accordance with this section ought to be heard and determined by a judge, shall be heard and determined either in the place appointed for the holding of the sittings of the said court, or in such other place being within the same magisterial district as the place aforesaid as the judge shall direct.

(7.) Two or more sittings of any local court for the trial of actions may be held at the same time.

(8.) The judge or magistrate shall, in all actions and proceedings before him, determine all questions of law or fact.

(9.) Every judgment given by a judge shall be deemed to be the judgment of the court, but the power of ordering or permitting a new trial under section ninety in an action in which judgment has been delivered by a judge shall be exercised by a judge only.

6. Section eighty-six of the principal Act is hereby amended by the substitution of the words "forty" for the word "twenty," and of the words "one hundred" for the word "fifty," wherever occurring therein. Amendment of s. 86.

7. Section five of the Ordinance 6 Victoria, No. 15, as amended by the Act 64 Victoria, No. 27, shall apply to any judgment in a local court, except where the amount of the debt, claim or demand allowed by the judgment does not exceed one hundred pounds. Certain judgments to carry interest.

8. Section one hundred and seven of the principal Act is hereby amended by the insertion at the end of the first paragraph of a proviso, as follows:— Amendment of s. 107.

"Provided that, except by leave of the Supreme Court or a judge, no appeal shall be brought against any interlocutory order or decision, and (except by such leave) no person shall be permitted to appeal against any final judgment, unless such judgment has been given or pronounced for or in respect of a sum or matter at issue amounting to or of the value of more than twenty pounds." Com., No. 6 of 1903, s. 35.

9. Section one hundred and eleven of the principal Act is hereby amended by the insertion, after the word "power" in the second line, of the words "to affirm, reverse, or modify the judgment, order or other decision or determination appealed from, and to give or make such judgment, order, decision or determination as ought to have been given or made in the first instance, and to review any finding of fact, and." Amendment of s. 111.

10. The principal Act and its amendments (including this Act) may be cited as the *Local Courts Act, 1904-1930*. Citation of principal Act and amendments.