

New South Wales



ANNO QUARTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 32, 1965.

An Act to make provision for and with respect to the mode of trial of certain classes of civil actions; to amend the common law doctrine of contributory negligence; to make further provision for and with respect to the payment or the provision of security for payment of moneys into court in civil actions; to confer on the Supreme Court a special jurisdiction exercisable as an extension of its equitable jurisdiction, to make general declarations of right; to enable the Supreme Court in its Commercial Causes jurisdiction to make declarations of right in addition to or in substitution for verdicts and judgments; to enable the Court of Appeal, in special circumstances, to substitute its assessment for the verdict of a jury; to extend the procedure relating

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relating to minor traffic offences; to make amendments of a procedural or administrative nature to various Acts; for these and other purposes to amend the Common Law Procedure Act, 1899-1962, the District Courts Act, 1912-1965, the Equity Act, 1901-1965, the Motor Traffic Act, 1909, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 20th December, 1965.]

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:—

PART I.**PRELIMINARY.**

Short title
and citation.

1. (1) This Act may be cited as the "Law Reform (Miscellaneous Provisions) Act, 1965".

(2) The Acts, as amended by subsequent Acts and by this Act, specified in the first and second columns of the Schedule to this Act may be cited as respectively specified in the third column of that Schedule.

Commence-
ment.

2. (1) This Part of this Act shall commence on the day upon which the assent of Her Majesty to this Act is signified.

(2) Subject to subsection one of this section this Act shall commence upon such date or dates as may be appointed and notified pursuant to subsection three of this section.

(3) The Governor may, from time to time, appoint and notify by proclamation published in the Gazette the date upon which any Part or provision of this Act specified in the proclamation shall commence and may appoint different dates
for

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for different Parts or provisions (whether contained in the same Part or section or in different Parts or sections) and the Part or provision so specified shall commence accordingly.

3. This Act is divided into Parts as follows :—

Division
into Parts.

PART I.—PRELIMINARY—ss. 1-3.

PART II.—HEARING AND DETERMINATION OF CIVIL ACTIONS—ss. 4-6.

PART III.—AMENDMENT OF DOCTRINE OF CONTRIBUTORY NEGLIGENCE—ss. 7-10.

PART IV.—PAYMENT INTO COURT—ss. 11-14.

PART V.—DECLARATORY ORDERS—ss. 15, 16.

PART VI.—POWER TO ENTER SUBSTITUTED VERDICT—s. 17.

PART VII.—INTEREST ON VERDICT AND ON COSTS—ss. 18, 19.

PART VIII.—AMENDMENT OF DISTRICT COURTS ACT, 1912-1965—s. 20.

PART IX.—AMENDMENT OF SMALL DEBTS RECOVERY ACT, 1912-1961—s. 21.

PART X.—APPEALS FROM JUSTICES—s. 22.

PART XI.—AMENDMENT OF VARIOUS ACTS—ss. 23-27.

PART II.

HEARING AND DETERMINATION OF CIVIL ACTIONS.

4. (1) This Part shall apply to any action in the Supreme Court instituted after the commencement of this Act in which issues of fact are to be tried or damages or sums of money recoverable are to be assessed where—

(a) the action is for damages—

(i) in respect of the death of or bodily injury to any person caused by or arising out of the use of a motor vehicle; or

(ii)

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- (ii) in respect of damage to property caused by or arising out of the use of a motor vehicle; or
 - (iii) in respect of any other matter in which the liability incurred was caused by or arose out of the use of a motor vehicle;
- (b) contribution is claimed under Part III of the Law Reform (Miscellaneous Provisions) Act, 1946, in respect of damages of the nature referred to in paragraph (a) of this subsection.

(2) This Part shall be read and construed with the Motor Vehicles (Third Party Insurance) Act, 1942-1963.

Amendment
of procedure
as to trials
by jury.

5. (1) In any action to which this Part applies any or either party may at any time not later than twenty-one days after the action has been set down for trial, or within such further period as the Court may allow, require that the action be tried with a jury and thereupon the action shall be so tried; but save as aforesaid any action to which this Part applies shall, notwithstanding section 29 of the Jury Act, 1912-1965, be tried by a judge without a jury.

(2) A party so requiring a jury shall within the time limited by subsection one of this section file and serve a notice to that effect upon the other party or parties.

(3) Where any action in the Supreme Court is, by force of this section, to be tried by a judge without a jury the following provisions shall have effect : —

- (a) The verdict or finding of the judge shall be of the like force and effect as the verdict or finding of a jury.
- (b) Nothing in this subsection shall authorise judgment to be signed on the verdict or finding, but judgment may be directed to be entered as provided in this section, and the entry shall have the like force and effect in all respects as the signing of judgment.
- (c) The judge may, either at or after the trial, direct that judgment be entered for any or either party.
- (d)

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- (d) The judge may adjourn the case for further consideration or may leave any party to move the Court of Appeal for judgment, or may refer the case to the Court of Appeal for its determination.

The Court of Appeal shall have jurisdiction to direct judgment to be entered for any or either party.

- (e) Any party may appeal to the Court of Appeal against any judgment so directed by the judge to be entered.

- (f) The appeal shall be by way of rehearing and on the appeal the Court of Appeal shall—

(i) have all the powers and duties of the judge as to amendment or otherwise, including the power to make findings of fact and to assess damages or compensation;

(ii) have full discretionary power to receive further evidence upon questions of fact; such evidence to be taken either by oral evidence in court, by affidavit, or by deposition taken before a commissioner or examiner, and to be admitted on special grounds only and not without special leave of the Court of Appeal.

- (g) The Court of Appeal may direct the appeal to stand over for further consideration, and direct such issues or questions to be tried or determined or the amount of any damages or compensation to be assessed by a judge either with or without a jury as it may think fit.

- (h) The Court of Appeal may on the appeal give any judgment and make any order which ought to have been given or made in the first instance, and may make such further or other order as the case requires, and in particular may make

(a) any order which it might make under section seven of the Supreme Court Procedure Act, 1900-1965;

(b)

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- (b) such order as to the whole or any part of the costs of the appeal or of the cause or matter as may be just.
- (i) The powers conferred by this section may be exercised by the Court of Appeal notwithstanding that the notice of appeal is that part only of the judgment may be reversed or varied, and such powers may be exercised in favour of all or any of the respondents or parties, although such respondents or parties have not appealed from or complained of the judgment.
- (j) Where the judge leaves any party to move the Court of Appeal for judgment, or refers the case to the Court of Appeal for its determination, the powers conferred on the Court of Appeal by paragraphs (f) and (g) of this subsection shall extend to the motion or reference.
- (k) Every application for a new trial or to set aside a verdict finding or judgment, or to have a nonsuit or verdict entered, in any case where any action issue or question has been tried before a judge without a jury, shall be made by appeal to the Court of Appeal and not otherwise.

Third party
proceedings
and contri-
bution.

6. (1) Where, in any action to which this Part applies, a third party notice has been served under the Law Reform (Miscellaneous Provisions) Act, 1946, the provisions of section five of this Act shall extend to the hearing and determination of issues in the third party proceedings.

(2) Where, in any action to which this Part applies, proceedings are instituted for contribution under the Law Reform (Miscellaneous Provisions) Act, 1946, the provisions of section five of this Act shall extend to the hearing and determination of issues in those proceedings.

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PART III.

AMENDMENT OF DOCTRINE OF CONTRIBUTORY NEGLIGENCE.

7. Nothing in this Part shall apply to any action for ^{Saving.} damages founded upon a breach of statutory duty imposed on a defendant. Nothing in this Part shall affect the provisions and operation of the Statutory Duties (Contributory Negligence) Act, 1945.

8. This Part shall not apply to any case in which the acts ^{Application} or omissions giving rise to the claim occurred before the ^{of Part.} commencement of this Part.

9. In this Part, unless the context or subject matter other- ^{Definitions.} wise indicates or requires—

“Court” means in relation to any claim the court by or before whom the claim falls to be determined.

“Damage” includes loss of life and personal injury.

“Fault” means negligence, or other act or omission which gives rise to a liability in tort or would, apart from this Part, give rise to the defence of contributory negligence but does not mean or include a breach of statutory duty.

10. (1) Where any person suffers damage as the result partly of his own fault and partly of the fault of any other person or persons, a claim in respect of that damage shall not be defeated by reason of the fault of the person suffering the damage, but the damages recoverable in respect thereof shall be reduced to such extent as the court thinks just and equitable having regard to the claimant's share in the responsibility for the damage : ^{Apportionment of liability in case of contributory negligence. 8 & 9 Geo. VI c. 28. s. 1.}

Provided that—

- (a) this subsection shall not operate to defeat any defence arising under a contract;
- (b) where any contract or enactment providing for the limitation of liability is applicable to the claim, the amount of damages recoverable by the claimant by virtue of this subsection shall not exceed the maximum limit so applicable;

(c)

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- (c) where any payments made to the claimant by way of compensation take effect pursuant to section 63 (5) of the Workers' Compensation Act, 1926-1965, as a satisfaction of the judgment obtained by him against his employer, such payments shall be reduced to the same extent as the damages recoverable by him and shall be a satisfaction of the judgment to such reduced extent only;
- (d) where the claimant is liable to repay compensation to his employer pursuant to section 64 (a) of the Workers' Compensation Act, 1926-1965, the amount of compensation so repayable shall be reduced to the same extent as the damages recoverable by him;
- (e) where the cost of any medical or hospital treatment or ambulance service for which the claimant's employer incurs liability under section 10 of the Workers' Compensation Act, 1926-1965, remains unpaid at the time the claimant recovers damages the claimant's liability in respect of such cost shall as between himself and his employer be reduced to the same extent as his damages and his employer shall notwithstanding the recovery of damages and the provisions of section 64 (a) of the Workers' Compensation Act, 1926-1965, remain liable to pay to him the balance of such cost under section 10 of the said Act.

(2) Where damages are recoverable by any person by virtue of the foregoing subsection subject to such reduction as is therein mentioned, the court shall find and record the total damages which would have been recoverable if the claimant had not been at fault.

(3) Section five of the Law Reform (Miscellaneous Provisions) Act, 1946, shall apply in any case where two or more persons are liable or would, if they had all been sued, be liable by virtue of subsection one of this section in respect of the damage suffered by any person.

(4)

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(4) No action for damages for the benefit of dependants of a deceased person under the Compensation to Relatives Act, 1897-1953, shall be defeated by the fault or breach of statutory duty of the deceased person nor shall the damages recoverable in such action be reduced by reason of such fault or of such breach of statutory duty.

(5) Where, in any case to which subsection one of this section applies, one of the persons at fault avoids liability to any other such person or his personal representative by pleading the Statute of Limitations, or any other enactment limiting the time within which proceedings may be taken, he shall not be entitled to recover any damages or contributions from that other person or representative by virtue of the said subsection.

(6) Where any case to which subsection one of this section applies is tried—

- (a) by a judge sitting without a jury the judge shall make the apportionment under subsection one of this section; or
- (b) by a judge sitting with a jury, the jury shall determine the total damages which would have been recoverable if the claimant had not been at fault and the extent to which those damages are to be reduced.

PART IV.

PAYMENT INTO COURT.

11. The Motor Vehicles (Third Party Insurance) Act, 1942-1963, is amended by omitting section 38A.

Amendment
of Act No.
15, 1942.
Sec. 38A.
(Payment
into court
excluded in
certain
cases.)

12. The Common Law Procedure Act, 1899-1962, is amended—

Amendment
of Act No.
21, 1899.

- (a) by inserting in subsection one of section eighty after the words "pay into Court" the words "or deposit in the Court a bond or undertaking in the prescribed form securing payment of";
- (b)

Sec. 80.
(Payment
into
Court.)

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Sec. 82.
(No order
to pay
money into
Court.)

- (b) (i) by inserting in subsection one of section eighty-two after the words "order to pay" the words "or to deposit a bond or undertaking securing payment of";
- (ii) by inserting in the same subsection after the words "paid to" the words "or the bond or undertaking deposited with";

New sec.
82A.

- (c) by inserting next after section eighty-two the following new section :—

Payment
into Court
at any time
before
joinder of
issue.

82A. (1) Money may be paid into Court or a bond or undertaking securing the payment of money into Court may be deposited, with an appropriate plea at any time before the joinder of issue.

(2) This section applies whether the money is paid in or secured under the provisions of this Act or pursuant to rules of Court, and applies whether or not the payment or deposit is made with or without denial of liability.

Sec. 83.
(Proceed-
ings by
plaintiff
after pay-
ment into
Court.)

- (d) (i) by inserting in section eighty-three after the word "payment" the words "or of deposit of a bond or undertaking securing payment";
- (ii) by inserting in paragraph (a) of the same section after the words "so paid into Court" the words "or so secured";
- (iii) by inserting in the same paragraph after the words "paid in" the words "or secured";
- (iv) by inserting in paragraph (b) of the same section after the words "sum paid into Court" the words "or secured";

New sec.
83A.

- (e) by inserting next after section eighty-three the following new section :—

Bond.

83A. (1) The bond or undertaking referred to in sections eighty, eighty-two, 82A and eighty-three of this Act shall be a bond or undertaking given by an insurance company which is a licensed insurer under the Workers' Compensation Act, 1926-1965, or an authorised insurer under the Motor Vehicles (Third Party Insurance) Act, 1942-1963.

(2)

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(2) (a) Where the plaintiff accepts the sum secured by any such bond or undertaking the person giving the bond or undertaking shall, within seven days after notice of acceptance pay the sum secured to the proper officer of the Court.

(b) If he fails to do so he shall not be entitled to any advantage by reason of his deposit in the court of the undertaking, and the plaintiff may either withdraw his acceptance or apply to the court for an order directing payment to him of the amount stated in the bond.

cf. Rules of
Sup. Court.
(Vict.)
Ord. 22
R. 1 (5).

In any case where the deposit was made by one or more defendants in proceedings under Part III of the Law Reform (Miscellaneous Provisions) Act, 1946, the Court may make such order subject to such conditions as it may think just.

(c) Any order for the payment of money made under the authority of paragraph (b) of this subsection shall have the effect of a judgment at law and the plaintiff may have execution thereon for the money payable, and shall be entitled to all the remedies given to judgment creditors by the Judgment Creditors' Remedies Act, 1901-1957.

13. The District Courts Act, 1912-1965, is amended—
- (a) (i) by omitting from subsection one of section seventy-two the words "within the prescribed time" and by inserting in lieu thereof the words "at least five clear days before the return day";
- (ii) by inserting in subsection one of the same section after the word "court" the words "or deposit with the court a bond or undertaking in the prescribed form securing payment of";
- (iii) by inserting in subsection two of the same section after the word "payment" the words "or deposit";
- (iv)

Amendment
of Act No.
23, 1912.
Sec. 72.
(Payment
into court of
money by
defendant.)

