

**DISTRICT COURT (AMENDMENT) ACT, 1978,  
No. 8**

**New South Wales**



ANNO VICESIMO SEPTIMO

**ELIZABETHÆ II REGINÆ**

\*\*\*\*\*

**Act No. 8, 1978.**

An Act to amend the District Court Act, 1973, in relation to procedural and other matters. [Assented to, 28th February, 1978.]

---

*District Court (Amendment).*

---

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the "District Court Short title. (Amendment) Act, 1978".

2. The District Court Act, 1973, is amended in the manner set forth in Schedule 1. Amendment of Act No. 9, 1973.

---

SCHEDULE 1.

Sec. 2.

AMENDMENTS TO THE DISTRICT COURT ACT, 1973.

(1) Section 3, matter relating to Part III, Division 3—  
Omit "83" wherever occurring, insert instead "83A".

(2) (a) Section 51 (1)—

Omit the subsection, insert instead :—

(1) In this section "memorandum of consent" in relation to an action or cross-claim means a document signed by each party to the action or cross-claim, or his solicitor, in which it is stated that each of those parties consents to the action or cross-claim being tried in the Court and is aware that, unless the document is filed, the Court will not have jurisdiction to dispose of the action or cross-claim.

---

*District Court (Amendment).*


---

 SCHEDULE 1—*continued.*

 AMENDMENTS TO THE DISTRICT COURT ACT, 1973  
 —*continued.*

## (b) Section 51 (2)—

After “action” where firstly, secondly and fourthly occurring, insert “or cross-claim”.

## (c) Section 51 (2)—

Omit “, together with the statement of claim by the lodging of which the action is commenced, the plaintiff”, insert instead “a party to the action or cross-claim”.

## (3) (a) Section 68 (1) (a) (iv)—

Omit “or”.

## (b) Section 68 (1) (a) (vi)—

At the end of section 68 (1) (a) (v), insert :—

**or**

(vi) to answer interrogatories administered by the party giving the notice;

## (c) Section 68 (2) (b1)—

After section 68 (2) (b), insert :—

(b1) a party answer interrogatories administered by another party;

---

*District Court (Amendment).*

---

SCHEDULE 1—*continued.*

AMENDMENTS TO THE DISTRICT COURT ACT, 1973  
—*continued.*

(4) Section 83A—

After section 83, insert :—

83A. (1) In any proceedings for the recovery of any money (including any debt or damages or the value of any goods) the Court may order that there shall be included, in the amount for which judgment is given, interest at such rate as it thinks fit on the whole or any part of that amount for the whole or any part of the period between the date when the cause of action arose and the date when judgment takes effect. <sup>Interest up to judgment.</sup>

(2) Subsection (1) does not—

- (a) authorise the giving of interest upon interest;
- (b) apply in relation to any debt upon which interest is payable as of right whether by virtue of any agreement or otherwise; or
- (c) affect the damages recoverable for the dishonour of a bill of exchange.

(5) Section 88 (10)—

After section 88 (9), insert :—

(10) The jurisdiction of the Court under this section may be exercised by registrars at places prescribed by the rules and any order made by a registrar in the exercise of jurisdiction conferred by this subsection may be rescinded, varied or confirmed by the Court on appeal.

---

*District Court (Amendment).*

---

SCHEDULE 1—*continued.*AMENDMENTS TO THE DISTRICT COURT ACT, 1973  
—*continued.*

## (6) (a) Section 115 (1) (a)—

Omit the paragraph, insert instead :—

- (a) by a person who is under a liability (otherwise than as a bailiff) in respect of a debt or other personal property, where two or more adverse claims to the debt or property have been made in the Court, or are expected to be made in any court;

## (b) Section 115 (3)—

Omit “Where the application is made by the defendant, it”, insert instead “An application under subsection (1) (a)”.

## (c) Section 115 (3) (b)—

Omit “person making a claim as referred to in subsection (1) (a)”, insert instead “claimants or any of them”.

## (7) Sections 117, 117A—

Omit section 117, insert instead :—

Summons to  
claimant.

117. (1) A reference in this section to the issue of a summons in respect of a claimant is a reference to the issue of a summons calling on the claimant to state the nature and particulars of his claim in the prescribed form and within the prescribed time.

---

*District Court (Amendment).*

---

SCHEDULE 1—*continued.*

AMENDMENTS TO THE DISTRICT COURT ACT, 1973  
—*continued.*

(2) Where an applicant under section 115 (1) (a) is the defendant in proceedings in the Court with respect to the debt or other property in dispute, the registrar to whom the application was made shall issue a summons in respect of any claimant who is not a party to the proceedings.

