

WESTERN AUSTRALIA

LOCAL COURTS AMENDMENT ACT (No. 2)

No. 92 of 1987

AN ACT to amend the *Local Courts Act 1904*.

[Assented to 16 December 1987]

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

1. This Act may be cited as the *Local Courts Amendment Act (No. 2) 1987*.

Commencement

2. This Act shall come into operation on such day as is fixed by proclamation.

Principal Act

3. In this Act, the *Local Courts Act 1904** is referred to as the principal Act.

[*Reprinted as approved 11 April 1984 and amended by Acts Nos. 69 of 1984, 13 of 1985 and 71 of 1986.]

Section 106B amended

4. Section 106B of the principal Act is amended in subsection (1) (a) by deleting “the court” and substituting the following—

“ a stipendiary magistrate sitting in the Small Disputes Division of a Local Court provided for by section 106P, ”.

Section 106D repealed and transitional provision

5. (1) Section 106D of the principal Act is repealed.

(2) A matter pending or in progress at the commencement of this Act in the Small Debts Division referred to in the section repealed by subsection (1) may be continued and completed in the Small Disputes Division established by section 106P inserted in the principal Act by section 7.

Section 106N amended

6. Section 106N of the principal Act is amended in subsections (3) (a) and (4) by deleting “Debts” in both places where it appears and substituting the following—

“ Disputes ”.

Part VIB inserted

7. After Part VIA of the principal Act the following Part is inserted—

“ PART VIB—SMALL DISPUTES DIVISION

Division established

106P. Every Local Court has, by force of this section, a division to be known as the Small Disputes Division.

Jurisdiction

106Q. (1) The jurisdiction to be exercised in the Small Disputes Division is that conferred on a magistrate sitting in that Division by—

- (a) Part VIA of this Act; and
- (b) the *Residential Tenancies Act 1987*.

(2) The jurisdiction referred to in subsection (1) is exercisable only by a stipendiary magistrate appointed under the *Stipendiary Magistrates Act 1957* and is so exercisable—

- (a) in the case of an action for a small debt under Part VIA, in accordance with that Part; and
- (b) in the case of an application referred to in section 12 (1) of the *Residential Tenancies Act 1987*, in accordance with that Act,

and in each case in accordance with the relevant Rules of Court referred to in subsection (6).

(3) Parts I, II, VIII and X and sections 156, 160, and 162 apply to and in relation to the jurisdiction referred to in subsection (1) but otherwise, except as provided in Part VIA, this Act and Rules of Court made therefor do not apply to or in relation to the exercise of that jurisdiction.

(4) Nothing in subsection (2) affects the exercise or performance by the clerk of such powers or duties as may be conferred or imposed on him by or under a written law referred to in that subsection.

(5) Nothing in subsection (3) limits or affects section 17 (2) of the *Residential Tenancies Act 1987*.

(6) The Governor may under section 158 make rules of court—

- (a) regulating the practice and procedure of a magistrate sitting in the Small Disputes Division of a Local Court;
- (b) prescribing the fees to be paid in that Division;
- (c) regulating the transfer of proceedings from that Division to a court, including a Local Court in its jurisdiction under Part III,

and may make different provision for or in relation to each of the matters referred in paragraphs (a) and (b) of subsection (2). ”.
