

LOCAL COURTS.

3° Elizabeth II., No. XXVI.

No. 26 of 1954.

AN ACT to amend the Local Courts Act, 1904-1953.

[Assented to 28th October, 1954.]

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, 1954*.

(2) In this Act the Local Courts Act, 1904-1953, Act No. 51 of 1904 consolidated and reprinted in the Appendix to the Sessional Volume of the Acts of Parliament for the year 1912 and further amended by Acts Nos. 21 of 1921, 35 of 1930, 31 of 1931, 13 of 1938 and 10 of 1953,

is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the *Local Courts Act, 1904-1954*.

2. This Act shall come into operation on a date to be fixed by proclamation. Commence-
ment.

3. Section three of the principal Act is amended by adding after the word "clerk" where secondly appearing in line two of the interpretation "Clerk" the words "or when the clerk is for any reason not available". S. 3
amended.

4. Section thirty of the principal Act is amended by substituting for the words, "two hundred and fifty" in lines two and six the words "five hundred". S. 30
amended.

5. Section thirty-one of the principal Act is amended by substituting for the words "two hundred and fifty" in line two the words "five hundred". S. 31
amended.

6. Section thirty-two of the principal Act is amended by substituting for the words "two hundred and fifty" in line five the words "five hundred". S. 32
amended.

7. Section thirty-five of the principal Act is amended by substituting for the figures "1880" in line two the figures "1935-1950". S. 35
amended.

8. Paragraphs (e) and (f) of subsection (2) of section forty-six of the principal Act are repealed. S. 46
amended.

9. Subsection (4) of section forty-seven A of the principal Act is amended by adding after the word "and" in line six the words "subject to any stay imposed by the magistrate". S. 47A
amended.

10. Subsection (1) of section forty-seven B of the principal Act is amended by adding after the word "may" in line four the words "by written notice served on the defendant require particulars in writing of the defence and if the particulars are not furnished by the defendant within seven days of the service of the notice he may". S. 47B
amended.

S. 50
amended.

11. Section fifty of the principal Act is amended by—

- (a) adding after the section number “50” the figure “1” in brackets thus—(1);
- (b) adding after the word “solicitor” in the last line the words “a Commissioner for Declarations, a member of the Commonwealth or the State Parliament, a Town Clerk, a member of the Police Force, a Secretary to a Road Board, an Electoral Registrar, a Postmaster, a classified officer in the Commonwealth or State Public Service, a classified State School teacher”;

(c) adding a subsection as follows:—

(2) Where the time required by a summons for giving notice of defence has expired and a notice of defence has not been given, if the magistrate of the Local Court in which the summons was issued is satisfied that any document in writing addressed to the Court, magistrate or clerk of the Court, containing an admission of the claim set out in the summons or part of it, was in fact signed by the defendant or signed for and on his behalf by his authority, the magistrate or clerk may, notwithstanding that the document has not been signed in the presence of any one of the persons referred to in subsection (1) of this section or is unwitnessed, accept the document as an admission of the claim or the part and thereupon the provisions of section fifty-one of this Act apply.

S. 52
repealed.

12. Section fifty-two of the principal Act is repealed.

S. 59
amended.

13. Section fifty-nine of the principal Act is amended by substituting for the words “two hundred and fifty” in line six the words “five hundred”.

14. Section sixty of the principal Act is amended by substituting for the words "two hundred and fifty" in lines three and four the words "five hundred".

S. 60
amended.

15. Section sixty-six of the principal Act is repealed and re-enacted as follows:—

S. 66
repealed and
re-enacted.

66. (1) Upon the written request of any party to an action or matter addressed to and served upon another party to the action or matter,

Discovery of
documents.

(a) the party on whom the request is served; or

(b) if the party is a body corporate some officer of the body corporate having knowledge of the facts,

shall answer, on affidavit, stating which documents he or it has in his or its possession or power relating to the matters in dispute or what he knows as to the custody the documents or any of them are in, and whether he or it objects to the production of the documents as are in his or its possession or power and if so, on what grounds.

(2) (a) If the party requested to give discovery or to produce any documents for inspection neglects or refuses to do so within seven days of the request being served on him or within such extended time as the parties may agree, the magistrate may upon application being made to him by the party making the request order compliance with the request but discovery shall not be ordered when and so far as the magistrate is of opinion that it is not necessary either for disposing of the action or matter or for saving costs.

(b) The magistrate may order the party in default to bear the costs of and incidental to the order.

(3) A party who produces any documents is not required to part with possession of them to the party requesting their production, but is

required to make them available for the inspection of or copying by the party requesting their production, if that party so desires.

S. 70
amended.

16. Section seventy of the principal Act is amended by—

- (a) substituting for the word “may” in line two of subsection (1) the word “shall” and deleting the words “judge or the” in line four;
- (b) substituting for subsection (3) the following section:—

(3) The magistrate may sit and take evidence at any convenient place if it appears desirable to do so and may adjourn any trial from place to place for that purpose on such terms and conditions as he thinks just. ;
- (c) repealing subsection (4);
- (d) repealing subsection (6);
- (e) deleting the words “judge or” in line one of subsection (8);
- (f) repealing subsection (9).

S. 86
repealed and
re-enacted.

17. Section eighty-six of the principal Act is repealed and re-enacted as follows:—

Supreme
Court costs
not
recoverable
except on
certificate of
Judge.

86. If an action is brought in the Supreme Court which could have been commenced in a Local Court without the consent of the defendant, the plaintiff shall recover no greater sum by way of costs than he could have recovered had the action been brought in a Local Court, unless the Judge certifies, in the case of an action founded on tort, that it was proper to bring the action in the Supreme Court instead of a Local Court, and in any other case, that by reason of some important principle of law being involved, or of the complexity of the issues, or of the facts, the action was properly brought in the Supreme Court.

18. Section eighty-seven of the principal Act is amended by substituting for the words "two hundred and fifty" in lines three and four and line five the words "five hundred". S. 87
amended.

19. Section ninety-nine of the principal Act is amended by substituting for the word "twenty" in line one the word "fifty". S. 91
amended.

20. Section ninety-one b of the principal Act is amended by— S. 91b
amended.

(a) adding after the section number "91b" the figure "1" in brackets thus—(1);

(b) adding a subsection as follows:—

(2) Where a defendant has not given notice of defence within the time required by the summons, if the defendant in default is not the sole defendant, any judgment entered shall be without prejudice to the plaintiff's right to proceed with the action against any other defendant and any assessment of damages shall, unless the magistrate otherwise orders, be made on the trial of the action against the other defendant.

21. Section one hundred and one of the principal Act is amended by substituting for the words "two hundred and fifty" in line five the words "five hundred". S. 101
amended.

22. Section one hundred and three of the principal Act is amended by substituting for the words "two hundred and fifty" in line sixteen the words "five hundred". S. 103
amended.

23. Section one hundred and seven of the principal Act is amended by— S. 107
amended.

(a) substituting for the word "twenty" in the second last line of the proviso to the first paragraph the word "fifty";

- (b) substituting for the word "fifteen" in line five of the second paragraph the word "twenty-five".