

**DISTRICT COURTS AND SMALL DEBTS RECOVERY
(AMENDMENT) ACT.**

Act No. 18, 1961.

**Elizabeth II,
No. 18, 1961**

An Act to make further provisions with respect to the jurisdiction of District Courts, and the jurisdiction, relating to the recovery of small debts, of courts of petty sessions; for these and other purposes to amend the District Courts Act, 1912-1958, and the Small Debts Recovery Act, 1912-1957; and for purposes connected therewith. [Assented to, 27th March, 1961.]

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:—

**Short title
and citation.**

1. (1) This Act may be cited as the "District Courts and Small Debts Recovery (Amendment) Act, 1961."

(2) The District Courts Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the District Courts Act, 1912-1961.

(3) The Small Debts Recovery Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Small Debts Recovery Act, 1912-1961.

**Amendment
of Act No.
23, 1912.**

**Sec. 39.
(Fees to
barristers
and
attorneys
and
expenses to
witnesses.)**

2. The District Courts Act, 1912, as amended by subsequent Acts, is amended—

(a) by omitting from section thirty-nine the words "in any case where the sum sued for does not exceed ten pounds" and by inserting in lieu thereof the following words:—

"in any case where—

(a) the sum sued for does not exceed ten pounds; or

(b)

(b) the sum sued for exceeds ten pounds but No. 18, 1961 does not exceed fifty pounds and the action was commenced by the issue of a default summons—unless the defendant filed a notice of the grounds of defence together with an affidavit verifying it.

Paragraph (b) of this subsection shall not operate to preclude fees to barristers and attorneys being allowed in any case where the action referred to in that paragraph was commenced before the commencement of that paragraph”;

(b) by omitting from section sixty-four the word “here- Sec. 64.
inafter” and by inserting in lieu thereof the words (Default summons.)
“in this Act”;

(c) (i) by omitting from subsection one of section Sec. 90.
ninety the words “twenty pounds” and by (When jury may be summoned to try action.)
inserting in lieu thereof the words “fifty pounds”;

(ii) by omitting from subsection three of the same section the words “twenty pounds” and by inserting in lieu thereof the words “fifty pounds”;

(d) by omitting from section ninety-one the words “four Sec. 91.
pounds” and by inserting in lieu thereof the words (Party requiring jury to make deposit.)
“ten pounds”.

3. (1) The District Courts Act, 1912, as amended by Further amendment of Act No. 23, 1912.
subsequent Acts, is further amended—

(a) by omitting from paragraph (a) of subsection one Sec. 41.
of section forty-one the words “one thousand (Ordinary jurisdiction of the courts.)
pounds” and by inserting in lieu thereof the words
“three thousand pounds”;

(b) by omitting from section forty-two the words “one Sec. 42.
thousand pounds” and by inserting in lieu thereof the (In cases of partnership, intestacy, and legacy.)
words “three thousand pounds”;

(c)

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Sec. 55.

(Splitting
debt by
giving bills,
etc.)

(c) by omitting from section fifty-five the words "one thousand pounds" wherever occurring and by inserting in lieu thereof the words "three thousand pounds";

Sec. 57.

(Infants.)

(d) by omitting from section fifty-seven the words "one thousand pounds" and by inserting in lieu thereof the words "three thousand pounds";

Sec. 73.

(Proceed-
ings where
defendant's
set-off or
cross action
exceeds the
plaintiff's
claim.)

(e) by omitting from section seventy-three the words "one thousand pounds" wherever occurring and by inserting in lieu thereof the words "three thousand pounds".

(2) The amendments made by subsection one of this section shall not apply in respect of proceedings commenced in a District Court on or after the twelfth day of July, one thousand nine hundred and fifty-five, and before the twelfth day of July, one thousand nine hundred and sixty-one.

Amendment
of Act No.
33, 1912.

4. (1) The Small Debts Recovery Act, 1912, as amended by subsequent Acts, is amended—

Sec. 7.

(Amount.)

(a) by omitting from subsection two of section seven the words "fifty pounds" and by inserting in lieu thereof the words "one hundred and fifty pounds";

(b) by inserting next after the same subsection the following new subsection:—

(2A) (a) Notwithstanding the provisions of subsection two of this section, in any action under paragraph (a) or paragraph (c) of subsection one of this section where the amount claimed exceeds fifty pounds, the defendant, or any one of two or more defendants, may, within such time and in such manner as may be prescribed, give notice that he objects to the action being heard and determined in a court of petty sessions, and where that notice is given, the court shall order that the action be transferred to the District Court for the district within which the said court of petty sessions is situated.

(b)

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(b) When an order is made under No. 18, 1961 paragraph (a) of this subsection the registrar of the court of petty sessions in which the action was commenced shall forthwith transmit by post the whole record thereof, including the order for transfer, to the District Court for which the action was ordered to be transferred.

(c) After an action has been transferred to a District Court under this subsection all proceedings therein shall, subject to any rules of court made under the District Courts Act, 1912, as amended by subsequent Acts, be taken in that Court as if the action had been originally commenced therein.

(2) This section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.