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- (iv) by inserting in subsection three of the same section after the word "payment" the words "or deposit";
- (v) by inserting in subsection four of the same section after the words "paid in" the words "or secured";
- (vi) by inserting in subsection five of the same section after the words "paid into court" the words "or secured";
- (vii) by inserting in the same subsection after the words "payment into court" the words "or, as the case may be, the deposit of such bond or undertaking";

New sec.
72A.

- (b) by inserting next after section seventy-two the following new section:—

Bond.

72A. (1) The bond or undertaking referred to in section seventy-two of this Act shall be a bond given by an insurance company which is a licensed insurer under the Workers' Compensation Act, 1926-1965, or an authorised insurer under the Motor Vehicles (Third Party Insurance) Act, 1942-1963.

(2) (a) Where the plaintiff elects to accept the sum secured by any such bond or undertaking the person giving the bond or undertaking shall, within seven days after notice of acceptance pay the sum secured to the proper officer of the court.

(b) If he fails to do so he shall not be entitled to any advantage by reason of his deposit in the court of the undertaking, and the plaintiff may either withdraw his acceptance or apply to the court for an order directing payment to him of the amount stated in the bond.

In any case where the deposit was made by one or more defendants in proceedings under Part III of the Law Reform (Miscellaneous Provisions) Act, 1946, the court may make such order subject to such conditions as it may think just.

(c)

cf. Rules of
Sup. Court.
(Vict.)
Ord. 22 R. 1
(5).

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(c) Any order for the payment of money made under the authority of paragraph (b) of this subsection shall have the effect of a judgment at law and the plaintiff may have execution thereon for the money payable, and shall be entitled to all the remedies given to judgment creditors by the Judgment Creditors' Remedies Act, 1901-1957.

14. The rules of court of the Supreme Court or of a District Court in force at the commencement of this Part with respect to the payment of moneys into court whether with or without denial of liability, shall extend, mutatis mutandis, to the deposit of a bond or undertaking securing payment into court of moneys, but may be amended or replaced by rules made after the commencement of this Part.

Existing
rules of court
extended.

PART V.

DECLARATORY ORDERS.

15. The Equity Act, 1901-1965, is amended—

Amendment
of Act No.
24, 1901.

- (a) by inserting at the end of the last definition in section three the words "and also includes the jurisdiction conferred by section ten of this Act"; Sec. 3.
(Interpre-
tation.)
- (b) by inserting in subsection one of section four after the word "including" the words "the jurisdiction conferred by section ten of this Act and including also"; Sec. 4.
(Appoint-
ment and
powers of
the Chief
Judge in
Equity.)
- (c) by inserting in section eight after the word "relief" the words "or for purposes relevant to the exercise of the jurisdiction conferred by section ten of this Act"; Sec. 8.
(Power to
decide legal
titles, &c.)
- (d) by omitting section ten and by inserting in lieu thereof the following new section : — Subst. sec.
10.

10. (1) In addition to the jurisdiction which is otherwise vested in it, the Court shall have jurisdiction to make binding declarations of right whether

Declarations
of right.

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whether or not any consequential relief is or could be claimed, and whether or not the suit in which the declaration is sought is a suit for equitable relief or a suit which relates to equitable rights or titles.

No suit shall be open to objection on the ground that a merely declaratory decree is sought thereby.

(2) Without limiting the generality of the jurisdiction conferred by subsection one of this section, the Court may by decree or order declare—

- (a) the nature, quality and extent of the estates, interests, powers, rights, liabilities or duties of any persons in respect of any real or personal property or arising under any disposition of any real or personal property including any sale, conveyance, transfer, assignment, mortgage, charge, encumbrance, debenture, pledge, lease, bailment, or hiring or arising under any agreement or option for or relating to any such disposition as aforesaid;
- (b) the interests, powers, rights and liabilities or duties of any persons arising under—
 - (i) any partnership or partnership agreement;
 - (ii) the memorandum or articles of association or other constitution of any company or other corporation;
 - (iii) the rules, by-laws or other constitution of any unincorporated association;
 - (iv) any agreement relating to any patent, trade mark, trade name, copyright or industrial design;
 - (v) any agreement for or relating to any guarantee or indemnity;
 - (vi) generally any contract or agreement whether of the same or a different class;
 - (vii)

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- (vii) any Act or any ordinance, rule, regulation or other instrument having effect under any Act or by reason of any executive, ministerial or administrative act done or purporting to be done in pursuance of any Act or of any such ordinance, rule, regulation or other instrument.

(3) A suit for a declaration of right may be commenced either by statement of claim or in a summary manner by originating summons under the Fourth Schedule to this Act.

- (e) (i) by inserting in paragraph (c) of section thirty after the word "served" the words "or the declaration of right sought"; Sec. 30.
(Service out of the jurisdiction.)
- (ii) by inserting in the same section next after paragraph (e) the following new paragraphs :—
 - (e1) the suit or proceeding is for a declaration of right affecting any person domiciled or any property situated within the jurisdiction; or
 - (e2) the suit or proceeding is for a declaration as to the interests, powers, rights and liabilities or duties of any persons or class of persons of whom the person to be served is one, arising under any Act or any ordinance, rule, regulation or other instrument having effect under any Act or by reason of any executive, ministerial or administrative act done or purporting to be done in pursuance of any Act or of any such ordinance, rule, regulation or other instrument; or.

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Amendment
of Act No.
19, 1903.

New secs. 7A
and 7B.

Power to
make
declaratory
order.

Commercial
disputes.

16. The Commercial Causes Act, 1903-1965, is amended by inserting next after section seven the following new sections :—

7A. The Judge by or before whom any commercial cause is tried may in addition to or in substitution for any verdict or judgment for debt or damages or for the return of goods make such binding declaration of right with respect to the subject matter of the cause as to him may seem appropriate.

7B. (1) Where a commercial dispute has arisen concerning the construction of a document or its application to any facts, any party to the dispute may apply to a Judge in chambers for the determination of the questions involved in such dispute notwithstanding that no commercial cause has been commenced.

(2) A commercial dispute is a dispute which would be a commercial cause if made the subject of an action at common law.

(3) An application under this section may be made in a summary manner by summons returnable on two days' notice supported by an affidavit annexing the document and deposing to any relevant facts.

(4) Where it is necessary in the determination of a commercial dispute to decide any question of fact the Judge shall settle the issues for trial and give any consequential directions necessary for the determination of such issues in a convenient and expeditious manner.

(5) A determination of any issue of fact or of any question of law pursuant to this section shall be binding on all parties to the summons in the same manner as if the issue or question had been determined in a commercial cause.

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PART VI.

POWER TO ENTER SUBSTITUTED VERDICT.

17. The Common Law Procedure Act, 1899-1962, is further amended by inserting next after section one hundred and sixty the following new section :—

Amendment
of Act No.
21, 1899.

New sec.
160A.

160A. (1) This section applies to an application to the Court of Appeal for a new trial or to set aside a verdict finding or judgment after trial with a jury.

Substituted
verdict.

(2) For the purposes of this section the Court of Appeal shall have full power and jurisdiction to make findings of fact and to assess damages or compensation.

(3) The powers conferred by this section shall be exercisable only where on such application the Court of Appeal would, but for this section, have set aside the verdict finding or judgment and ordered a new trial on the issue of damages.

(4) The Court of Appeal shall not exercise the powers conferred by this section unless the parties consent and it is satisfied that it is fully able to assess the damages on a perusal of the evidence contained in the documents before it, or on admitted facts, without seeing or hearing the plaintiff or defendant or other witnesses.

(5) The powers conferred by this section may also be exercised in appeals from any District Court whether the court giving the decision appealed from was constituted by a judge and jury or a judge sitting alone.

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PART VII.

INTEREST ON VERDICT AND ON COSTS.

Amendment
of Act No.
21, 1899.
New sec.
143A.

18. The Common Law Procedure Act, 1899-1962, is further amended by inserting next after section one hundred and forty-three the following new section : —

Interest on
verdict and
costs.

143A. Notwithstanding anything in sections one hundred and forty-two and one hundred and forty-three—

- (a) interest shall not be payable on the amount of the verdict if such amount is paid to or at the direction of the plaintiff within twenty-one days after the date of verdict;
- (b) interest shall not be payable on costs payable to the plaintiff if the amount of such costs is paid within twenty-one days after assessment or after taxation.

Amendment
of Act No.
23, 1912.
New sec.
101B.

19. The District Courts Act, 1912-1965, is amended by inserting next after section 101A the following new section : —

Interest on
verdict and
costs.

101B. Notwithstanding anything in section 101A of this Act—

- (a) interest shall not be payable on any judgment debt if the amount of such judgment debt is paid to or at the direction of the plaintiff within twenty-one days after the judgment or verdict was given or, as the case may be, the judgment was entered;
- (b) interest shall not be payable on costs payable to the plaintiff if the amount of such costs is paid within twenty-one days after assessment or after taxation.

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PART VIII.

AMENDMENT OF DISTRICT COURTS ACT, 1912-1965.

20. The District Courts Act, 1912-1965, is further amended—

Amendment
of Act No.
23, 1912.

(a) by omitting from subsection one of section eighty-two the words "upon an affidavit by such party, or his attorney, of his belief that any document to the production of which he is entitled for the purpose of discovery or otherwise, is in the possession or power of the opposite party";

Sec. 82.
(Discovery
of
documents.)

(b) by omitting from subsection two of section eighty-six the words "The judge at any time during the sitting of the court at which an action has been so struck out may" and by inserting in lieu thereof the words "Where an action has been so struck out the judge may, upon application made in that behalf";

Sec. 86.
(Case
struck out.)

(c) by inserting at the end of section ninety-two the following new subsection:—

Sec. 92.
(Number
of jurors.)

(2) To remove doubts it is hereby declared that section 30A of the Jury Act, 1912-1965, applies to and in respect of any cause or issue for trial by jury in any District Court.

(d) by inserting next after section ninety-five the following new section:—

New
sec. 95A.

95A. Where at a trial of any cause or issue in a District Court a verdict is returned for or the total amount which would have been recoverable if the claimant had not been at fault is found at an amount in excess of three thousand pounds but not exceeding five thousand pounds the Court shall find and record the amount of such verdict or, as the case may be, such total amount and the plaintiff shall be entitled to recover the full amount of such verdict, or as the case may be, of such total

Amount of
verdict
exceeding
three
thousand
pounds.

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total amount reduced in accordance with section ten of the Law Reform (Miscellaneous Provisions) Act, 1965, notwithstanding that the amount claimed does not exceed three thousand pounds.

Sec. 127.
(Interpre-
tation.)

- (e) by omitting from subsection three of section one hundred and twenty-seven the words "supported by an affidavit showing" and by inserting in lieu thereof the words "shown by affidavit or otherwise".

PART IX.

AMENDMENT OF SMALL DEBTS RECOVERY ACT, 1912-1961.

Amendment
of Act No.
33, 1912.

21. The Small Debts Recovery Act, 1912-1961, is amended—

New sec.
35A.

- (a) by inserting next after section thirty-five the following new section :—

Confession
of debt
subject to
conditions.

35A. (1) In any action in which a default summons has been issued the defendant may sign a statement confessing the amount of the debt or demand for which the plaint has been issued, conditionally upon the granting of an application accompanying such statement of confession that if and when judgment is entered consequent upon such statement of confession a direction be given that the amount of the judgment be paid at such times and by such instalments as are offered in such application.

(2) Any such statement and application shall be signed in the presence of the registrar of the court in which the plaint was issued or of an attorney or a justice of the peace.

(3) (a) Every such application shall be supported by an affidavit in the prescribed form.

(b) Proof shall be furnished by affidavit of the signature of the person signing such statement of confession.

(4)

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(4) The registrar shall receive such statement of confession and application, and shall, as soon as convenient thereafter send notice of the same to the plaintiff.

(5) (a) If within five days of notice of the statement of confession and of the application having been sent to him by the registrar the plaintiff does not inform the registrar that he opposes the application the registrar shall enter judgment for the amount of the debt or demand for which the plaint was issued and shall give a direction for payment at such times and by such instalments as were offered in the application.

(b) If within five days of such notice having been given the plaintiff informs the registrar that he opposes the application the registrar shall inform the defendant accordingly, and in such event the statement of confession shall not be available in evidence and the time for filing notice of grounds of defence shall commence to run as from the time the defendant is so informed.

(6) Where action is taken under this section the provisions of sections thirty-four and thirty-five of this Act shall not apply.

(7) The giving of a direction under this section shall not affect the right of the judgment debtor to make an application under section forty-two of this Act, and, in the event of any such application being made, that section shall have effect in all respects as if no action had been taken under this section.

- (b) by inserting in subsection one of section forty-three after the words "entered up" the words "or of his solicitor or agent shown on the record".

Sec. 43.
(Execution
of process.)

Law Reform (Miscellaneous Provisions).

PART X.

APPEALS FROM JUSTICES.

Amendment
of Act No.
27, 1902.

22. The Justices Act, 1902-1958, is amended—

Sec. 104.
(When case
refused
Supreme
Court
may direct
case to be
stated.)

- (a) (i) by inserting in subsection one of section one hundred and four after the words “apply to” the words “a Judge of”;
- (ii) by omitting from subsection two of the same section the word “Court” and by inserting in lieu thereof the word “Judge”;

Sec. 106.
(Powers of
Court in
dealing with
cases so
stated.)

- (b) by omitting subsection three of section one hundred and six.

Sec. 107.
(Powers of
Court may
be exercised
by Judge in
Chambers.)

- (c) by omitting subsection one of section one hundred and seven and by inserting in lieu thereof the following subsection :—

(1) The authority and jurisdiction vested in the Supreme Court by section one hundred and six of this Act may be exercised by a Judge of the said Court sitting in Chambers.

New sec.
107A.

- (d) by inserting next after section one hundred and seven the following new section :—

Appeal to
Court of
Appeal.

107A. (1) Any person aggrieved by any decision or determination of a Judge made pursuant to sections one hundred and six and one hundred and seven of this Act may appeal therefrom to the Court of Appeal by leave of the Court of Appeal.

(2) Any such appeal shall be in accordance with rules of court of the Court of Appeal made under section 21K of the Supreme Court and Circuit Courts Act, 1900-1965.

(e)

Law Reform (Miscellaneous Provisions).

