

SUITORS' FUND.

No. 37 of 1978.

AN ACT to amend the Suitors' Fund Act, 1964-1977.

[Assented to 21st August, 1978.]

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 *Suitors' Fund Act Amendment Act, 1978*. Short title and citation.

(2) In this Act the Suitors' Fund Act, 1964-1977 is referred to as the principal Act. Act No. 43 of 1964 as amended by Acts Nos. 72 of 1969, 57 of 1971 and 44 of 1977.

(3) The principal Act as amended by this Act may be cited as the Suitors' Fund Act, 1964-1978.

Section 14B
added.

2. The principal Act is amended by adding after section 14A the following section—

Costs on
refusal of
Court to
sanction
compromise.

14B. (1) In this section—

“patient” includes an incapable person within the meaning of the Mental Health Act, 1962; and any person who, by reason of mental illness, defect or infirmity, however occasioned, is declared by the Court to be incapable of managing his affairs in respect of any proceedings to which the declaration relates, and any person who is an incapable patient or infirm person within the meaning of the Public Trustee Act, 1941;

“person under disability” means a person who is an infant or a patient;

“settlement” includes a compromise of an action or of an appeal, acceptance of money paid into Court and an acceptance of an offer to consent to judgment.

(2) Where in any action or appeal—

- (a) there is a claim or appeal by or on behalf of a person under disability;
- (b) the person under disability or his next friend has applied to the Court for an order approving the proposed settlement;
- (c) the Court refuses to approve the proposed settlement;
- (d) on trial of the action or in an appeal brought in relation thereto the amount awarded is not more than the amount offered in the proposed settlement; and
- (e) the person under disability or his next friend is ordered to pay the whole or any part of the costs of the action or appeal on any ground,

the Court before which the action is tried, or the Court by which the appeal is heard, as the case may be, may, upon application made to it in that behalf, grant to the person under disability or his next friend an indemnity certificate.

(3) An indemnity certificate granted under subsection (2) of this section entitles the person under disability or his next friend to be paid from the fund—

- (a) the costs of the action or the appeal ordered to be paid by the person under disability or his next friend; and
- (b) the costs of the action or appeal, as the case may be, as determined by the Board, incurred by or on behalf of the person under disability after the date on which the Court refused to approve the settlement.

(4) Notwithstanding the provisions of subsection (3) of this section, the total amount payable from the Fund in respect of any proceedings in respect of which a certificate is so granted shall not in any case exceed five thousand dollars or such other amount as may from time to time be prescribed. .
