



VEVATIOUS LITIGANTS ACT 1994

No. 65 of 1994

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VEXATIOUS LITIGANTS ACT 1994

No. 65 of 1994

AN ACT to amend the *Supreme Court Civil Procedure Act 1932*, the *Justices Act 1959*, the *Local Courts Act 1896* and the *Magistrates Court (Civil Division) Act 1992*

[Royal Assent 25 November 1994]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART 1

PRELIMINARY

Short title

1—This Act may be cited as the *Vexatious Litigants Act 1994*.

Commencement

2—This Act commences on the day on which it receives the Royal Assent.

PART 2**AMENDMENT OF SUPREME COURT CIVIL PROCEDURE ACT 1932****Part XIII: Section 194G inserted**

3—After section 194F of the *Supreme Court Civil Procedure Act 1932**, the following section is inserted in Part XIII:—

Vexatious litigants

194G—(1) If, on an application under this section, the Court is satisfied that a person has persistently and without reasonable grounds instituted vexatious legal proceedings, whether in the Court or any inferior court and whether against the same person or against different persons, the Court, after hearing that person or giving him or her an opportunity of being heard, may, by order, declare that person to be a vexatious litigant.

(2) Where an order declaring a person to be a vexatious litigant is in force under subsection (1), no legal proceedings are, without the leave of the Court or a judge, to be instituted by him or her in the Court.

(3) An application under subsection (1) may be made by the Attorney-General, the Solicitor-General, the Director of Public Prosecutions, the Registrar or any person who, in the opinion of the Court or a judge, has a sufficient interest in the matter.

* 23 Geo. V No. 58. For this Act, as amended to 1 September 1977, see the continuing Reprint of Statutes. Subsequently amended by No. 52 of 1979, Nos. 9, 34 and 99 of 1982, Nos. 29 and 39 of 1984, Nos. 2 and 73 of 1985, Nos. 40 and 91 of 1986, No. 20 of 1990 and Nos. 14 and 73 of 1993.

(4) If proceedings are pending in the Court when an order is made under subsection (1), those proceedings are taken to be stayed unless leave is given as mentioned in subsection (2).

(5) Where proceedings pending in the court are taken to be stayed and the person declared to be a vexatious litigant has not applied for, or has not been granted, leave to proceed in those proceedings, any other party to those proceedings may apply to a judge for an order for the costs incurred by that party in those proceedings.

(6) The Registrar must, within 14 days after an order is made under subsection (1), cause a copy of the order to be published in the *Gazette*.

PART 3

AMENDMENT OF JUSTICES ACT 1959

Part VI: Section 50D inserted

4—After section 50C of the *Justices Act 1959**, the following section is inserted in Part VI:—

Vexatious litigants

50D—(1) Where a person is declared to be a vexatious litigant under an order in force under section 194G of the *Supreme Court Civil Procedure Act 1932*, that person may not, without the leave of the Chief Magistrate or the Deputy Chief Magistrate, institute any proceedings in a court of summary jurisdiction.

(2) If proceedings are pending in a court of summary jurisdiction when an order is made as mentioned in subsection (1), those proceedings are taken to be stayed unless leave is given as mentioned in that subsection.

* No. 77 of 1959. For this Act, as amended to 1 May 1982, see the continuing Reprint of Statutes. Subsequently amended by Nos. 33 and 51 of 1982, Nos. 45 and 75 of 1983, Nos. 29, 48 and 55 of 1984, Nos. 9, 51 and 121 of 1985, Nos. 45, 77, 93 and 115 of 1986, Nos. 45, 57 and 82 of 1987, Nos. 8 and 15 of 1988, Nos. 13 and 34 of 1989, Nos. 5 and 13 of 1990, Nos. 41, 43 and 46 of 1991, Nos. 15 and 21 of 1992, Nos. 10, 71 and 73 of 1993 and Nos. 8, 10 and 64 of 1994.

(3) Where proceedings pending in a court of summary jurisdiction are taken to be stayed and the person declared to be a vexatious litigant has not applied for, or has not been granted, leave to proceed in those proceedings, any other party to those proceedings may apply to a magistrate for an order for the costs incurred by that party in those proceedings.

PART 4

AMENDMENT OF LOCAL COURTS ACT 1896

Section 147AA inserted

5—After section 147 of the *Local Courts Act 1896**, the following section is inserted:—

Vexatious litigants

147AA—(1) Where a person is declared to be a vexatious litigant under an order in force under section 194G of the *Supreme Court Civil Procedure Act 1932*, that person may not, without the leave of the Chief Magistrate or the Deputy Chief Magistrate, institute any proceedings in a court.

(2) If proceedings are pending in a court when an order is made as mentioned in subsection (1), those proceedings are taken to be stayed unless leave is given as mentioned in that subsection.

* 60 Vict. No. 48. For this Act, as amended as at 1 July 1977, see the continuing Reprint of Statutes. Subsequently amended by No. 99 of 1982, Nos. 47 and 79 of 1983, No. 29 of 1984, Nos. 13 and 103 of 1985, Nos. 45, 46 and 93 of 1987 and No. 43 of 1991.

(3) Where proceedings pending in a court are taken to be stayed and the person declared to be a vexatious litigant has not applied for, or has not been granted, leave to proceed in those proceedings, any other party to those proceedings may apply to a court for an order for the costs incurred by that party in those proceedings.

PART 5

AMENDMENT OF MAGISTRATES COURT (CIVIL DIVISION) ACT 1992

Part 3: Section 13A inserted

6—After section 13 of the *Magistrates Courts (Civil Division) Act 1992**, the following section is inserted in Part 3:—

Vexatious litigants

13A—(1) Where a person is declared to be a vexatious litigant under an order in force under section 194G of the *Supreme Court Civil Procedure Act 1932*, that person may not, without the leave of the Chief Magistrate or the Deputy Chief Magistrate, institute any proceedings in the Court.

(2) If proceedings are pending in the Court when an order is made as mentioned in subsection (1), those proceedings are taken to be stayed unless leave is given as mentioned in that subsection.

* No. 27 of 1992. Amended by No. 73 of 1993.

(3) Where proceedings pending in the Court are taken to be stayed and the person declared to be a vexatious litigant has not applied for, or has not been granted, leave to proceed in those proceedings, any other party to those proceedings may apply to the Court for an order for the costs incurred by that party in those proceedings.

*[Second reading presentation speech made in:—
House of Assembly on 4 August 1994
Legislative Council on 26 October 1994]*