



ANNO VICESIMO SEXTO

GEORGII V REGIS.

A.D. 1935.

No. 2244.

An Act to amend the Local Courts Act, 1926, and for other purposes.

[Assented to, 19th December, 1935.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Local Courts Act Amendment Act, 1935". Short title.

(2) The Local Courts Act, 1926, and this Act may be cited as the "Local Courts Acts, 1926 and 1935".

(3) The Local Courts Act, 1926, is in this Act called "the principal Act". 1782, 1926.

2. This Act is incorporated with the principal Act, and that Act and this Act shall be read as one Act. Incorporation.

3. Section 31 of the principal Act is amended by striking out the words "Five Hundred" wherever occurring in that section and inserting in lieu of those words in each case the words "Seven Hundred and Fifty". Amendment of principal Act, s. 31—
Increase of jurisdiction of Local Courts.

4. Section 40 of the principal Act is amended by striking out the words "Five Hundred" wherever occurring in that section and inserting in lieu of those words in each case the words "Seven Hundred and Fifty". Amendment of principal Act, s. 40—
Trial of Supreme Court actions in Local Courts.

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Amendment of
principal Act,
s. 41—
Provision
where claim in
Supreme Court
reduced below
£750.

5. Section 41 of the principal Act is amended by striking out the words “Five Hundred Pounds” in subsection (1) thereof and inserting in lieu of those words the words “Seven Hundred and Fifty”.

Amendment of
principal Act,
s. 42—
Costs in certain
Supreme Court
actions.

6. Section 42 of the principal Act is amended—

(a) by striking out the words “Five Hundred” in the fifth line of subsection (1) thereof and inserting in lieu thereof the words “Seven Hundred and Fifty”;

(b) by adding after the words “One Hundred” in the sixth line of subsection (1) the words “and Fifty”.

(c) by striking out all the words in subsection (1) thereof after the word “unless” in the eighth line thereof and inserting in lieu thereof “the Judge trying the action or, if there was no trial, a Judge of the Supreme Court in Chambers otherwise orders”;

(d) by striking out subsection (2) thereof and inserting in lieu thereof the following subsection:—

(2) If such Judge is of opinion that having regard to all the circumstances of the case it is just that the plaintiff should recover the whole or any part of the costs of the action, he may order the defendant to pay such costs to the plaintiff as he deems just.

Amendment of
principal Act,
s. 63—
Appeals.

7. Section 63 of the principal Act is amended by striking out the words “and every such order shall be final” at the end of subsection (1) thereof and inserting in lieu of those words the following:—

Where the appeal has been heard by a single Judge, any party aggrieved by any order made by the Judge on the appeal may, by leave of that Judge or of the Full Court, but not otherwise, appeal against that order to the Full Court; and on such further appeal the Full Court shall have all the powers which it has when an appeal from a Local Court is heard by the Full Court in the first instance.

Amendment of
principal Act,
Part V.—

8. Part V. of the principal Act is amended by inserting therein after section 66 the following section:—

Power of
parties to waive
rights of appeal.

66A. (1) Any party to any action commenced in any Local Court may by notice in writing filed in the court waive the rights of appeal given pursuant to this Act in respect of the action.

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(2) The notice may waive all rights of appeal under this Act or may waive any of the rights of appeal under this Act, including the reservation of any point of law for the decision of the Supreme Court.

(3) If all the parties to the action by notice filed as aforesaid waive all rights of appeal in the action, no appeal as provided by this Act shall be made against any final judgment, determination, or order, or any interlocutory order give nor made after the said notice has been filed ; and after the said notice has been filed no question of law arising out of the action shall be reserved for the decision of the Supreme Court.

(4) If all the parties to the action by notice filed as aforesaid waive any of the rights of appeal given by this Act no appeal shall be made or question of law reserved contrary to the notice.

9. Section 174 of the principal Act is repealed, and the following sections are enacted and substituted in lieu thereof :—

Enactment of
secs. 174 to
174H—

Certificate of
judgment for
registration in
other Local
Courts.

Com. 11, 1901,
s. 20.