- (e) by inserting in section one hundred and eight after the words "Supreme Court" the words "or by the Court of Appeal on appeal thereto"; Sec. 108.
(After decision of Court Justices to enforce conviction or order.)
- (f) by omitting from section one hundred and nine the words "said Court" and by inserting in lieu thereof the words "Supreme Court or of the Court of Appeal on appeal thereto"; Sec. 109.
(Certiorari not requisite when case stated.)
- (g) by omitting subsections four and five of section one hundred and twelve and by inserting in lieu thereof the following subsection : — Sec. 112.
(Any person aggrieved by conviction or order may apply for prohibition.)
- (4) Any application under this section may be heard and determined by a Judge of the Supreme Court in Chambers.
- (h) by omitting section one hundred and fourteen and by inserting in lieu thereof the following section : — Subst. sec. 114.
114. Any rule or order granted or made under section one hundred and twelve of this Act shall be made returnable before a Judge of the Supreme Court in Chambers. Before whom rule to be returnable.
- (i) by omitting from section one hundred and fifteen the words "Court or" wherever occurring; Sec. 115.
(Powers of Court or Judge.)
- (j) (i) by omitting subsection one of section one hundred and sixteen and by inserting in lieu thereof the following subsection : — Sec. 116.
(Certain rules and writs made by Judge may be reviewed by Court.)
- (1) (a) Any person aggrieved by any decision or determination of a Judge made pursuant to sections one hundred and fourteen and one hundred and fifteen of this Act may appeal therefrom to the Court of Appeal by leave of the Court of Appeal.

(b)

Law Reform (Miscellaneous Provisions).

(b) Any such appeal shall be in accordance with rules of court of the Court of Appeal made under section 21K of the Supreme Court and Circuit Courts Act, 1900-1965.

(ii) by omitting from subsection two of the same section the word "Court" and by inserting in lieu thereof the words "Court of Appeal";

Sec. 117.
(Costs.)

(k) by omitting from section one hundred and seventeen the words "Court or Judge" and by inserting in lieu thereof the words "Judge or of the Court of Appeal in respect of any matter coming before it on appeal or reference".

PART XI.

AMENDMENT OF VARIOUS ACTS.

Amendment
of Act No.
35, 1900.
Subst., sec.
20.

23. The Supreme Court and Circuit Courts Act, 1900-1965, is amended by omitting section twenty and by inserting in lieu thereof the following section : —

Exercise of
powers by
single Judge
or Judge
of Appeal
in certain
cases.

20. (1) Applications for a rule or order nisi for prohibition, mandamus or certiorari or for an order for the issue of a writ of habeas corpus may be heard and disposed of by a Judge, whether during term or in vacation.

(2) Applications to the Court of Appeal to make absolute a rule or order nisi for prohibition, mandamus or certiorari or to make absolute an order for the issue of a writ of habeas corpus may, in vacation, be heard and disposed of by a Judge of Appeal.

(3) Any person aggrieved by any decision of a Judge under subsection one of this section or of a Judge of Appeal under subsection two of this section may appeal therefrom to the Court of Appeal. Any such appeal shall be in accordance with rules of court of the Court of Appeal made under section 21K of this Act.

Law Reform (Miscellaneous Provisions).

24. The Common Law Procedure Act, 1899-1962, is further amended by adding at the end of section two hundred and sixty-five the following proviso :—

Amendment
of Act No.
21, 1899.
Sec. 265.

Provided that where a plaintiff obtains a verdict against one or more defendants in an action but fails to obtain a verdict against another defendant or other defendants in the said action then such plaintiff may be awarded against the unsuccessful defendant or defendants the costs of the successful defendant or defendants which are awarded against the plaintiff.

25. The Supreme Court Procedure Act, 1900-1965, is further amended by omitting subsection five of section five.

Amendment
of Act No.
49, 1900.
Sec. 5.
(Finding of
judge to be
finding of
jury.)

26. The Jury Act, 1912-1965, is further amended by omitting from section thirty the words "either the plaintiff or the defendant in any" and by inserting in lieu thereof the words "any party to an".

Amendment
of Act No.
31, 1912.
Sec. 30.
(Juries of
twelve.)

27. The Motor Traffic Act, 1909, as amended by subsequent Acts, is amended by inserting next after section 18B the following new section :—

Amendment
of Act No.
5, 1909.

18C. (1) Where—

- (a) the matter of an information for an offence referred to in subsection one of section 18B of this Act has been substantiated by the oath of the informant;
- (b) a summons for the appearance of the defendant has been served on him in the manner provided by the Justices Act, 1902, as amended by subsequent Acts; and

Ex parte
procedure
for offences
referred to
in section
18B.

(c)

Law Reform (Miscellaneous Provisions).

(c) the defendant does not appear at the time and place fixed for the hearing of the information, the court before which the information comes for hearing may if it is satisfied that—

(d) the facts as alleged in the summons constitute such an offence and reasonably sufficient particulars thereof are set out in the summons, make an order imposing on the defendant a penalty to be paid within such time as may be specified in the order, and may, if it thinks fit, make an order under section eighty-one of the Justices Act, 1902, as amended by subsequent Acts, for the payment by the defendant of costs.

(2) The provisions of section 556A of the Crimes Act, 1900, as amended by subsequent Acts, apply to any proceedings under subsection one of this section as if the defendant had been charged before the court with the offence referred to in the information.

(3) A penalty imposed by an order under subsection one of this section shall not exceed the amount of the penalty specified in the Act or regulation creating the offence in respect of which the penalty is so imposed.

(4) In determining the amount of the penalty to be imposed by an order under subsection one of this section, the court may take into account any report made to it by or on behalf of the informant with respect to the penalties or previous convictions under this Act of the defendant and to the circumstances of the offence and any information that the defendant causes to be brought to the notice of the court.

(5) An order under subsection one of this section shall, for the purposes of section eighty-two and Part V of the Justices Act, 1902, as amended by subsequent Acts, be deemed to be an order under that Act, as so amended.

(6)

Law Reform (Miscellaneous Provisions).

(6) Section seventy-five of the Justices Act, 1902, as amended by subsequent Acts, does not apply in any case where an information is dealt with under subsection one of this section.

(7) A reference in subsection one of this section to the time and place fixed for the hearing of an information shall, where the hearing of the information has been adjourned and notice of the time and place to which the hearing has been adjourned has been given to the defendant or sent to him at his last known place of abode or business, include a reference to the time and place specified in that notice.

(8) Section fifteen of the Justices Act, 1902, as amended by subsequent Acts, shall be construed as if this section formed part of that Act, as so amended.

(9) The jurisdiction of a court under this section shall not be exercised except by a stipendiary magistrate.

(10) The provisions of this section are supplemental to and not in derogation of the provisions of any Act in relation to proceedings that may be taken in respect of offences referred to in subsection one of section 18B of this Act.

Law Reform (Miscellaneous Provisions).

Sec. 1.

SCHEDULE.

Reference to Act.	Short title.	Citation.
No. 21, 1899.	Common Law Procedure Act, 1899.	Common Law Procedure Act, 1899-1965.
No. 35, 1900.	Supreme Court and Circuit Courts Act, 1900	Supreme Court and Circuit Courts Act, 1900-1965.
No. 49, 1900.	Supreme Court Procedure Act, 1900.	Supreme Court Procedure Act, 1900-1965.
No. 24, 1901.	Equity Act, 1901 ..	Equity Act, 1901-1965.
No. 27, 1902.	Justices Act, 1902 ..	Justices Act, 1902-1965.
No. 19, 1903.	Commercial Causes Act, 1903.	Commercial Causes Act, 1903-1965.
No. 5, 1909	Motor Traffic Act, 1909..	Motor Traffic Act, 1909-1965.
No. 23, 1912.	District Courts Act, 1912	District Courts Act, 1912-1965.
No. 31, 1912.	Jury Act, 1912	Jury Act, 1912-1965.
No. 33, 1912.	Small Debts Recovery Act, 1912.	Small Debts Recovery Act, 1912-1965.
No. 15, 1926.	Workers' Compensation Act, 1926.	Workers' Compensation Act, 1926-1965.
No. 15, 1942.	Motor Vehicles (Third Party Insurance) Act, 1942.	Motor Vehicles (Third Party Insurance) Act, 1942-1965.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1966

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 9 December, 1965.*

New South Wales



ANNO QUARTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 32, 1965.

An Act to make provision for and with respect to the mode of trial of certain classes of civil actions; to amend the common law doctrine of contributory negligence; to make further provision for and with respect to the payment or the provision of security for payment of moneys into court in civil actions; to confer on the Supreme Court a special jurisdiction exercisable as an extension of its equitable jurisdiction, to make general declarations of right; to enable the Supreme Court in its Commercial Causes jurisdiction to make declarations of right in addition to or in substitution for verdicts and judgments; to enable the Court of Appeal, in special circumstances, to substitute its assessment for the verdict of a jury; to extend the procedure relating

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

G. R. CRAWFORD,
Chairman of Committees of the Legislative Assembly.

Law Reform (Miscellaneous Provisions).

relating to minor traffic offences; to make amendments of a procedural or administrative nature to various Acts; for these and other purposes to amend the Common Law Procedure Act, 1899–1962, the District Courts Act, 1912–1965, the Equity Act, 1901–1965, the Motor Traffic Act, 1909, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 20th December, 1965.]

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 :—

PART I.

PRELIMINARY.

Short title
and citation.

1. (1) This Act may be cited as the "Law Reform (Miscellaneous Provisions) Act, 1965".

(2) The Acts, as amended by subsequent Acts and by this Act, specified in the first and second columns of the Schedule to this Act may be cited as respectively specified in the third column of that Schedule.

Commence-
ment.

2. (1) This Part of this Act shall commence on the day upon which the assent of Her Majesty to this Act is signified.

(2) Subject to subsection one of this section this Act shall commence upon such date or dates as may be appointed and notified pursuant to subsection three of this section.

(3) The Governor may, from time to time, appoint and notify by proclamation published in the Gazette the date upon which any Part or provision of this Act specified in the proclamation shall commence and may appoint different dates for

Law Reform (Miscellaneous Provisions).

for different Parts or provisions (whether contained in the same Part or section or in different Parts or sections) and the Part or provision so specified shall commence accordingly.

3. This Act is divided into Parts as follows :—

Division
into Parts.

PART I.—PRELIMINARY—ss. 1-3.

PART II.—HEARING AND DETERMINATION OF CIVIL ACTIONS—ss. 4-6.

PART III.—AMENDMENT OF DOCTRINE OF CONTRIBUTORY NEGLIGENCE—ss. 7-10.

PART IV.—PAYMENT INTO COURT—ss. 11-14.

PART V.—DECLARATORY ORDERS—ss. 15, 16.

PART VI.—POWER TO ENTER SUBSTITUTED VERDICT—s. 17.

PART VII.—INTEREST ON VERDICT AND ON COSTS—ss. 18, 19.

PART VIII.—AMENDMENT OF DISTRICT COURTS ACT, 1912-1965—s. 20.

PART IX.—AMENDMENT OF SMALL DEBTS RECOVERY ACT, 1912-1961—s. 21.

PART X.—APPEALS FROM JUSTICES—s. 22.

PART XI.—AMENDMENT OF VARIOUS ACTS—ss. 23-27.

PART II.

HEARING AND DETERMINATION OF CIVIL ACTIONS.

4. (1) This Part shall apply to any action in the Supreme Court instituted after the commencement of this Act in which issues of fact are to be tried or damages or sums of money recoverable are to be assessed where—

(a) the action is for damages—

(i) in respect of the death of or bodily injury to any person caused by or arising out of the use of a motor vehicle; or

(ii)

Law Reform (Miscellaneous Provisions).

- (ii) in respect of damage to property caused by or arising out of the use of a motor vehicle; or
- (iii) in respect of any other matter in which the liability incurred was caused by or arose out of the use of a motor vehicle;

(b) contribution is claimed under Part III of the Law Reform (Miscellaneous Provisions) Act, 1946, in respect of damages of the nature referred to in paragraph (a) of this subsection.

(2) This Part shall be read and construed with the Motor Vehicles (Third Party Insurance) Act, 1942-1963.

Amendment
of procedure
as to trials
by jury.

5. (1) In any action to which this Part applies any or either party may at any time not later than twenty-one days after the action has been set down for trial, or within such further period as the Court may allow, require that the action be tried with a jury and thereupon the action shall be so tried; but save as aforesaid any action to which this Part applies shall, notwithstanding section 29 of the Jury Act, 1912-1965, be tried by a judge without a jury.

(2) A party so requiring a jury shall within the time limited by subsection one of this section file and serve a notice to that effect upon the other party or parties.

(3) Where any action in the Supreme Court is, by force of this section, to be tried by a judge without a jury the following provisions shall have effect : —

- (a) The verdict or finding of the judge shall be of the like force and effect as the verdict or finding of a jury.
- (b) Nothing in this subsection shall authorise judgment to be signed on the verdict or finding, but judgment may be directed to be entered as provided in this section, and the entry shall have the like force and effect in all respects as the signing of judgment.
- (c) The judge may, either at or after the trial, direct that judgment be entered for any or either party.
- (d)

Law Reform (Miscellaneous Provisions).

- (d) The judge may adjourn the case for further consideration or may leave any party to move the Court of Appeal for judgment, or may refer the case to the Court of Appeal for its determination.

The Court of Appeal shall have jurisdiction to direct judgment to be entered for any or either party.

- (e) Any party may appeal to the Court of Appeal against any judgment so directed by the judge to be entered.
- (f) The appeal shall be by way of rehearing and on the appeal the Court of Appeal shall—
 - (i) have all the powers and duties of the judge as to amendment or otherwise, including the power to make findings of fact and to assess damages or compensation;
 - (ii) have full discretionary power to receive further evidence upon questions of fact, such evidence to be taken either by oral evidence in court, by affidavit, or by deposition taken before a commissioner or examiner, and to be admitted on special grounds only and not without special leave of the Court of Appeal.
- (g) The Court of Appeal may direct the appeal to stand over for further consideration, and direct such issues or questions to be tried or determined or the amount of any damages or compensation to be assessed by a judge either with or without a jury as it may think fit.
- (h) The Court of Appeal may on the appeal give any judgment and make any order which ought to have been given or made in the first instance, and may make such further or other order as the case requires, and in particular may make—
 - (a) any order which it might make under section seven of the Supreme Court Procedure Act, 1900-1965;

(b)

Law Reform (Miscellaneous Provisions).

- (b) such order as to the whole or any part of the costs of the appeal or of the cause or matter as may be just.
- (i) The powers conferred by this section may be exercised by the Court of Appeal notwithstanding that the notice of appeal is that part only of the judgment may be reversed or varied, and such powers may be exercised in favour of all or any of the respondents or parties, although such respondents or parties have not appealed from or complained of the judgment.
- (j) Where the judge leaves any party to move the Court of Appeal for judgment, or refers the case to the Court of Appeal for its determination, the powers conferred on the Court of Appeal by paragraphs (f) and (g) of this subsection shall extend to the motion or reference.
- (k) Every application for a new trial or to set aside a verdict finding or judgment, or to have a nonsuit or verdict entered, in any case where any action issue or question has been tried before a judge without a jury, shall be made by appeal to the Court of Appeal and not otherwise.

