

WESTERN AUSTRALIA

LOCAL COURTS AMENDMENT ACT

No. 11 of 1987

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

[Assented to 11 June 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 1987*.

Commencement

2. The provisions of this Act shall come into operation of such day as is, or days as are respectively, 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 10A inserted

4. After section 10 of the principal Act the following section is inserted—

Magistrate may sit in a place appointed under section 38B

“ 10A. (1) Notwithstanding section 10, a magistrate may sit in a place appointed under section 38B and may exercise in that place any of the functions of a magistrate under this Act as if that place were a Local Court assigned to that magistrate.

(2) The jurisdiction of the court exercised by a magistrate at a place appointed under section 38B shall not be questioned by any person or by the Supreme Court or any other court on the ground that the jurisdiction was exercised at a place other than a court. ”.

Section 30 amended

5. Section 30 of the principal Act is amended by deleting “six thousand dollars” wherever it occurs and substituting in each place the following—

“ \$10 000 ”.

Section 31 amended

6. Section 31 of the principal Act is amended by deleting “six thousand dollars” and substituting the following—

“ \$10 000 ”.

Section 32 amended

7. Section 32 of the principal Act is amended by deleting “six thousand dollars” and substituting the following—

“ \$10 000 ”.

Section 38B inserted

8. After section 38A of the principal Act the following section is inserted—

Changing venue to a place other than a court

“ 38B. (1) Where a clerk of a Local Court is of the opinion that an action or matter commenced in or transferred to that Local Court could more conveniently or fairly be tried or heard in a place other than a court, then the clerk shall, in the prescribed manner, appoint a place other than a court for that trial or hearing.

(2) The magistrate may exercise the discretion of the clerk under subsection (1) and may give directions to the clerk as to the exercise of the clerk’s discretion, and the clerk shall observe those directions.

(3) Where a magistrate is satisfied by any party to an action or matter that the action or matter can more conveniently or fairly be tried or heard in a place other than a place appointed by a clerk under subsection (1), the magistrate may order that the action or matter be sent for trial or hearing—

(a) to a Local Court; or

(b) to a place appointed by the magistrate where, in the opinion of the magistrate, the action or matter can more conveniently be tried or heard.

(4) The decision of a magistrate under subsection (3) shall be final. ”.

Sections 45A, 45B and 45C inserted

9. After section 45 of the principal Act the following sections are inserted—

Listing of action for trial

“ 45A. (1) If a defendant gives notice of defence, the clerk shall give to all parties to the action the prescribed notice of intention to defend and any party may apply to the clerk to list the action for trial.

(2) The clerk shall, after—

- (a) receiving an application to list an action for trial; and
- (b) the expiration of the time within which a magistrate may direct that a pre-trial conference be held under section 45B in relation to the action,

list the action for trial and give each party the prescribed notice of trial, unless—

- (c) subject to subsection (3), a certificate of readiness has not been filed in the prescribed manner; or
- (d) a direction to hold a pre-trial conference has been given.

(3) The magistrate may dispense with the requirement under subsection (2) to file a certificate of readiness.

(4) Where there are more defendants than one, notice of trial shall not be given under subsection (2) until—

- (a) notices of defence have been received from all the defendants; or
- (b) the time for the giving of every such notice has expired,

unless the magistrate otherwise orders.

Pre-trial conference

45B. (1) A party to an action, not later than 14 days after being given the prescribed notice of intention to defend, may request a pre-trial conference in relation to the action.

(2) The magistrate shall, within 7 days of the last day on which a party may request a pre-trial conference, direct that a pre-trial conference be held, or that a pre-trial conference shall not be held, as he thinks appropriate in the circumstances of the case.

(3) Where the magistrate directs that a pre-trial conference shall be held, the clerk shall give all parties the prescribed notice of pre-trial conference.

(4) Unless the magistrate otherwise directs, all parties given a notice of pre-trial conference shall attend the pre-trial conference at the time and the place specified in the notice.

