

SMALL CLAIMS TRIBUNALS.

No. 42 of 1983.

AN ACT to amend the Small Claims Tribunals Act 1974-1981.

[Assented to 5 December 1983.]

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:—

1. (1) This Act may be cited as the *Small Claims Tribunals Amendment Act 1983*. Short title and citation.

(2) In this Act the Small Claims Tribunals Act 1974-1981 is referred to as the principal Act. Reprinted as approved 4 March 1982.

(3) The principal Act as amended by this Act may be cited as the Small Claims Tribunals Act 1974-1983.

Commence-
ment.

2. (1) Subject to subsection (2) this Act shall come into operation on the day on which it is assented to by the Governor.

(2) Sections 7, 8, 11 and 12 shall come into operation on such day or days as is or are respectively fixed by proclamation.

Heading to
Part I
inserted.

3. The principal Act is amended by inserting before section 1 the following heading—

“ PART I.—PRELIMINARY. ”.

Section 4
amended.

4. Section 4 of the principal Act is amended in subsection (1) in the definition of “fixed amount” by deleting “\$1 000” and substituting the following—

“ \$2 000 ”.

Section 7
amended and
transitional
provision.

5. (1) Section 7 of the principal Act is amended in paragraph (c) by deleting “seventy-five” and substituting the following—

“ 65 ”.

(2) Nothing in subsection (1) of this section affects the continuance of a person in office as a referee under an appointment made before the commencement of this section.

Section 16
amended.

6. Section 16 of the principal Act is amended in subsection (1) by deleting “the claim” where it first occurs and substituting the following—

“ the issue in dispute in that claim ”.

7. Section 17 of the principal Act is amended— Section 17 amended.

- (a) in subsection (1) by deleting “subsection (3)” and substituting the following—

“ section 17A ”; and

- (b) by repealing subsection (3) and substituting the following subsections—

“ (3) Where a party to a proceeding before a Small Claims Tribunal is served with a summons issued by a Local Court which relates to the same issue in dispute as the issue in dispute before the Tribunal, the registrar may issue a certificate in the prescribed form which specifies—

(a) the parties to the proceeding before the Small Claims Tribunal;

(b) the date on which the claim was referred to the Tribunal;

(c) the particulars of the claim;

and

(d) any orders made with respect to the claim.

(4) A certificate issued under subsection (3) may be filed, free of charge, in the office of the Local Court which issued the summons referred to in subsection (3).

(5) Where a certificate is filed under subsection (4)—

(a) the party filing the certificate shall give notice in the prescribed form to the registrar; and

- (b) the registrar shall forward to to the office of the Local Court where the certificate is filed a copy of any order made after the issue of the certificate by a Small Claims Tribunal with respect to the claim specified in the certificate.

(6) In any proceedings in a Local Court a certificate issued or purporting to be issued pursuant to subsection (3) is evidence of the facts specified therein. ”.

Section 17A
inserted.

8. The principal Act is amended by inserting after section 17 the following section—

Transfer
to a court.

“ 17A. (1) Where in respect of a claim being a small claim that is duly referred to a Small Claims Tribunal—

- (a) the referee considers that the issue in dispute in that claim involves such a complex point of law as to warrant the claim being heard and determined by a court which otherwise has jurisdiction to do so; or

- (b) the fixed amount of the claim exceeds \$1 000,

the referee may, on the application of a party or by his own motion, order that the proceedings be transferred to a court which otherwise has jurisdiction to hear and determine the claim.

(2) An order under this section shall not be made unless the referee is satisfied that in all the circumstances such an order would not be unfair to any of the parties to the proceedings.

(3) Where a referee makes an order under subsection (1), that claim—

- (a) ceases to be a small claim that is duly referred to a Small Claims Tribunal;
- (b) may not again be referred to a Small Claims Tribunal; and
- (c) is deemed never to have been referred to a Small Claims Tribunal. ”.

9. Section 33 of the principal Act is amended— Section 33 amended.

(a) in subsection (1) by deleting “Every” and substituting the following—

“ Subject to subsection (1a), every ”;
and

(b) by inserting after subsection (1) the following subsection—

“ (1a) Relatives and friends of any party to a proceeding and officers of the Department of Consumer Affairs may be present at the proceeding unless the tribunal otherwise orders. ”.

10. The principal Act is amended by inserting Section 34A inserted.
after section 34 the following section—

“ 34A. A tribunal may give reasons in writing for the order made by the tribunal resolving the issue in dispute in a proceeding before the tribunal and, if so requested by a party to the proceeding not later than 30 days after the order is made, the tribunal shall do so. ”. Written reasons for orders.

Section 35
repealed and
substituted.

11. Section 35 of the principal Act is repealed and the following section is substituted—

Costs.

“ 35. (1) Subject to subsection (2), costs shall not be allowed to or against any party to a proceeding before a tribunal.

(2) Where a tribunal is of the opinion that because of exceptional circumstances an injustice would be done to a party to a proceeding if costs of the proceeding were not allowed to that party, the tribunal may make an order for costs not exceeding the prescribed amount against a party to the proceeding. ”.

Section 43
amended.

12. Section 43 of the principal Act is amended by inserting after paragraph (e) the following paragraph—

“ (ea) the transfer of proceedings from a Small Claims Tribunal to a court; ”.