**Third party
proceedings
and contri-
bution.**

6. (1) Where, in any action to which this Part applies, a third party notice has been served under the Law Reform (Miscellaneous Provisions) Act, 1946, the provisions of section five of this Act shall extend to the hearing and determination of issues in the third party proceedings.

(2) Where, in any action to which this Part applies, proceedings are instituted for contribution under the Law Reform (Miscellaneous Provisions) Act, 1946, the provisions of section five of this Act shall extend to the hearing and determination of issues in those proceedings.

PART

Law Reform (Miscellaneous Provisions).

PART III.

AMENDMENT OF DOCTRINE OF CONTRIBUTORY NEGLIGENCE.

7. Nothing in this Part shall apply to any action for Saving.
damages founded upon a breach of statutory duty imposed on
a defendant. Nothing in this Part shall affect the provisions
and operation of the Statutory Duties (Contributory Negli-
gence) Act, 1945.

8. This Part shall not apply to any case in which the acts Application
or omissions giving rise to the claim occurred before the of Part.
commencement of this Part.

9. In this Part, unless the context or subject matter other- Definitions.
wise indicates or requires—

“Court” means in relation to any claim the court by or
before whom the claim falls to be determined.

“Damage” includes loss of life and personal injury.

“Fault” means negligence, or other act or omission
which gives rise to a liability in tort or would,
apart from this Part, give rise to the defence of
contributory negligence but does not mean or
include a breach of statutory duty.

10. (1) Where any person suffers damage as the result Apportion-
partly of his own fault and partly of the fault of any other ment of
person or persons, a claim in respect of that damage shall not liability
be defeated by reason of the fault of the person suffering the in case of
damage, but the damages recoverable in respect thereof shall contributory
be reduced to such extent as the court thinks just and equit- negligence.
able having regard to the claimant's share in the responsibility 8 & 9
for the damage : Geo. VI
c. 28. s. 1.

Provided that—

- (a) this subsection shall not operate to defeat any
defence arising under a contract;
- (b) where any contract or enactment providing for the
limitation of liability is applicable to the claim, the
amount of damages recoverable by the claimant by
virtue of this subsection shall not exceed the maxi-
mum limit so applicable;

(c)

Law Reform (Miscellaneous Provisions).

- (c) where any payments made to the claimant by way of compensation take effect pursuant to section 63 (5) of the Workers' Compensation Act, 1926-1965, as a satisfaction of the judgment obtained by him against his employer, such payments shall be reduced to the same extent as the damages recoverable by him and shall be a satisfaction of the judgment to such reduced extent only;
- (d) where the claimant is liable to repay compensation to his employer pursuant to section 64 (a) of the Workers' Compensation Act, 1926-1965, the amount of compensation so repayable shall be reduced to the same extent as the damages recoverable by him;
- (e) where the cost of any medical or hospital treatment or ambulance service for which the claimant's employer incurs liability under section 10 of the Workers' Compensation Act, 1926-1965, remains unpaid at the time the claimant recovers damages the claimant's liability in respect of such cost shall as between himself and his employer be reduced to the same extent as his damages and his employer shall notwithstanding the recovery of damages and the provisions of section 64 (a) of the Workers' Compensation Act, 1926-1965, remain liable to pay to him the balance of such cost under section 10 of the said Act.

(2) Where damages are recoverable by any person by virtue of the foregoing subsection subject to such reduction as is therein mentioned, the court shall find and record the total damages which would have been recoverable if the claimant had not been at fault.

(3) Section five of the Law Reform (Miscellaneous Provisions) Act, 1946, shall apply in any case where two or more persons are liable or would, if they had all been sued, be liable by virtue of subsection one of this section in respect of the damage suffered by any person.

(4)

Law Reform (Miscellaneous Provisions).

(4) No action for damages for the benefit of dependants of a deceased person under the Compensation to Relatives Act, 1897-1953, shall be defeated by the fault or breach of statutory duty of the deceased person nor shall the damages recoverable in such action be reduced by reason of such fault or of such breach of statutory duty.

(5) Where, in any case to which subsection one of this section applies, one of the persons at fault avoids liability to any other such person or his personal representative by pleading the Statute of Limitations, or any other enactment limiting the time within which proceedings may be taken, he shall not be entitled to recover any damages or contributions from that other person or representative by virtue of the said subsection.

(6) Where any case to which subsection one of this section applies is tried—

- (a) by a judge sitting without a jury the judge shall make the apportionment under subsection one of this section; or
- (b) by a judge sitting with a jury, the jury shall determine the total damages which would have been recoverable if the claimant had not been at fault and the extent to which those damages are to be reduced.

PART IV.**PAYMENT INTO COURT.**

11. The Motor Vehicles (Third Party Insurance) Act, 1942-1963, is amended by omitting section 38A.

Amendment
of Act No.
15, 1942.
Sec. 38A.
(Payment
into court
excluded in
certain
cases.)

12. The Common Law Procedure Act, 1899-1962, is amended—

Amendment
of Act No.
21, 1899.

- (a) by inserting in subsection one of section eighty after the words "pay into Court" the words "or deposit in the Court a bond or undertaking in the prescribed form securing payment of";
- (b)

Sec. 80.
(Payment
into
Court.)

Law Reform (Miscellaneous Provisions).

Sec 82.
(No order
to pay
money into
Court.)

(b) (i) by inserting in subsection one of section eighty-two after the words "order to pay" the words "or to deposit a bond or undertaking securing payment of";

(ii) by inserting in the same subsection after the words "paid to" the words "or the bond or undertaking deposited with";

New sec.
82A.

(c) by inserting next after section eighty-two the following new section : —

Payment
into Court
at any time
before
joinder of
issue.

82A. (1) Money may be paid into Court or a bond or undertaking securing the payment of money into Court may be deposited, with an appropriate plea at any time before the joinder of issue.

(2) This section applies whether the money is paid in or secured under the provisions of this Act or pursuant to rules of Court, and applies whether or not the payment or deposit is made with or without denial of liability.

Sec. 83.
(Proceed-
ings by
plaintiff
after pay-
ment into
Court.)

(d) (i) by inserting in section eighty-three after the word "payment" the words "or of deposit of a bond or undertaking securing payment";

(ii) by inserting in paragraph (a) of the same section after the words "so paid into Court" the words "or so secured";

(iii) by inserting in the same paragraph after the words "paid in" the words "or secured";

(iv) by inserting in paragraph (b) of the same section after the words "sum paid into Court" the words "or secured";

New sec.
83A.

(e) by inserting next after section eighty-three the following new section : —

Bond.

83A. (1) The bond or undertaking referred to in sections eighty, eighty-two, 82A and eighty-three of this Act shall be a bond or undertaking given by an insurance company which is a licensed insurer under the Workers' Compensation Act, 1926-1965, or an authorised insurer under the Motor Vehicles (Third Party Insurance) Act, 1942-1963.

(2)

Law Reform (Miscellaneous Provisions).

(2) (a) Where the plaintiff accepts the sum secured by any such bond or undertaking the person giving the bond or undertaking shall, within seven days after notice of acceptance pay the sum secured to the proper officer of the Court.

(b) If he fails to do so he shall not be entitled to any advantage by reason of his deposit in the court of the undertaking, and the plaintiff may either withdraw his acceptance or apply to the court for an order directing payment to him of the amount stated in the bond. cf. Rules of Sup. Court. (Vict.) Ord. 22 R. 1 (5).

In any case where the deposit was made by one or more defendants in proceedings under Part III of the Law Reform (Miscellaneous Provisions) Act, 1946, the Court may make such order subject to such conditions as it may think just.

(c) Any order for the payment of money made under the authority of paragraph (b) of this subsection shall have the effect of a judgment at law and the plaintiff may have execution thereon for the money payable, and shall be entitled to all the remedies given to judgment creditors by the Judgment Creditors' Remedies Act, 1901-1957.

13. The District Courts Act, 1912-1965, is amended— Amendment of Act No. 23, 1912.

- (a) (i) by omitting from subsection one of section seventy-two the words "within the prescribed time" and by inserting in lieu thereof the words "at least five clear days before the return day"; Sec. 72. (Payment into court of money by defendant.)
- (ii) by inserting in subsection one of the same section after the word "court" the words "or deposit with the court a bond or undertaking in the prescribed form securing payment of";
- (iii) by inserting in subsection two of the same section after the word "payment" the words "or deposit";

(iv)

Law Reform (Miscellaneous Provisions).

- (iv) by inserting in subsection three of the same section after the word "payment" the words "or deposit";
- (v) by inserting in subsection four of the same section after the words "paid in" the words "or secured";
- (vi) by inserting in subsection five of the same section after the words "paid into court" the words "or secured";
- (vii) by inserting in the same subsection after the words "payment into court" the words "or, as the case may be, the deposit of such bond or undertaking";

New sec.
72A.

- (b) by inserting next after section seventy-two the following new section :—

Bond.

72A. (1) The bond or undertaking referred to in section seventy-two of this Act shall be a bond given by an insurance company which is a licensed insurer under the Workers' Compensation Act, 1926-1965, or an authorised insurer under the Motor Vehicles (Third Party Insurance) Act, 1942-1963.

(2) (a) Where the plaintiff elects to accept the sum secured by any such bond or undertaking the person giving the bond or undertaking shall, within seven days after notice of acceptance pay the sum secured to the proper officer of the court.

cf. Rules of
Sup. Court.
(Vict.)
Ord. 22 R. 1
(5).

(b) If he fails to do so he shall not be entitled to any advantage by reason of his deposit in the court of the undertaking, and the plaintiff may either withdraw his acceptance or apply to the court for an order directing payment to him of the amount stated in the bond.

In any case where the deposit was made by one or more defendants in proceedings under Part III of the Law Reform (Miscellaneous Provisions) Act, 1946, the court may make such order subject to such conditions as it may think just.

(c)

Law Reform (Miscellaneous Provisions).

(c) Any order for the payment of money made under the authority of paragraph (b) of this subsection shall have the effect of a judgment at law and the plaintiff may have execution thereon for the money payable, and shall be entitled to all the remedies given to judgment creditors by the Judgment Creditors' Remedies Act, 1901-1957.

14. The rules of court of the Supreme Court or of a District Court in force at the commencement of this Part with respect to the payment of moneys into court whether with or without denial of liability, shall extend, mutatis mutandis, to the deposit of a bond or undertaking securing payment into court of moneys, but may be amended or replaced by rules made after the commencement of this Part.

Existing
rules of court
extended.

PART V.**DECLARATORY ORDERS.**

15. The Equity Act, 1901-1965, is amended—

- | | |
|--|--|
| <p>(a) by inserting at the end of the last definition in section three the words "and also includes the jurisdiction conferred by section ten of this Act";</p> <p>(b) by inserting in subsection one of section four after the word "including" the words "the jurisdiction conferred by section ten of this Act and including also";</p> <p>(c) by inserting in section eight after the word "relief" the words "or for purposes relevant to the exercise of the jurisdiction conferred by section ten of this Act";</p> <p>(d) by omitting section ten and by inserting in lieu thereof the following new section : —</p> | <p>Amendment
of Act No.
24, 1901.</p> <p>Sec. 3.
(Interpre-
tation.)</p> <p>Sec. 4.
(Appoint-
ment and
powers of
the Chief
Judge in
Equity.)</p> <p>Sec. 8.
(Power to
decide legal
titles, &c.)</p> <p>Subst. sec.
10.</p> |
|--|--|

10. (1) In addition to the jurisdiction which is otherwise vested in it, the Court shall have jurisdiction to make binding declarations of right whether

Declarations
of right.

Law Reform (Miscellaneous Provisions).

whether or not any consequential relief is or could be claimed, and whether or not the suit in which the declaration is sought is a suit for equitable relief or a suit which relates to equitable rights or titles.

No suit shall be open to objection on the ground that a merely declaratory decree is sought thereby.

(2) Without limiting the generality of the jurisdiction conferred by subsection one of this section, the Court may by decree or order declare—

- (a) the nature, quality and extent of the estates, interests, powers, rights, liabilities or duties of any persons in respect of any real or personal property or arising under any disposition of any real or personal property including any sale, conveyance, transfer, assignment, mortgage, charge, encumbrance, debenture, pledge, lease, bailment, or hiring or arising under any agreement or option for or relating to any such disposition as aforesaid;
- (b) the interests, powers, rights and liabilities or duties of any persons arising under—
 - (i) any partnership or partnership agreement;
 - (ii) the memorandum or articles of association or other constitution of any company or other corporation;
 - (iii) the rules, by-laws or other constitution of any unincorporated association;
 - (iv) any agreement relating to any patent, trade mark, trade name, copyright or industrial design;
 - (v) any agreement for or relating to any guarantee or indemnity;
 - (vi) generally any contract or agreement whether of the same or a different class;

(vii)

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- (vii) any Act or any ordinance, rule, regulation or other instrument having effect under any Act or by reason of any executive, ministerial or administrative act done or purporting to be done in pursuance of any Act or of any such ordinance, rule, regulation or other instrument.

(3) A suit for a declaration of right may be commenced either by statement of claim or in a summary manner by originating summons under the Fourth Schedule to this Act.

- (e) (i) by inserting in paragraph (c) of section thirty after the word "served" the words "or the declaration of right sought"; Sec. 30.
(Service out of the jurisdiction.)
- (ii) by inserting in the same section next after paragraph (e) the following new paragraphs :—
 - (e1) the suit or proceeding is for a declaration of right affecting any person domiciled or any property situated within the jurisdiction; or
 - (e2) the suit or proceeding is for a declaration as to the interests, powers, rights and liabilities or duties of any persons or class of persons of whom the person to be served is one, arising under any Act or any ordinance, rule, regulation or other instrument having effect under any Act or by reason of any executive, ministerial or administrative act done or purporting to be done in pursuance of any Act or of any such ordinance, rule, regulation or other instrument; or.

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Amendment
of Act No.
19, 1903.
New secs. 7A
and 7B.

Power to
make
declaratory
order.

Commercial
disputes.

16. The Commercial Causes Act, 1903-1965, is amended by inserting next after section seven the following new sections :—

7A. The Judge by or before whom any commercial cause is tried may in addition to or in substitution for any verdict or judgment for debt or damages or for the return of goods make such binding declaration of right with respect to the subject matter of the cause as to him may seem appropriate.

7B. (1) Where a commercial dispute has arisen concerning the construction of a document or its application to any facts, any party to the dispute may apply to a Judge in chambers for the determination of the questions involved in such dispute notwithstanding that no commercial cause has been commenced.

