

# LOCAL COURTS.

12° GEO. V., No. XXI.

No. 21 of 1921.

## AN ACT to amend the Local Courts Act, 1904.

[Assented to 6th December, 1921.]

**B**E 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, 1921.* Short title.

2. Section twenty-nine of the Local Courts Act, 1904 (hereinafter called the principal Act) is hereby amended by the addition of a proviso, as follows:— Amendment of Section 29.

Provided that on the hearing of an application under this Act or the Debtors Act, 1871, by a judgment creditor for the committal of a judgment debtor, the judgment creditor shall be entitled to be represented by any clerk or servant in the employ or subject to the control or direction of the judgment creditor or his solicitor.

3. The following sections are hereby inserted in the principal Act, between sections forty-seven and forty-eight thereof, that is to say:— Insertion of new sections between Sections 47 and 48.

### *Summary Relief.*

47A. (1.) When the claim in any action is for a debt or liquidated demand in money only, and the defendant has given notice of defence, the plaintiff may, on affidavit, made by himself or by any other person who can swear positively to the facts, verifying the cause of action and the amount claimed and stating that in the deponent's belief there is no defence to the action, apply to the magistrate for judgment for the amount claimed and

Leave to sign judgment or defend where claim for debt or liquidated demand in money.

costs, and the magistrate may thereupon, unless the defendant by affidavit or otherwise shall satisfy him that he has a good defence to the action on the merits or ought for any reason to be allowed to defend, give judgment for the plaintiff accordingly.

(2.) The application for judgment hereunder shall be made by interlocutory summons returnable in the chambers of the magistrate. Such summons may be according to the form in the third schedule to this Act and shall be served on the defendant, with a copy of the verifying affidavit and any exhibits referred to therein, not less than two clear days before the day on which it is returnable.

Third Schedule.

(3.) If it appears that the defence set up by the defendant applies to a part only of the plaintiff's claim or that any part of the claim is admitted, the plaintiff shall have judgment forthwith for such part of the claim as the defence does not apply to or as is admitted, subject to such terms (if any) as the magistrate may see fit to impose, and the defendant may be allowed to defend as to the residue of the plaintiff's claim.

(4.) If it appears to the magistrate that any defendant has a good defence to or ought to be allowed to defend the action, and that any other defendant has not such defence and ought not to be allowed to defend, the former may be allowed to defend, and judgment may be given for the plaintiff against the latter, and he may issue execution thereon without prejudice to his right to proceed with his action against the former.

(5.) A defendant may be allowed to defend unconditionally or subject to such terms as the magistrate may see fit to impose.

(6.) There shall be no appeal against an order giving unconditional leave to defend or on the part of the plaintiff against any order giving leave to defend on terms.

(7.) The magistrate may, with the consent of all parties, dispose of the action finally and without appeal in a summary manner.

47B. (1.) Where the claim in any action is for an unliquidated demand or damages or other relief, and the defendant has given notice of his intention to defend same, the plaintiff may, by summons returnable to the

chamber of the magistrates, apply for an order that the defendant furnish the particulars of his grounds for defence within the time named in such order.

(2.) Should the defendant, without reasonable cause, neglect to supply particulars of his grounds of defence, he shall be liable to pay the plaintiff's costs of the proceedings in any event.

(3.) The defendant may at any time before judgment amend his grounds of defence upon such terms as to costs or otherwise as the magistrate may order.

4. The following schedule (to stand as the third schedule) is hereby added to the principal Act, that is to say:—

Addition of third  
schedule to Act.

### THIRD SCHEDULE.

#### *Interlocutory Summons for Judgment.*

In the Local Court at.....

Between J. D., Plaintiff,

and

R. M., Defendant.

Let the Defendant attend the Magistrate in Chambers at the Local Court at.....on.....day, the.....day of.....192..., at the hour of.....o'clock in the.....noon, on the hearing of an application on the part of the plaintiff for judgment in this action for the amount claimed with costs.

Dated the.....day of....., 192....

[Seal of the Court.]

F.H.,

Clerk of the Court.

*Note.*—The affidavit of the plaintiff [*or* of H.S.], a copy whereof [together with copies (*or* a copy) of the exhibit(s) referred to therein] is served on you herewith, will be used on the hearing of this application.

This summons was taken out by the plaintiff [*or* by X.Y., the plaintiff's solicitor.]

To Mr. R.M.,

the Defendant.

5. (1.) All copies of the principal Act hereafter printed by the Government Printer shall be printed under the supervision of the Clerk of the Parliaments, as amended by the Local Courts Act Amendment Act, 1909, the Local Courts Act Amendment Act, 1911, and this Act, and all necessary references to the amending Acts shall be made in the margin.

Principal Act to be  
printed as amended.

(2.) The short title in any reprint shall be altered to the *Local Courts Act, 1904-1921*, by which title the principal Act and the said amendments may be cited.