(3) Where an applicant under section 115 (1) (a) is not a defendant in proceedings in the Court with respect to the debt or other property in dispute, the registrar to whom the application was made shall issue a summons in respect of each claimant.

(4) Where an application is made under section 115 (1) (b), the registrar to whom the application was made shall issue a summons in respect of the claimant.

(5) Where—

- (a) a summons issues under subsection (2) or (3) and the amount of the claim is paid into court or, where the subject of the claim is property other than a debt—
  - (i) that property is transferred into court; or
  - (ii) if the registrar so requires—the applicant gives security to the value of that property; or

---

*District Court (Amendment).*

---

SCHEDULE 1—*continued.*AMENDMENTS TO THE DISTRICT COURT ACT, 1973  
—*continued.*

(b) a summons issues under subsection (4), all proceedings in respect of the debt or other property in dispute are stayed, whether those proceedings are in the Court, the Supreme Court or a court of petty sessions.

(6) Where, in respect of a particular application under section 115—

- (a) any summons issued under subsection (2) has been complied with;
- (b) more than one summons issued under subsection (3) has been complied with; or
- (c) the summons issued under subsection (4) has been complied with,

the registrar shall record the commencement of an interpleader action and shall issue notice of that action to each claimant who has complied with a summons issued in respect of him and also—

- (d) where the summons was issued under subsection (2)—to the plaintiff in the proceedings referred to in that subsection; or
- (e) where the summons was issued under subsection (4)—to the judgment creditor on whose application was issued the writ of execution pursuant to which the property in dispute was seized.

---

*District Court (Amendment).*

---

SCHEDULE 1—*continued.*

AMENDMENTS TO THE DISTRICT COURT ACT, 1973  
—*continued.*

(7) The Court shall adjudicate upon the claims in an interpleader action and—

- (a) shall make such order as to it seems fit between the parties in respect of the claims, the costs of the proceedings and the continuance of the actions in which proceedings have been stayed; and
- (b) where any amount has been paid, or security has been given, to a bailiff in respect of property the subject of the claim, or the property has been sold under section 116 (1) (e) (ii), shall make such order as to it seems fit with respect to the payment of the amount or the enforcement or discharge of the security, or the proceeds of sale of the property.

(8) An order made under subsection (7) may be enforced in the same manner as a judgment in an action.

(9) The rules may make provision for or with respect to the practice and procedure of the Court in relation to interpleader actions.

117A. (1) This section applies in respect of an application under section 115 where—

Summons  
not com-  
plied with.

- (a) no summons issued under section 117 (2) in respect of the application has been complied with;



---

*District Court (Amendment).*

---

SCHEDULE 1—*continued.*AMENDMENTS TO THE DISTRICT COURT ACT, 1973  
—*continued.*

- (b) no summons, or only one summons, issued under section 117 (3) in respect of the application has been complied with; or
- (c) the summons issued under section 117 (4) in respect of the application has not been complied with.

(2) Where this section applies in respect of an application under section 115—

- (a) the stay of proceedings imposed by section 117 (5) following the issue of a summons in respect of that application is removed;
- (b) any money paid, or any property transferred, into court as referred to in section 117 (5) (a) shall be paid or transferred by the registrar—
  - (i) in the case referred to in subsection (1) (a)—to the plaintiff in the proceedings referred to in section 117 (2); or
  - (ii) in the case referred to in subsection (1) (b)—to the only claimant who complied with the summons issued under section 117 (3) or, where no claimant complied with the summons, as the Court directs; and

---

*District Court (Amendment).*

---

SCHEDULE 1—*continued.*

AMENDMENTS TO THE DISTRICT COURT ACT, 1973  
—*continued.*

- (c) a claimant who failed to comply with a summons issued under section 117 in respect of the application is forever barred from prosecuting any claim in respect of the subject-matter of the application,

unless the Court otherwise orders upon satisfactory explanation by a claimant for his non-compliance with a summons given in such manner, and within such time, as is prescribed, and—

- (d) the Court may make such order as to it seems fit in respect of the payment of any money that was paid into court by the bailiff or the discharge or enforcement of any security given to the bailiff or registrar in respect of the property the subject of the application.

(8) Section 161 (1) (j1)—

After section 161 (1) (j), insert :—

- (j1) the practice and procedure to be followed in relation to orders and agreements for the manner of payment of a judgment debt;
-