(2) A commercial dispute is a dispute which would be a commercial cause if made the subject of an action at common law.

(3) An application under this section may be made in a summary manner by summons returnable on two days' notice supported by an affidavit annexing the document and deposing to any relevant facts.

(4) Where it is necessary in the determination of a commercial dispute to decide any question of fact the Judge shall settle the issues for trial and give any consequential directions necessary for the determination of such issues in a convenient and expeditious manner.

(5) A determination of any issue of fact or of any question of law pursuant to this section shall be binding on all parties to the summons in the same manner as if the issue or question had been determined in a commercial cause.

PART

Law Reform (Miscellaneous Provisions).

PART VI.

POWER TO ENTER SUBSTITUTED VERDICT.

17. The Common Law Procedure Act, 1899-1962, is further amended by inserting next after section one hundred and sixty the following new section :—

Amendment
of Act No.
21, 1899.

New sec.
160A.

160A. (1) This section applies to an application to the Court of Appeal for a new trial or to set aside a verdict finding or judgment after trial with a jury. Substituted
verdict.

(2) For the purposes of this section the Court of Appeal shall have full power and jurisdiction to make findings of fact and to assess damages or compensation.

(3) The powers conferred by this section shall be exercisable only where on such application the Court of Appeal would, but for this section, have set aside the verdict finding or judgment and ordered a new trial on the issue of damages.

(4) The Court of Appeal shall not exercise the powers conferred by this section unless the parties consent and it is satisfied that it is fully able to assess the damages on a perusal of the evidence contained in the documents before it, or on admitted facts, without seeing or hearing the plaintiff or defendant or other witnesses.

(5) The powers conferred by this section may also be exercised in appeals from any District Court whether the court giving the decision appealed from was constituted by a judge and jury or a judge sitting alone.

PART

Law Reform (Miscellaneous Provisions).

PART VII.

INTEREST ON VERDICT AND ON COSTS.

Amendment
of Act No.
21, 1899.
New sec.
143A.

Interest on
verdict and
costs.

18. The Common Law Procedure Act, 1899-1962, is further amended by inserting next after section one hundred and forty-three the following new section :—

143A. Notwithstanding anything in sections one hundred and forty-two and one hundred and forty-three—

- (a) interest shall not be payable on the amount of the verdict if such amount is paid to or at the direction of the plaintiff within twenty-one days after the date of verdict;
- (b) interest shall not be payable on costs payable to the plaintiff if the amount of such costs is paid within twenty-one days after assessment or after taxation.

Amendment
of Act No.
23, 1912.
New sec.
101B.

Interest on
verdict and
costs.

19. The District Courts Act, 1912-1965, is amended by inserting next after section 101A the following new section :—

101B. Notwithstanding anything in section 101A of this Act—

- (a) interest shall not be payable on any judgment debt if the amount of such judgment debt is paid to or at the direction of the plaintiff within twenty-one days after the judgment or verdict was given or, as the case may be, the judgment was entered;
- (b) interest shall not be payable on costs payable to the plaintiff if the amount of such costs is paid within twenty-one days after assessment or after taxation.

PART

Law Reform (Miscellaneous Provisions).

PART VIII.

AMENDMENT OF DISTRICT COURTS ACT, 1912-1965.

20. The District Courts Act, 1912-1965, is further amended—

(a) by omitting from subsection one of section eighty-two the words “upon an affidavit by such party, or his attorney, of his belief that any document to the production of which he is entitled for the purpose of discovery or otherwise, is in the possession or power of the opposite party”; Amendment of Act No. 23, 1912.
Sec. 82.
(Discovery of documents.)

(b) by omitting from subsection two of section eighty-six the words “The judge at any time during the sitting of the court at which an action has been so struck out may” and by inserting in lieu thereof the words “Where an action has been so struck out the judge may, upon application made in that behalf”; Sec. 86.
(Case struck out.)

(c) by inserting at the end of section ninety-two the following new subsection : — Sec. 92.
(Number of jurors.)

(2) To remove doubts it is hereby declared that section 30A of the Jury Act, 1912-1965, applies to and in respect of any cause or issue for trial by jury in any District Court.

(d) by inserting next after section ninety-five the following new section : — New sec. 95A.

95A. Where at a trial of any cause or issue in a District Court a verdict is returned for or the total amount which would have been recoverable if the claimant had not been at fault is found at an amount in excess of three thousand pounds but not exceeding five thousand pounds the Court shall find and record the amount of such verdict or, as the case may be, such total amount and the plaintiff shall be entitled to recover the full amount of such verdict, or as the case may be, of such total Amount of verdict exceeding three thousand pounds.

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total amount reduced in accordance with section ten of the Law Reform (Miscellaneous Provisions) Act, 1965, notwithstanding that the amount claimed does not exceed three thousand pounds.

Sec. 127.
(Interpre-
tation.)

- (e) by omitting from subsection three of section one hundred and twenty-seven the words "supported by an affidavit showing" and by inserting in lieu thereof the words "shown by affidavit or otherwise".

PART IX.

AMENDMENT OF SMALL DEBTS RECOVERY ACT, 1912-1961.

Amendment
of Act No.
33, 1912.

21. The Small Debts Recovery Act, 1912-1961, is amended—

New sec.
35A.

- (a) by inserting next after section thirty-five the following new section :—

Confession
of debt
subject to
conditions.

35A. (1) In any action in which a default summons has been issued the defendant may sign a statement confessing the amount of the debt or demand for which the plaint has been issued, conditionally upon the granting of an application accompanying such statement of confession that if and when judgment is entered consequent upon such statement of confession a direction be given that the amount of the judgment be paid at such times and by such instalments as are offered in such application.

(2) Any such statement and application shall be signed in the presence of the registrar of the court in which the plaint was issued or of an attorney or a justice of the peace.

(3) (a) Every such application shall be supported by an affidavit in the prescribed form.

(b) Proof shall be furnished by affidavit of the signature of the person signing such statement of confession.

(4)

Law Reform (Miscellaneous Provisions).

(4) The registrar shall receive such statement of confession and application, and shall, as soon as convenient thereafter send notice of the same to the plaintiff.

(5) (a) If within five days of notice of the statement of confession and of the application having been sent to him by the registrar the plaintiff does not inform the registrar that he opposes the application the registrar shall enter judgment for the amount of the debt or demand for which the plaint was issued and shall give a direction for payment at such times and by such instalments as were offered in the application.

(b) If within five days of such notice having been given the plaintiff informs the registrar that he opposes the application the registrar shall inform the defendant accordingly, and in such event the statement of confession shall not be available in evidence and the time for filing notice of grounds of defence shall commence to run as from the time the defendant is so informed.

(6) Where action is taken under this section the provisions of sections thirty-four and thirty-five of this Act shall not apply.

(7) The giving of a direction under this section shall not affect the right of the judgment debtor to make an application under section forty-two of this Act, and, in the event of any such application being made, that section shall have effect in all respects as if no action had been taken under this section.

(b) by inserting in subsection one of section forty-three Sec. 43.
after the words "entered up" the words "or of his (Execution
solicitor or agent shown on the record". of process.)

PART

Law Reform (Miscellaneous Provisions).

PART X.

APPEALS FROM JUSTICES.

22. The Justices Act, 1902-1958, is amended—

Amendment
of Act No.
27, 1902.

Sec. 104.
(When case
refused
Supreme
Court
may direct
case to be
stated.)

- (a) (i) by inserting in subsection one of section one hundred and four after the words "apply to" the words "a Judge of";
- (ii) by omitting from subsection two of the same section the word "Court" and by inserting in lieu thereof the word "Judge";

Sec. 106.
(Powers of
Court in
dealing with
cases so
stated.)

- (b) by omitting subsection three of section one hundred and six.

Sec. 107.
(Powers of
Court may
be exercised
by Judge in
Chambers.)

- (c) by omitting subsection one of section one hundred and seven and by inserting in lieu thereof the following subsection :—

(1) The authority and jurisdiction vested in the Supreme Court by section one hundred and six of this Act may be exercised by a Judge of the said Court sitting in Chambers.

New sec.
107A.

- (d) by inserting next after section one hundred and seven the following new section :—

Appeal to
Court of
Appeal.

107A. (1) Any person aggrieved by any decision or determination of a Judge made pursuant to sections one hundred and six and one hundred and seven of this Act may appeal therefrom to the Court of Appeal by leave of the Court of Appeal.

(2) Any such appeal shall be in accordance with rules of court of the Court of Appeal made under section 21K of the Supreme Court and Circuit Courts Act, 1900-1965.

(e)

Law Reform (Miscellaneous Provisions).

- (e) by inserting in section one hundred and eight after the words "Supreme Court" the words "or by the Court of Appeal on appeal thereto"; Sec. 108.
(After decision of Court Justices to enforce conviction or order.)
- (f) by omitting from section one hundred and nine the words "said Court" and by inserting in lieu thereof the words "Supreme Court or of the Court of Appeal on appeal thereto"; Sec. 109.
(Certiorari not requisite when case stated.)
- (g) by omitting subsections four and five of section one hundred and twelve and by inserting in lieu thereof the following subsection :— Sec. 112.
(Any person aggrieved by conviction or order may apply for prohibition.)
- (4) Any application under this section may be heard and determined by a Judge of the Supreme Court in Chambers.
- (h) by omitting section one hundred and fourteen and by inserting in lieu thereof the following section :— Subst. sec. 114.
114. Any rule or order granted or made under section one hundred and twelve of this Act shall be made returnable before a Judge of the Supreme Court in Chambers. Before whom rule to be returnable.
- (i) by omitting from section one hundred and fifteen the words "Court or" wherever occurring; Sec. 115.
(Powers of Court or Judge.)
- (j) (i) by omitting subsection one of section one hundred and sixteen and by inserting in lieu thereof the following subsection :— Sec. 116.
(Certain rules and writs made by Judge may be reviewed by Court.)
- (1) (a) Any person aggrieved by any decision or determination of a Judge made pursuant to sections one hundred and fourteen and one hundred and fifteen of this Act may appeal therefrom to the Court of Appeal by leave of the Court of Appeal.

(b)

Law Reform (Miscellaneous Provisions).

(b) Any such appeal shall be in accordance with rules of court of the Court of Appeal made under section 21K of the Supreme Court and Circuit Courts Act, 1900-1965.

(ii) by omitting from subsection two of the same section the word "Court" and by inserting in lieu thereof the words "Court of Appeal";

Sec. 117.
(Costs.)

(k) by omitting from section one hundred and seventeen the words "Court or Judge" and by inserting in lieu thereof the words "Judge or of the Court of Appeal in respect of any matter coming before it on appeal or reference".

PART XI.

AMENDMENT OF VARIOUS ACTS.

Amendment
of Act No.
35, 1900.
Subst. sec.
20.

23. The Supreme Court and Circuit Courts Act, 1900-1965, is amended by omitting section twenty and by inserting in lieu thereof the following section :—

Exercise of
powers by
single Judge
or Judge
of Appeal
in certain
cases.

20. (1) Applications for a rule or order nisi for prohibition, mandamus or certiorari or for an order for the issue of a writ of habeas corpus may be heard and disposed of by a Judge, whether during term or in vacation.

(2) Applications to the Court of Appeal to make absolute a rule or order nisi for prohibition, mandamus or certiorari or to make absolute an order for the issue of a writ of habeas corpus may, in vacation, be heard and disposed of by a Judge of Appeal.

(3) Any person aggrieved by any decision of a Judge under subsection one of this section or of a Judge of Appeal under subsection two of this section may appeal therefrom to the Court of Appeal. Any such appeal shall be in accordance with rules of court of the Court of Appeal made under section 21K of this Act.

Law Reform (Miscellaneous Provisions).

24. The Common Law Procedure Act, 1899-1962, is further amended by adding at the end of section two hundred and sixty-five the following proviso : —

Amendment
of Act No.
21, 1899.
Sec. 265.

Provided that where a plaintiff obtains a verdict against one or more defendants in an action but fails to obtain a verdict against another defendant or other defendants in the said action then such plaintiff may be awarded against the unsuccessful defendant or defendants the costs of the successful defendant or defendants which are awarded against the plaintiff.

25. The Supreme Court Procedure Act, 1900-1965, is further amended by omitting subsection five of section five.

Amendment
of Act No.
49, 1900.
Sec. 5.
(Finding of
judge to be
finding of
jury.)

26. The Jury Act, 1912-1965, is further amended by omitting from section thirty the words "either the plaintiff or the defendant in any" and by inserting in lieu thereof the words "any party to an".

Amendment
of Act No.
31, 1912.
Sec. 30.
(Juries of
twelve.)

27. The Motor Traffic Act, 1909, as amended by subsequent Acts, is amended by inserting next after section 18B the following new section : —

Amendment
of Act No.
5, 1909.

18C. (1) Where—

- (a) the matter of an information for an offence referred to in subsection one of section 18B of this Act has been substantiated by the oath of the informant;
- (b) a summons for the appearance of the defendant has been served on him in the manner provided by the Justices Act, 1902, as amended by subsequent Acts; and

Ex parte
procedure
for offences
referred to
in section
18B.

(c)

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(c) the defendant does not appear at the time and place fixed for the hearing of the information, the court before which the information comes for hearing may if it is satisfied that—

(d) the facts as alleged in the summons constitute such an offence and reasonably sufficient particulars thereof are set out in the summons, make an order imposing on the defendant a penalty to be paid within such time as may be specified in the order, and may, if it thinks fit, make an order under section eighty-one of the Justices Act, 1902, as amended by subsequent Acts, for the payment by the defendant of costs.

(2) The provisions of section 556A of the Crimes Act, 1900, as amended by subsequent Acts, apply to any proceedings under subsection one of this section as if the defendant had been charged before the court with the offence referred to in the information.

(3) A penalty imposed by an order under subsection one of this section shall not exceed the amount of the penalty specified in the Act or regulation creating the offence in respect of which the penalty is so imposed.

(4) In determining the amount of the penalty to be imposed by an order under subsection one of this section, the court may take into account any report made to it by or on behalf of the informant with respect to the penalties or previous convictions under this Act of the defendant and to the circumstances of the offence and any information that the defendant causes to be brought to the notice of the court.

(5) An order under subsection one of this section shall, for the purposes of section eighty-two and Part V of the Justices Act, 1902, as amended by subsequent Acts, be deemed to be an order under that Act, as so amended.

(6)

Law Reform (Miscellaneous Provisions).

(6) Section seventy-five of the Justices Act, 1902, as amended by subsequent Acts, does not apply in any case where an information is dealt with under subsection one of this section.