(5) At a pre-trial conference, the clerk may—

- (a) enquire into the likelihood of settlement, the delineation of issues in dispute, the state of preparation of the cases of the respective parties and such procedural matters as the clerk thinks fit;
- (b) give directions for the further conduct of the proceedings and make such interlocutory and interim orders as the clerk thinks fit; and
- (c) where appropriate, list the action for trial or, if a settlement acceptable to all parties is attained, order each party to file a memorandum of consent.

(6) A magistrate shall have and exercise the same power and authority for compelling obedience to, and punishing disobedience of, an order made by a clerk under subsection (5) as a magistrate may exercise for compelling obedience to, or punishing disobedience of, an order to the same effect made in an action or matter.

(7) Where an action is not listed for trial, or settled, at a pre-trial conference the clerk shall, upon receiving the prescribed notice that all orders made at the pre-trial conference in relation to that action have been complied with, list the action for trial and give each party the prescribed notice of trial.

(8) Subject to subsection (9), evidence of anything said or done or any admission made at a pre-trial conference is not admissible in any court.

(9) Nothing in subsection (8) prevents a court from admitting evidence of anything said or done or any admission made at a pre-trial conference—

- (a) for the purposes of exercising its powers and authority under subsection (6); or
- (b) upon the trial of a person for an offence committed at a pre-trial conference.

Delegation

45C. The magistrate may by delegation in writing delegate to the clerk authority to exercise generally, or in any particular case, or in any case of a class, the powers conferred upon a magistrate by sections 45A (3) and 45B (2) and (4). ”.

Section 46 amended

10. Section 46 of the principal Act is amended by repealing subsection (1).

Section 47B amended

11. Section 47B of the principal Act is amended by inserting after subsection (2) the following subsection—

- “ (2a) Where, within the time specified in an order under subsection (1), a defendant neglects to furnish the particulars of his grounds for defence, the defendant shall be liable to have his notice of defence struck out and, subject to section 47, to be dealt with under section 46 as if he had not given notice of defence and the time limited for that purpose in the summons had expired. ”.

Section 59 amended

12. Section 59 of the principal Act is amended by deleting “six thousand dollars” and substituting the following—

“ \$10 000 ”.

Section 60 amended

13. Section 60 of the principal Act is amended by deleting “six thousand dollars” and substituting the following—

“ \$10 000 ”.

Section 87 amended

14. Section 87 of the principal Act is amended by deleting “six thousand dollars” wherever it occurs and substituting in each place the following—

“ \$10 000 ”.

Section 99 amended

15. Section 99 of the principal Act is amended by deleting “ten thousand dollars” and substituting the following—

“ \$15 000 ”.

Section 100 amended

16. Section 100 of the principal Act is amended by deleting “ten thousand dollars” and substituting the following—

“ \$15 000 ”.

Section 101 amended

17. Section 101 of the principal Act is amended by deleting “ten thousand dollars” and substituting the following—

“ \$15 000 ”.

Section 103 amended

18. Section 103 of the principal Act is amended by deleting “ten thousand dollars” wherever it occurs and substituting in each place the following—

“ \$15 000 ”.

Section 106C amended

19. Section 106C of the principal Act is amended—

(a) in subsection (1)—

(i) in paragraph (a) by deleting “\$2 000” and substituting the following—

“ \$3 000 ”; and

(ii) in paragraph (b) by deleting “\$2 000” and substituting the following—

“ \$3 000 ”;

and

(b) in subsection (2) by deleting “\$2 000” wherever it occurs and substituting in each place the following—

“ \$3 000 ”.

Section 106E amended

20. Section 106E of the principal Act is amended in subsection (1) by deleting “\$2 000” and substituting the following—

“ \$3 000 ”.

Section 106G amended

21. Section 106G of the principal Act is amended in paragraph (b)—

(a) by deleting “\$2 000” and substituting the following—

“ \$3 000 ”; and

(b) by deleting “\$6 000” wherever it occurs and substituting in each place the following—

“ \$10 000 ”.