

# CROWN SUITS ACT AMEND- MENT.

10° GEO. V., No. II.

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No. 14 of 1919.

AN ACT to amend the Crown Suits Act, 1898.

[Assented to 27th September, 1919.]

**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:—

Short title.

1. This Act may be cited as the *Crown Suits Act Amendment Act*, 1919.

2. Section thirty-five of the Crown Suits Act, 1898, is hereby repealed, and a section is substituted therefor, as follows:—

Substitution of  
new section for  
Section 35 of  
the Crown  
Suits Act, 1898.

35. (1.) Whenever any person has any claim or demand in respect of which a petition might be presented under this Act, and which if it were against a subject would be within the jurisdiction of a Local Court, he may apply to a law officer for his consent to the hearing and determination thereof in a Local Court to be named in the application.

(2.) The law officer may in his discretion give or withhold such consent, and on the consent being given, the petition for such claim or demand shall be intituled and filed in the Local Court, and thereupon an action shall be deemed to have been commenced in such Court between the petitioner as plaintiff and the Crown as defendant.

(3.) Forthwith after the filing of the petition, the clerk of the Local Court shall issue and cause to be served on the Attorney General or the Crown Solicitor a summons (in a form to be prescribed by rules made hereunder) addressed to the Attorney General requesting him to answer the petitioner's claim or demand, and shall attach thereto a copy of the petition.

(4.) Subject to rules of Court made hereunder, the matter of the petition shall proceed and be carried on and judgment may be given thereon in such Court in the same manner, as nearly as may be, as in an action therein between subject and subject.

(5.) Subject to this section and the rules made thereunder, the provisions of this part of this Act shall apply *mutatis mutandis* to proceedings in a Local Court hereunder.

(6.) The Clerk of the Local Court shall exercise and discharge such powers and functions in reference to any judgment given therein under this section as the Registrar of the Supreme Court is empowered to exercise and discharge in reference to a judgment given in that Court under this Act.

See 1904, No. 51,  
s. 86.

(7.) Rules of Court may be made by the Governor for regulating proceedings under this section and for prescribing the practice and procedure thereon and for fixing the Court fees that shall be paid in connection therewith.

(8.) Whenever the amount recovered in any suit in the Supreme Court might, under this section, with the consent of a law officer, have been recovered in a Local Court, the following provisions shall apply:—

(a) If in a suit founded on contract the petitioner recovers a sum less than twenty pounds, he shall not be entitled to any costs of the suit; and if he recovers a sum of twenty pounds or upwards, but not exceeding fifty pounds, he shall not be entitled to any more costs than he would have been entitled to if the suit had been prosecuted in a Local Court; and

(b) If in a suit founded on tort the petitioner recovers a sum less than ten pounds, he shall not be entitled to any costs of the suit; and if he recovers a sum of ten pounds or upwards, but not exceeding twenty pounds, he shall not be entitled to any more costs than he would have been entitled to if the suit had been prosecuted in a Local Court unless—

(i) he shall prove that he applied to a law officer for his consent to the hearing and determination in a Local Court (being the Local Court at Perth, or a proper court within the meaning of the Local Courts Act, 1904), of the claim or demand, and that the law officer, though he had power to give such consent hereunder, refused it; or

(ii) a judge of the Supreme Court certifies that there was sufficient reason for bringing the suit in that court.

(9.) When any suit commenced in the Supreme Court under this Part of this Act is such that it might, if instituted against a subject, have been brought in a Local Court without the defendant's consent, or if the claim in the suit, though it originally exceeded one hundred pounds has been reduced by payment into Court, an admitted set-off or otherwise to a sum not exceeding one hundred pounds, then application may be made on behalf of the Crown to a Judge in Chambers for an order remitting the suit to a Local Court, and the Judge may in

his discretion make an order accordingly, and thereupon the provisions of section eighty-seven of the Local Courts Act, 1904, shall apply.

(10.) Section eighty-eight of the Local Courts Act, 1904, shall apply to any suit against the Crown, founded on tort, which has been commenced in the Supreme Court, as if it were an action between subject and subject.

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