(7) A reference in subsection one of this section to the time and place fixed for the hearing of an information shall, where the hearing of the information has been adjourned and notice of the time and place to which the hearing has been adjourned has been given to the defendant or sent to him at his last known place of abode or business, include a reference to the time and place specified in that notice.

(8) Section fifteen of the Justices Act, 1902, as amended by subsequent Acts, shall be construed as if this section formed part of that Act, as so amended.

(9) The jurisdiction of a court under this section shall not be exercised except by a stipendiary magistrate.

(10) The provisions of this section are supplemental to and not in derogation of the provisions of any Act in relation to proceedings that may be taken in respect of offences referred to in subsection one of section 18B of this Act.

SCHEDULE.

Law Reform (Miscellaneous Provisions).

Sec. 1.

SCHEDULE.

Reference to Act.	Short title.	Citation.
No. 21, 1899.	Common Law Procedure Act, 1899.	Common Law Procedure Act, 1899-1965.
No. 35, 1900.	Supreme Court and Circuit Courts Act, 1900	Supreme Court and Circuit Courts Act, 1900-1965.
No. 49, 1900.	Supreme Court Procedure Act, 1900.	Supreme Court Procedure Act, 1900-1965.
No. 24, 1901.	Equity Act, 1901 ..	Equity Act, 1901-1965.
No. 27, 1902.	Justices Act, 1902 ..	Justices Act, 1902-1965.
No. 19, 1903.	Commercial Causes Act, 1903.	Commercial Causes Act, 1903-1965.
No. 5, 1909	Motor Traffic Act, 1909 ..	Motor Traffic Act, 1909-1965.
No. 23, 1912.	District Courts Act, 1912	District Courts Act, 1912-1965.
No. 31, 1912.	Jury Act, 1912	Jury Act, 1912-1965.
No. 33, 1912.	Small Debts Recovery Act, 1912.	Small Debts Recovery Act, 1912-1965.
No. 15, 1926.	Workers' Compensation Act, 1926.	Workers' Compensation Act, 1926-1965.
No. 15, 1942.	Motor Vehicles (Third Party Insurance) Act, 1942.	Motor Vehicles (Third Party Insurance) Act, 1942-1965.

In the name and on behalf of Her Majesty I assent to this Act.

K. W. STREET,
Lieutenant-Governor.

*Government House,
Sydney, 20th December, 1965.*

LAW REFORM (MISCELLANEOUS PROVISIONS) BILL.

*Schedule of Amendments referred to in Legislative Council's
Message of 9 December, 1965.*

- No. 1.—Page 3, clause 3, line 7. *Omit "7", insert "6".*
- No. 2.—Page 3, clause 3, line 9. *Omit "8-11", insert "7-10".*
- No. 3.—Page 3, clause 3, line 10. *Omit "12-15", insert "11-14".*
- No. 4.—Page 3, clause 3, line 11. *Omit "16, 17", insert "15, 16".*
- No. 5.—Page 3, clause 3, line 13. *Omit "18", insert "17".*
- No. 6.—Page 3, clause 3, line 15. *Omit "19, 20", insert "18, 19".*
- No. 7.—Page 3, clause 3, line 17. *Omit "21", insert "20".*
- No. 8.—Page 3, clause 3, line 19. *Omit "22", insert "21".*
- No. 9.—Page 3, clause 3, line 20. *Omit "23", insert "22".*
- No. 10.—Page 3, clause 3, line 22. *Omit "24-29", insert "23-27".*
- No. 11.—Page 3, clause 4, line 26. *Omit "or in a District Court", insert "instituted after the commencement of this Act".*
- No. 12.—Page 4, clause 5. *Omit all words on lines 13 to 33 inclusive, insert—*
- 5. (1) In any action to which this Part applies any or either party may at any time not later than twenty-one days after the action has been set down for trial, or within such further period as the Court may allow, require that the action be tried with a jury and thereupon the action shall be so tried; but save as aforesaid any action to which this Part applies shall, notwithstanding section 29 of the Jury Act, 1912-1965, be tried by a Judge without a jury.**
- (2) A party so requiring a jury shall within the time limited by subsection one of this section file and serve a notice to that effect upon the other party or parties.**
- No. 13.—Page 7, clause 6, lines 13 to 32 inclusive. *Omit Clause 6.*
- No. 14.—Page 7, clause 7, line 36. *Omit "and six"*
- No. 15.—Page 8, clause 7, line 4. *Omit "and six".*
- No. 16.—Page 8, clause 8, lines 8 and 9. *Omit Clause 8, insert—*
- 8. Nothing in this Part shall apply to any action for damages founded upon a breach of statutory duty imposed on a defendant. Nothing in this Part shall affect the provisions and operation of the Statutory Duties (Contributory Negligence) Act, 1945.**
- No. 17.—Page 8, clause 10, line 23. *Omit "breach of statutory duty"*

No. 18.—Page 8, clause 10, line 26. *After* “negligence”, *insert* “but does not mean or include a breach of statutory duty”.

No. 19.—Page 9, clause 11. *After* line 11, *insert*—

(c) where any payments made to the claimant by way of compensation take effect pursuant to section 63 (5) of the Workers’ Compensation Act, 1926-1965, as a satisfaction of the judgment obtained by him against his employer, such payments shall be reduced to the same extent as the damages recoverable by him and shall be a satisfaction of the judgment to such reduced extent only;

(d) where the claimant is liable to repay compensation to his employer pursuant to section 64 (a) of the Workers’ Compensation Act, 1926-1965, the amount of compensation so repayable shall be reduced to the same extent as the damages recoverable by him;

(e) where the cost of any medical or hospital treatment or ambulance service for which the claimant’s employer incurs liability under section 10 of the Workers’ Compensation Act, 1926-1965, remains unpaid at the time the claimant recovers damages the claimant’s liability in respect of such cost shall as between himself and his employer be reduced to the same extent as his damages and his employer shall notwithstanding the recovery of damages and the provisions of section 64 (a) of the Workers’ Compensation Act, 1926-1965, remain liable to pay to him the balance of such cost under section 10 of the said Act.

No. 20.—Page 10, clause 11, lines 11 to 23 inclusive. *Omit* all words on these lines, *insert*—

(4) No action for damages for the benefit of dependants of a deceased person under the Compensation to Relatives Act, 1897-1953, shall be defeated by the fault or breach of statutory duty of the deceased person nor shall the damages recoverable in such action be reduced by reason of such fault or of such breach of statutory duty.

No. 21.—Page 11, clause 13, line 33. *Omit* “date of hearing”, *insert* “joinder of issue”.

No. 22.—Page 13, clause 14, lines 18 and 19. *Omit* “at any time before the date of hearing”, *insert* “at least five clear days before the return day”.

No. 23.—Page 17, clause 16, line 1. *Insert*—

(3) A suit for a declaration of right may be commenced either by statement of claim or in a summary manner by originating summons under the Fourth Schedule to this Act.

No. 24.—Page 18, clause 17, line 1. *Insert*—

7B. (1) Where a commercial dispute has arisen concerning the construction of a document or its application to any facts, any party to the dispute may apply to a Judge in chambers for the determination of the questions involved in such dispute notwithstanding that no commercial cause has been commenced.

(2) A commercial dispute is a dispute which would be a commercial cause if made the subject of an action at common law.

(3) An application under this section may be made in a summary manner by summons returnable on two days’ notice supported by an affidavit annexing the document and deposing to any relevant facts.

(4) Where it is necessary in the determination of a commercial dispute to decide any question of fact the Judge shall settle the issues for trial and give any consequential directions necessary for the determination of such issues in a convenient and expeditious manner.

(5) A determination of any issue of fact or of any question of law pursuant to this section shall be binding on all parties to the summons in the same manner as if the issue or question had been determined in a commercial cause.

No. 25.—Page 19, clause 18, line 7. After “unless”, insert “the parties consent and”.

No. 26.—Page 19, clause 18, lines 13 to 25 inclusive. Omit all words after the word “witnesses” on line 13, down to and including the word “consent” on line 25.

No. 27.—Page 21, clause 21, lines 5 to 23 inclusive. Omit all words on these lines.

No. 28.—Page 22, clause 21, lines 9 to 17 inclusive. Omit all words on these lines, insert—

95A. Where at a trial of any cause or issue in a District Court a verdict is returned for or the total amount which would have been recoverable if the claimant had not been at fault is found at an amount in excess of three thousand pounds but not exceeding five thousand pounds the Court shall find and record the amount of such verdict or, as the case may be, such total amount and the plaintiff shall be entitled to recover the full amount of such verdict, or as the case may be, of such total amount reduced in accordance with section ten of the Law Reform (Miscellaneous Provisions) Act, 1965, notwithstanding that the amount claimed does not exceed three thousand pounds.

No. 29.—Page 23, clause 22, lines 5 to 23 inclusive. Omit all the words on these lines.

No. 30.—Page 28, clause 25, lines 13 to 21 inclusive. Omit all words after the word “amended” on line 13, down to and including the word “accordingly” on line 21, insert “by adding at the end of section two hundred and sixty-five the following proviso:—

Provided that where a plaintiff obtains a verdict against one or more defendants in an action but fails to obtain a verdict against another defendant or other defendants in the said action then such plaintiff may be awarded against the unsuccessful defendant or defendants the cost of the successful defendant or defendants which are awarded against the plaintiff.”

No. 31.—Page 29, clause 26, lines 1 and 2. Omit Clause 26.

No. 32.—Pages 29 and 30, clause 29, line 26 on page 29 and lines 1 and 2 on page 30 inclusive. Omit all words after the word “offence” on line 26, down to and including the word “summons” on line 2 on page 30, insert “and reasonably sufficient particulars thereof are set out in the summons”.

No. 33.—Page 30, clause 29, line 24. Omit “character or antecedents”, insert “penalties or previous convictions under this Act”.

LAW REFORM (MISCELLANEOUS PROVISIONS) BILL

Schedule of Amendments referred to in Legislative Council
Meeting of 9 December 1965

No. 1—Page 1, clause 1, line 7, Omit "7", insert "6"

No. 2—Page 1, clause 1, line 8, Omit "2-11", insert "1-10"

11-14

15, 16

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13-27

1965, 1966, 1967

1968, 1969, 1970

1971, 1972, 1973

1974, 1975, 1976

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2019, 2020, 2021

2022, 2023, 2024

2025, 2026, 2027

2028, 2029, 2030

2031, 2032, 2033

2034, 2035, 2036

2037, 2038, 2039

2040, 2041, 2042

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 2 December, 1965, A.M.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

J. R. STEVENSON,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 9 December, 1965.*

New South Wales



ANNO QUARTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1965.

An Act to make provision for and with respect to the mode of trial of certain classes of civil actions; to amend the common law doctrine of contributory negligence; to make further provision for and with respect to the payment or the provision of security for payment of moneys into court in civil actions; to confer on the Supreme Court a special jurisdiction exercisable as an extension of its equitable jurisdiction, to make general declarations of right; to enable the Supreme Court in its Commercial Causes jurisdiction to make declarations of right in addition to or in substitution for verdicts and judgments; to enable the Court of Appeal, in special circumstances, to substitute its assessment for the verdict of a jury; to extend the procedure relating

Law Reform (Miscellaneous Provisions).

relating to minor traffic offences; to make amendments of a procedural or administrative nature to various Acts; for these and other purposes to amend the Common Law Procedure Act, 1899–1962, the District Courts Act, 1912–1965, the Equity Act, 1901–1965, the Motor Traffic Act, 1909, and certain other Acts in certain respects; and for purposes connected therewith.

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 :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the “Law Reform (Miscellaneous Provisions) Act, 1965”. Short title
and citation.

10 (2) The Acts, as amended by subsequent Acts and by this Act, specified in the first and second columns of the Schedule to this Act may be cited as respectively specified in the third column of that Schedule.

2. (1) This Part of this Act shall commence on the day Commence-
ment.
15 upon which the assent of Her Majesty to this Act is signified.

(2) Subject to subsection one of this section this Act shall commence upon such date or dates as may be appointed and notified pursuant to subsection three of this section.

(3) The Governor may, from time to time, appoint
20 and notify by proclamation published in the Gazette the date upon which any Part or provision of this Act specified in the proclamation shall commence and may appoint different dates for

Law Reform (Miscellaneous Provisions).

for different Parts or provisions (whether contained in the same Part or section or in different Parts or sections) and the Part or provision so specified shall commence accordingly.

3. This Act is divided into Parts as follows :—

Division
into Parts.

- 5 PART I.—PRELIMINARY—ss. 1-3.
PART II.—HEARING AND DETERMINATION OF CIVIL
ACTIONS—ss. 4-7.6.
PART III.—AMENDMENT OF DOCTRINE OF CONTRIBU-
TORY NEGLIGENCE—ss. 8-11.7-10.
10 PART IV.—PAYMENT INTO COURT—ss. 12-15.11-14.
PART V.—DECLARATORY ORDERS—ss. 16, 17.15, 16.
PART VI.—POWER TO ENTER SUBSTITUTED VERDICT
—s. 18.17.
PART VII.—INTEREST ON VERDICT AND ON COSTS—
15 ss. 19, 20.18, 19.
PART VIII.—AMENDMENT OF DISTRICT COURTS
ACT, 1912-1965—s. 21.20.
PART IX.—AMENDMENT OF SMALL DEBTS RE-
COVERY ACT, 1912-1961—s. 22.21.
20 PART X.—APPEALS FROM JUSTICES—s. 23.22.
PART XI.—AMENDMENT OF VARIOUS ACTS—ss.
24-29.23-27.

PART II.

HEARING AND DETERMINATION OF CIVIL ACTIONS.

- 25 4. (1) This Part shall apply to any action in the Application
Supreme Court or in a District Court ~~instituted after the~~ of Part.
commencement of this Act in which issues of fact are to be
tried or damages or sums of money recoverable are to be
assessed where—

- 30 (a) the action is for damages—
(i) in respect of the death of or bodily injury
to any person caused by or arising out of
the use of a motor vehicle; or

(ii)

Law Reform (Miscellaneous Provisions).

- (ii) in respect of damage to property caused by or arising out of the use of a motor vehicle; or
- 5 (iii) in respect of any other matter in which the liability incurred was caused by or arose out of the use of a motor vehicle;
- (b) contribution is claimed under Part III of the Law Reform (Miscellaneous Provisions) Act, 1946, in respect of damages of the nature referred to in
- 10 paragraph (a) of this subsection.

(2) This Part shall be read and construed with the Motor Vehicles (Third Party Insurance) Act, 1942-1963.

5. (1) In any action to which this Part applies the court or a judge may on the application of any party made

15 not later than such time before the trial as may be limited by rules of court, upon being satisfied that circumstances exist which render it desirable to do so and shall, where both parties so apply, order that the action be tried with a jury; but, save as aforesaid, any action to which this Part applies

20 shall notwithstanding section twenty-nine of the Jury Act, 1912-1965, or section ninety of the District Courts Act, 1912-1965, be tried by a judge without a jury:

Amendment
of procedure
as to trials
by jury.
23 & 24
Geo. V.
c. 30.