174. (1) Any person who has obtained any judgment or order in any Local Court for the payment of any sum of money may, if that sum or any part thereof has not been paid, obtain from the Clerk of that Local Court a certificate of that judgment or order containing the following particulars :—

- (a) The number and year of the action in which the judgment or order was obtained :
- (b) The name, place of residence, and the occupation or description of the person in whose favour the judgment or order was made or given, or of the person to whom payment is to be made under the judgment or order :
- (c) The name and place of residence of the person ordered to pay money :
- (d) The date of the judgment or order :
- (e) The amount ordered to be paid :
- (f) The amount due and owing under the judgment or order at the time when the certificate is issued, together with particulars of that amount.

(2) The Clerk of a Local Court shall, on application duly made in writing, and payment of the fee prescribed by rules of court, grant such a certificate under his hand and the seal of the Court.

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Registration of certificate of judgment.
Com. 11, 1901, s. 21.

174A. (1) Upon production of the certificate to the Clerk of any other Local Court, that Clerk shall forthwith register the certificate by entering the particulars contained in it in a book to be kept by him, and to be called The Register of Transferred Judgments and Orders.

(2) From the date of registration the certificate shall be a record of the Court in which it is registered, and shall have the same force and effect in all respects as a judgment or order of that Court, and the like proceedings may be taken upon the certificate as if the judgment or order mentioned therein were a judgment or order of that Court; and interest shall be payable under the certificate from the time and at the rate from and at which it is payable under the judgment or order.

(3) No certificate of a judgment or order shall be so registered after the lapse of twelve months from the date of the judgment or order unless leave in that behalf has first been obtained from the Local Court in which the judgment or order was obtained.

Cost of proceedings in relation to certificates.
Com. 11, 1901, s. 22A.

174B. The costs of and incidental to obtaining and registering a certificate and of any proceedings under a certificate shall be added to the amount payable under the certificate, and payment thereof shall be enforceable accordingly.

Execution not to issue unless affidavit of liability filed.

174C. (1) No execution shall be issued, or other proceedings taken, upon any such certificate unless an affidavit is first filed in the Local Court out of which it is intended to issue the execution or take those proceedings. The affidavit shall be made by the person in whose favour the judgment or order was given or made, or by some other person cognisant of the facts of the case, and shall state that the amount, for which execution is proposed to be issued, or in respect of which other proceedings are proposed to be taken, is actually due and unpaid.

(2) No execution shall be issued for, or other proceedings taken in respect of, a larger amount than that sworn to.

Control of Local Court over proceedings of certificate.
Com. 11, 1901, s. 24.

174D. The Local Court in which any such certificate has been registered shall, in respect of execution upon the certificate and the enforcement of the judgment or order, have the same control and jurisdiction over the judgment or order as if it were a judgment or order of that Local Court.

Stay of proceedings.
Com. 11, 1901, s. 25.

174E. (1) The Local Court in which any such certificate has been registered may, on the application of any person against whom the judgment or order has been given or made, order a stay of proceedings upon that certificate.

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(2) Such order may be given on such terms as to giving security or otherwise as the Court thinks fit.

174F. (1) When—

- (a) any certificate of a judgment or order is registered in any Local Court ; or
- (b) any execution is issued or other proceedings are taken in any Local Court upon any such certificate ; or
- (c) the Local Court in which any certificate is registered, or the Clerk of that Court is made aware of the satisfaction in whole or part of the judgment or order mentioned in the certificate,

Notification of proceedings upon certificate and of satisfaction of judgment.
Com. 11, 1901, s. 26.

the Clerk of that Court shall forthwith notify that fact in writing under seal of the Court to the Clerk of the Court in which the judgment or order was given or made.

(2) When any judgment or order of which a certificate has been registered in any Local Court has been satisfied in whole or in part, the Clerk of the Court in which the judgment or order was given or made shall forthwith, upon such satisfaction being made or notified, as the case may be, enter such satisfaction upon the judgment or order, and notify such satisfaction in writing under the seal of the Court to the Clerk of every other Court in which a certificate of the judgment has been registered, and such satisfaction shall thereupon be entered upon every such certificate.

174G. The jurisdiction conferred on a Local Court by the last preceding seven sections shall be exercised in Chambers by a Judge or Special Magistrate.

Exercise of jurisdiction relating to certificates

174H. The fees payable to any Local Court and the costs to be allowed and paid in relation to obtaining, registering, and taking proceedings under any certificate of a judgment or order shall be as prescribed by rules of Court.

Fees and costs.

10. Section 294 of the principal Act is amended by inserting after "bailiffs" in the third line thereof the words "service fees and".

Amendment of principal Act, section 294—
Refund of service fees where service not effected.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

W. DUGAN, Governor.