Provided that the provisions of this section shall be without prejudice to the power of the court or a judge to order, in

25 accordance with rules of court, that different questions of fact arising in any action be tried by different modes of trial, and where any such order is made the provisions of this section shall have effect accordingly.

(2) Where an order has been made under subsection

30 one of this section for the trial of an action with a jury any party to that action may apply under section thirty of the Jury Act, 1912-1965, for an order that the trial be had by a jury consisting of twelve persons.

Law Reform (Miscellaneous Provisions).

5. (1) In any action to which this Part applies any or either party may at any time not later than twenty-one days after the action has been set down for trial, or within such further period as the Court may allow, require that the action be
5 tried with a jury and thereupon the action shall be so tried ; but save as aforesaid any action to which this Part applies shall, notwithstanding section 29 of the Jury Act, 1912-1965, be tried by a Judge without a jury.

(2) A party so requiring a jury shall within the time
10 limited by subsection one of this section file and serve a notice to that effect upon the other party or parties.

(3) Where any action in the Supreme Court is, by force of this section, to be tried by a judge without a jury the following provisions shall have effect :—

15 (a) The verdict or finding of the judge shall be of the like force and effect as the verdict or finding of a jury.

(b) Nothing in this subsection shall authorise judgment to be signed on the verdict or finding, but judgment
20 may be directed to be entered as provided in this section, and the entry shall have the like force and effect in all respects as the signing of judgment.

(c) The judge may, either at or after the trial, direct that judgment be entered for any or either party.

25 (d) The judge may adjourn the case for further consideration or may leave any party to move the Court of Appeal for judgment, or may refer the case to the Court of Appeal for its determination.

30 The Court of Appeal shall have jurisdiction to direct judgment to be entered for any or either party.

(e) Any party may appeal to the Court of Appeal against any judgment so directed by the judge to be entered.

(f)

Law Reform (Miscellaneous Provisions).

- (f) The appeal shall be by way of rehearing and on the appeal the Court of Appeal shall—
- (i) have all the powers and duties of the judge as to amendment or otherwise, including the power to make findings of fact and to assess damages or compensation;
 - (ii) have full discretionary power to receive further evidence upon questions of fact, such evidence to be taken either by oral evidence in court, by affidavit, or by deposition taken before a commissioner or examiner, and to be admitted on special grounds only and not without special leave of the Court of Appeal.
- (g) The Court of Appeal may direct the appeal to stand over for further consideration, and direct such issues or questions to be tried or determined or the amount of any damages or compensation to be assessed by a judge either with or without a jury as it may think fit.
- (h) The Court of Appeal may on the appeal give any judgment and make any order which ought to have been given or made in the first instance, and may make such further or other order as the case requires, and in particular may make—
- (a) any order which it might make under section seven of the Supreme Court Procedure Act, 1900-1965;
 - (b) such order as to the whole or any part of the costs of the appeal or of the cause or matter as may be just.
- (i) The powers conferred by this section may be exercised by the Court of Appeal notwithstanding that the notice of appeal is that part only of the judgment may be reversed or varied, and such powers may be exercised in favour of all or any of the respondents or parties, although such respondents or parties have not appealed from or complained of the judgment.
- (j)

Law Reform (Miscellaneous Provisions).

(j) Where the judge leaves any party to move the Court of Appeal for judgment, or refers the case to the Court of Appeal for its determination, the powers conferred on the Court of Appeal by paragraphs (f) and (g) of this subsection shall extend to the motion or reference.

(k) Every application for a new trial or to set aside a verdict finding or judgment, or to have a nonsuit or verdict entered, in any case where any action issue or question has been tried before a judge without a jury, shall be made by appeal to the Court of Appeal and not otherwise.

6. (1) Where an action to which this Part applies was instituted before the commencement of this Part in the Supreme Court or in a District Court then—

- (a) if such action is listed in the daily causes list for hearing within one month after such commencement such action may be continued and completed as if this Act had not been enacted;
- (b) if such action is not so listed for hearing within one month after such commencement then notwithstanding anything in any Act or in any rule of court relating to the mode of trial of actions, or any steps taken by the parties, the provisions of section five of this Act shall apply to the hearing and determination of such action.

(2) Where an action to which this Part applies is instituted after the commencement of this Part, in the Supreme Court or in a District Court, then, notwithstanding anything in any Act or in any rule of court relating to the mode of trial of actions, the provisions of section five of this Act shall apply to the hearing and determination of such action.

67. (1) Where, in any action to which this Part applies, a third party notice has been served under the Law Reform (Miscellaneous Provisions) Act, 1946, the provisions of sections five and six of this Act shall extend to the hearing and determination of issues in the third party proceedings.

Law Reform (Miscellaneous Provisions).

(2) Where, in any action to which this Part applies, proceedings are instituted for contribution under the Law Reform (Miscellaneous Provisions) Act, 1946, the provisions of sections five ~~and six~~ of this Act shall extend to the hearing and determination of issues in those proceedings.

PART III.

AMENDMENT OF DOCTRINE OF CONTRIBUTORY NEGLIGENCE.

8. ~~Nothing in this Part shall affect the operation of the~~ Saving.
Statutory Duties (Contributory Negligence) Act, 1945.

10 78. **Nothing in this Part shall apply to any action for damages founded upon a breach of statutory duty imposed on a defendant. Nothing in this Part shall affect the provisions and operation of the Statutory Duties (Contributory Negligence) Act, 1945.**

15 89. This Part shall not apply to any case in which the acts Application
or omissions giving rise to the claim occurred before the of Part.
commencement of this Part.

910. In this Part, unless the context or subject matter other- Definitions.
wise indicates or requires—

20 “Court” means in relation to any claim the court by or
before whom the claim falls to be determined.

“Damage” includes loss of life and personal injury.

25 “Fault” means negligence, ~~breach of statutory duty~~ or
other act or omission which gives rise to a liability
in tort or would, apart from this Part, give rise to
the defence of contributory negligence **but does not
mean or include a breach of statutory duty.**

1011. (1) Where any person suffers damage as the result partly of his own fault and partly of the fault of any other
30 person or persons, a claim in respect of that damage shall not
be defeated by reason of the fault of the person suffering the
damage, but the damages recoverable in respect thereof shall

Apportion-
ment of
liability
in case of
contributory
negligence.
8 & 9
Geo. VI
c. 28. s. 1.

be

Law Reform (Miscellaneous Provisions).

be reduced to such extent as the court thinks just and equitable having regard to the claimant's share in the responsibility for the damage :

Provided that—

- 5 (a) this subsection shall not operate to defeat any
defence arising under a contract;
- (b) where any contract or enactment providing for the
limitation of liability is applicable to the claim, the
amount of damages recoverable by the claimant by
10 virtue of this subsection shall not exceed the maximum limit so applicable.
- (c) where any payments made to the claimant by way of
compensation take effect pursuant to section 63 (5)
15 of the Workers' Compensation Act, 1926-1965, as a satisfaction of the judgment obtained by him against his employer, such payments shall be reduced to the same extent as the damages recoverable by him and shall be a satisfaction of the judgment to such reduced extent only ;
- 20 (d) where the claimant is liable to repay compensation to his employer pursuant to section 64 (a) of the Workers' Compensation Act, 1926-1965, the amount of compensation so repayable shall be reduced to the same extent as the damages recoverable by him ;
- 25 (e) where the cost of any medical or hospital treatment or ambulance service for which the claimant's employer incurs liability under section 10 of the Workers' Compensation Act, 1926-1965, remains
30 unpaid at the time the claimant recovers damages the claimant's liability in respect of such cost shall as between himself and his employer be reduced to the same extent as his damages and his employer shall notwithstanding the recovery of damages and the provisions of section 64 (a) of the Workers'
35 Compensation Act, 1926-1965, remain liable to pay to him the balance of such cost under section 10 of the said Act.

(2)

Law Reform (Miscellaneous Provisions).

(2) Where damages are recoverable by any person by virtue of the foregoing subsection subject to such reduction as is therein mentioned, the court shall find and record the total damages which would have been recoverable if the
5 claimant had not been at fault.

(3) Section five of the Law Reform (Miscellaneous Provisions) Act, 1946, shall apply in any case where two or more persons are liable or would, if they had all been sued, be liable by virtue of subsection one of this section in respect
10 of the damage suffered by any person.

(4) Where any person dies as the result partly of his own fault and partly of the fault of any other person or persons, an action for damages for the benefit of dependants under the Compensation to Relatives Act, 1897-1953, shall
15 not be defeated by the fault of the deceased but if the circumstances are such that if an action were brought for the benefit of the estate of the deceased under the Law Reform (Miscellaneous Provisions) Act, 1944, the damages recoverable would be reduced under subsection one of this section, any
20 damages recoverable in an action brought for the benefit of the dependants of that person under the Compensation to Relatives Act, 1897-1953, shall be reduced to a proportionate extent.

(4) No action for damages for the benefit of dependants of a deceased person under the Compensation to
25 Relatives Act, 1897-1953, shall be defeated by the fault or breach of statutory duty of the deceased person nor shall the damages recoverable in such action be reduced by reason of such fault or of such breach of statutory duty.

(5) Where, in any case to which subsection one of this section applies, one of the persons at fault avoids liability to any other such person or his personal representative by pleading the Statute of Limitations, or any other enactment limiting the time within which proceedings may be taken, he
30 shall not be entitled to recover any damages or contributions from that other person or representative by virtue of the said subsection.

(6)

Law Reform (Miscellaneous Provisions).

(6) Where any case to which subsection one of this section applies is tried—

- (a) by a judge sitting without a jury the judge shall make the apportionment under subsection one of this section; or
- (b) by a judge sitting with a jury, the jury shall determine the total damages which would have been recoverable if the claimant had not been at fault and the extent to which those damages are to be reduced.

PART IV.

PAYMENT INTO COURT.

~~1142.~~ The Motor Vehicles (Third Party Insurance) Act, 1942-1963, is amended by omitting section 38A.

Amendment
of Act No.
15, 1942.
Sec. 38A.
(Payment
into court
excluded in
certain
cases.)

15 ~~1212.~~ The Common Law Procedure Act, 1899-1962, is amended—

Amendment
of Act No.
21, 1899.

- (a) by inserting in subsection one of section eighty after the words “pay into Court” the words “or deposit in the Court a bond or undertaking in the prescribed form securing payment of”;

Sec. 80.
(Payment
into
Court.)

- (b) (i) by inserting in subsection one of section eighty-two after the words “order to pay” the words “or to deposit a bond or undertaking securing payment of”;

Sec. 82.
(No order
to pay
money into
Court.)

- (ii) by inserting in the same subsection after the words “paid to” the words “or the bond or undertaking deposited with”;

- (c) by inserting next after section eighty-two the following new section :—

New sec.
82A.

30 82A. (1) Money may be paid into Court or a bond or undertaking securing the payment of money into Court may be deposited, with an appropriate plea at any time before the date of hearing joinder of issue.

Payment
into Court
at any time
before
hearing.
joinder of
issue.
(2)

Law Reform (Miscellaneous Provisions).

- 5 (2) This section applies whether the money is paid in or secured under the provisions of this Act or pursuant to rules of Court, and applies whether or not the payment or deposit is made with or without denial of liability.
- (d) (i) by inserting in section eighty-three after the word "payment" the words "or of deposit of a bond or undertaking securing payment"; Sec. 83. (Proceedings by plaintiff after payment into Court.)
- 10 (ii) by inserting in paragraph (a) of the same section after the words "so paid into Court" the words "or so secured";
- (iii) by inserting in the same paragraph after the words "paid in" the words "or secured";
- 15 (iv) by inserting in paragraph (b) of the same section after the words "sum paid into Court" the words "or secured";
- (e) by inserting next after section eighty-three the following new section :— New sec. 83A.
- 20 83A. (1) The bond or undertaking referred to in sections eighty, eighty-two, 82A and eighty-three of this Act shall be a bond or undertaking given by an insurance company which is a licensed insurer under the Workers' Compensation Act, 1926-1965, or an authorised insurer under the Motor Vehicles (Third Party Insurance) Act, 1942-1963. Bond.
- 25 (2) (a) Where the plaintiff accepts the sum secured by any such bond or undertaking the person giving the bond or undertaking shall, within seven days after notice of acceptance pay the sum secured to the proper officer of the Court.
- 30 (b) If he fails to do so he shall not be entitled to any advantage by reason of his deposit in the court of the undertaking, and the plaintiff may either withdraw his acceptance or apply to the court for an order directing payment to him of the amount stated in the bond. cf. Rules of Sup. Court. (Vict.) Ord. 22 R. 1 (5).
- 35

In

Law Reform (Miscellaneous Provisions).

In any case where the deposit was made by one or more defendants in proceedings under Part III of the Law Reform (Miscellaneous Provisions) Act, 1946, the Court may make such order subject to such conditions as it may think just.

(c) Any order for the payment of money made under the authority of paragraph (b) of this subsection shall have the effect of a judgment at law and the plaintiff may have execution thereon for the money payable, and shall be entitled to all the remedies given to judgment creditors by the Judgment Creditors' Remedies Act, 1901-1957.

1344. The District Courts Act, 1912-1965, is amended—

- 15 (a) (i) by omitting from subsection one of section seventy-two the words "within the prescribed time" and by inserting in lieu thereof the words "~~at any time before the date of hearing~~ **at least five clear days before the return day**";
- 20 (ii) by inserting in subsection one of the same section after the word "court" the words "or deposit with the court a bond or undertaking in the prescribed form securing payment of";
- 25 (iii) by inserting in subsection two of the same section after the word "payment" the words "or deposit";
- 30 (iv) by inserting in subsection three of the same section after the word "payment" the words "or deposit";
- (v) by inserting in subsection four of the same section after the words "paid in" the words "or secured";
- 35 (vi) by inserting in subsection five of the same section after the words "paid into court" the words "or secured";

(vii)

Amendment
of Act No.
23, 1912.
Sec. 72.
(Payment
into court of
money by
defendant.)

Law Reform (Miscellaneous Provisions).

- (vii) by inserting in the same subsection after the words "payment into court" the words "or, as the case may be, the deposit of such bond or undertaking";
- 5 (b) by inserting next after section seventy-two the ^{New sec. 72A.} following new section : —

10 72A. (1) The bond or undertaking referred to ^{Bond.} in section seventy-two of this Act shall be a bond given by an insurance company which is a licensed insurer under the Workers' Compensation Act, 1926-1965, or an authorised insurer under the Motor Vehicles (Third Party Insurance) Act, 1942-1963.

15 (2) (a) Where the plaintiff elects to accept the sum secured by any such bond or undertaking the person giving the bond or undertaking shall, within seven days after notice of acceptance pay the sum secured to the proper officer of the court.

20 (b) If he fails to do so he shall not be entitled to any advantage by reason of his deposit in the court of the undertaking, and the plaintiff may either withdraw his acceptance or apply to the court for an order directing payment to him of the amount stated in the bond. ^{cf. Rules of Sup. Court. (Vict.) Ord. 22 R. 1 (5).}

25 In any case where the deposit was made by one or more defendants in proceedings under Part III of the Law Reform (Miscellaneous Provisions) Act, 1946, the court may make such order subject to such conditions as it may think just.

30 (c) Any order for the payment of money made under the authority of paragraph (b) of this subsection shall have the effect of a judgment at law and the plaintiff may have execution thereon for the money payable, and shall be entitled to all the remedies given to judgment creditors by the Judgment Creditors' Remedies Act, 1901-1957.

Law Reform (Miscellaneous Provisions).

1415. The rules of court of the Supreme Court or of a District Court in force at the commencement of this Part with respect to the payment of moneys into court whether with or without denial of liability, shall extend, mutatis mutandis, to the deposit of a bond or undertaking securing payment into court of moneys, but may be amended or replaced by rules made after the commencement of this Part.

Existing
rules of court
extended.

PART V.

DECLARATORY ORDERS.

10 1516. The Equity Act, 1901-1965, is amended—

Amendment
of Act No.
24, 1901.

- (a) by inserting at the end of the last definition in section three the words “and also includes the jurisdiction conferred by section ten of this Act”; Sec. 3.
(Interpre-
tation.)
- 15 (b) by inserting in subsection one of section four after the word “including” the words “the jurisdiction conferred by section ten of this Act and including also”; Sec. 4.
(Appoint-
ment and
powers of
the Chief
Judge in
Equity.)
- 20 (c) by inserting in section eight after the word “relief” the words “or for purposes relevant to the exercise of the jurisdiction conferred by section ten of this Act”; Sec. 8.
(Power to
decide legal
titles, &c.)
- (d) by omitting section ten and by inserting in lieu thereof the following new section : — Subst. sec.
10.

25 10. (1) In addition to the jurisdiction which is otherwise vested in it, the Court shall have jurisdiction to make binding declarations of right whether or not any consequential relief is or could be claimed, and whether or not the suit in which the declaration is sought is a suit for equitable relief or a suit which relates to equitable rights or titles.

Declarations
of right.

30 No suit shall be open to objection on the ground that a merely declaratory decree is sought thereby.

(2)

Law Reform (Miscellaneous Provisions).

(2) Without limiting the generality of the jurisdiction conferred by subsection one of this section, the Court may by decree or order declare—

- 5 (a) the nature, quality and extent of the estates, interests, powers, rights, liabilities or duties of any persons in respect of any real or personal property or arising under any disposition of any real or personal property including any sale, conveyance, transfer, assignment, mortgage, charge, encumbrance, debenture, pledge, lease, bailment, or hiring or arising under any agreement or option for or relating to any such disposition as aforesaid;
- 10
- 15 (b) the interests, powers, rights and liabilities or duties of any persons arising under—
 - (i) any partnership or partnership agreement;
 - 20 (ii) the memorandum or articles of association or other constitution of any company or other corporation;
 - (iii) the rules, by-laws or other constitution of any unincorporated association;
 - 25 (iv) any agreement relating to any patent, trade mark, trade name, copyright or industrial design;
 - (v) any agreement for or relating to any guarantee or indemnity;
 - 30 (vi) generally any contract or agreement whether of the same or a different class;
 - (vii) any Act or any ordinance, rule, regulation or other instrument having effect under any Act or by reason of any executive, ministerial or administrative act done or purporting to be done in pursuance of any Act or of any such ordinance, rule, regulation or other instrument.
- 35
- 40

(3)

Law Reform (Miscellaneous Provisions).

(3) A suit for a declaration of right may be commenced either by statement of claim or in a summary manner by originating summons under the Fourth Schedule to this Act.

- 5 (e) (i) by inserting in paragraph (c) of section thirty after the word "served" the words "or the declaration of right sought"; (Service out of the jurisdiction.)
- (ii) by inserting in the same section next after paragraph (e) the following new paragraphs :—
- 10 (e1) the suit or proceeding is for a declaration of right affecting any person domiciled or any property situated within the jurisdiction; or
- 15 (e2) the suit or proceeding is for a declaration as to the interests, powers, rights and liabilities or duties of any persons or class of persons of whom the person to be served is one, arising under any
- 20 Act or any ordinance, rule, regulation or other instrument having effect under any Act or by reason of any executive, ministerial or administrative act done or purporting to be done in pursuance of any Act or of any such
- 25 ordinance, rule, regulation or other instrument; or.

1617. The Commercial Causes Act, 1903-1965, is amended by inserting next after section seven the following new sections :—

Amendment of Act No. 19, 1903.
New secs. 7A and 7B.

7A. The Judge by or before whom any commercial cause is tried may in addition to or in substitution for any verdict or judgment for debt or damages or for the return of goods make such binding declaration of right with respect to the subject matter of the cause as to him may seem appropriate.

Power to make declaratory order.

Law Reform (Miscellaneous Provisions).

7B. (1) Where a commercial dispute has arisen con- Commercial
cerning the construction of a document or its applica- disputes.
tion to any facts, any party to the dispute may apply
to a Judge in chambers for the determination of the
5 questions involved in such dispute notwithstanding that
no commercial cause has been commenced.

(2) A commercial dispute is a dispute which
would be a commercial cause if made the subject of an
action at common law.

10 (3) An application under this section may be
made in a summary manner by summons returnable on
two days' notice supported by an affidavit annexing the
document and deposing to any relevant facts.

15 (4) Where it is necessary in the determination of
a commercial dispute to decide any question of fact the
Judge shall settle the issues for trial and give any con-
sequential directions necessary for the determination of
such issues in a convenient and expeditious manner.

20 (5) A determination of any issue of fact or of
any question of law pursuant to this section shall be
binding on all parties to the summons in the same
manner as if the issue or question had been determined
in a commercial cause.

PART VI.

25 POWER TO ENTER SUBSTITUTED VERDICT.

1748. The Common Law Procedure Act, 1899-1962, is Amendment
further amended by inserting next after section one hundred of Act No.
and sixty the following new section :— 21, 1899.

New sec.
160A.

30 160A. (1) This section applies to an application to Substituted
the Court of Appeal for a new trial or to set aside a verdict.
verdict finding or judgment after trial with a jury.

(2) For the purposes of this section the Court
of Appeal shall have full power and jurisdiction to make
findings of fact and to assess damages or compensation.

(3)

Law Reform (Miscellaneous Provisions).

(3) The powers conferred by this section shall be exercisable only where on such application the Court of Appeal would, but for this section, have set aside the verdict finding or judgment and ordered a new trial on the issue of damages.

(4) The Court of Appeal shall not exercise the powers conferred by this section unless **the parties consent and** it is satisfied—

(a) that it is fully able to assess the damages on a perusal of the evidence contained in the documents before it, or on admitted facts, without seeing or hearing the plaintiff or defendant or other witnesses ; ~~and~~

(b) that one of the following circumstances exists namely :—

(i) it is desirable that the power be exercised to avoid a multiplicity of trials ; or

(ii) as a result of an error of law on the part of the trial judge or a manifest error on the part of the jury, some item or items of damages has or have been wrongly included in or excluded from the assessment ; or

(iii) the parties consent.

(5) The powers conferred by this section may also be exercised in appeals from any District Court whether the court giving the decision appealed from was constituted by a judge and jury or a judge sitting alone.

Law Reform (Miscellaneous Provisions).

PART VII.

INTEREST ON VERDICT AND ON COSTS.

1819. The Common Law Procedure Act, 1899-1962, is further amended by inserting next after section one hundred and forty-three the following new section :—

Amendment
of Act No.
21, 1899.

New sec.
143A.

143A. Notwithstanding anything in sections one hundred and forty-two and one hundred and forty-three—

Interest on
verdict and
costs.

- 10 (a) interest shall not be payable on the amount of the verdict if such amount is paid to or at the direction of the plaintiff within twenty-one days after the date of verdict ;
- 15 (b) interest shall not be payable on costs payable to the plaintiff if the amount of such costs is paid within twenty-one days after assessment or after taxation.

1920. The District Courts Act, 1912-1965, is amended by inserting next after section 101A the following new section :—

Amendment
of Act No.
23, 1912.

New sec.
101B.

20 101B. Notwithstanding anything in section 101A of this Act—

Interest on
verdict and
costs.

- 25 (a) interest shall not be payable on any judgment debt if the amount of such judgment debt is paid to or at the direction of the plaintiff within twenty-one days after the judgment or verdict was given or, as the case may be, the judgment was entered ;
- 30 (b) interest shall not be payable on costs payable to the plaintiff if the amount of such costs is paid within twenty-one days after assessment or after taxation.

Law Reform (Miscellaneous Provisions).

PART VIII.

AMENDMENT OF DISTRICT COURTS ACT, 1912-1965.

2021. The District Courts Act, 1912-1965, is further amended— Amendment
of Act No.
23, 1912.

- 5 (a) by omitting section sixty-five and by inserting in
lieu thereof the following section :— Subst.
sec. 65.
65. A default summons shall be served in the Service of
default
summons.
same manner as is provided by or under section
sixty-three of this Act for the service of an ordinary
10 summons.
- (b) (i) by omitting from section sixty-seven the word Sec. 67.
(Judgment
in default
of defence.)
“personal” where firstly occurring;
- (ii) by omitting from the same section the words
15 “or where service has not been personal,
within the prescribed number of days after
leave to proceed as aforesaid”;
- (iii) by omitting from the same section the words
“three months” and by inserting in lieu
thereof the words “twelve months”;
- 20 (iv) by omitting from the same section the words
“personal service or of an order of leave to
proceed” and by inserting in lieu thereof the
word “service”;
- 25 (a)(e) by omitting from subsection one of section eighty- Sec. 82.
(Discovery
of
documents.)
two the words “upon an affidavit by such party, or
his attorney, of his belief that any document to the
production of which he is entitled for the purpose
of discovery or otherwise, is in the possession or
power of the opposite party”;
- 30 (b)(4) by omitting from subsection two of section eighty- Sec. 86.
(Case
struck out.)
six the words “The judge at any time during the
sitting of the court at which an action has been
so struck out may” and by inserting in lieu thereof
the words “Where an action has been so struck out
35 the judge may, upon application made in that
behalf”;

(c)

Law Reform (Miscellaneous Provisions).

(c)(e) by inserting at the end of section ninety-two the following new subsection : — Sec. 92.
(Number of jurors.)

5 (2) To remove doubts it is hereby declared that section 30A of the Jury Act, 1912-1965, applies to and in respect of any cause or issue for trial by jury in any District Court.

(d)(f) by inserting next after section ninety-five the following new section : — New
sec. 95A.

10 95A. Where at a trial by jury of any cause or issue in a District Court the jury returns a verdict for an amount in excess of three thousand pounds the judge may reduce the amount of the verdict to three thousand pounds, and, in any case where the jury had made an apportionment of the verdict
15 returned by it the judge may make a corresponding apportionment of the amount of the verdict as so reduced.

20 95A. Where at a trial of any cause or issue in a District Court a verdict is returned for or the total amount which would have been recoverable if the claimant had not been at fault is found at an amount in excess of three thousand pounds but not exceeding five thousand pounds the Court shall find and record the amount of such verdict or, as
25 the case may be, such total amount and the plaintiff shall be entitled to recover the full amount of such verdict, or as the case may be, of such total amount reduced in accordance with section ten of the Law Reform (Miscellaneous Provisions) Act, 1965, notwithstanding that the amount
30 claimed does not exceed three thousand pounds.

(e)(g) by omitting from subsection three of section one hundred and twenty-seven the words "supported by an affidavit showing" and by inserting in lieu thereof the words "shown by affidavit or otherwise". Sec. 127.
(Interpretation.)

35

PART

Law Reform (Miscellaneous Provisions).

PART IX.

AMENDMENT OF SMALL DEBTS RECOVERY ACT, 1912-1961.

2122. The Small Debts Recovery Act, 1912-1961, is amended—

- 5 (a) by omitting section twenty-six and by inserting in lieu thereof the following section :—
26. A default summons or duplicate thereof shall be served in the same manner as is provided by or under section nineteen of this Act for the service of an ordinary summons.
- 10 (b) (i) by omitting from section twenty-eight the word "personal" where firstly occurring;
- (ii) by omitting from the same section the words "or where service has not been personal within fourteen days after leave to proceed as afore-
- 15 said";
- (iii) by omitting from the same section the words "three months" and by inserting in lieu thereof the words "twelve months";
- 20 (iv) by omitting from the same section the words "personal service, or of an order of leave to proceed" and by inserting in lieu thereof the word "service";
- 25 (a)(e) by inserting next after section thirty-five the following new section :—
- 35A. (1) In any action in which a default summons has been issued the defendant may sign a statement confessing the amount of the debt or demand for which the plaint has been issued, conditionally upon the granting of an application accompanying such statement of confession that if and when judgment is entered consequent upon such statement of confession a direction be given that the amount of the judgment be paid at such times and by such instalments as are offered in such application.

Amendment
of Act No.
33, 1912.
Subst. sec.
26.

Service of
default
summons.

Sec. 24.
(Judgment
in default
of defence.)

New sec.
35A.

Confession
of debt
subject to
conditions.

Law Reform (Miscellaneous Provisions).

(2) Any such statement and application shall be signed in the presence of the registrar of the court in which the plaint was issued or of an attorney or a justice of the peace.

5 (3) (a) Every such application shall be supported by an affidavit in the prescribed form.

(b) Proof shall be furnished by affidavit of the signature of the person signing such statement of confession.

10 (4) The registrar shall receive such statement of confession and application, and shall, as soon as convenient thereafter send notice of the same to the plaintiff.

15 (5) (a) If within five days of notice of the statement of confession and of the application having been sent to him by the registrar the plaintiff does not inform the registrar that he opposes the application the registrar shall enter judgment for the amount of the debt or demand for which the plaint was issued and shall give a direction for payment at such times and by such instalments as were offered in the application.

20 (b) If within five days of such notice having been given the plaintiff informs the registrar that he opposes the application the registrar shall inform the defendant accordingly, and in such event the statement of confession shall not be available in evidence and the time for filing notice of grounds of defence shall commence to run as from the time the defendant is so informed.

25 (6) Where action is taken under this section the provisions of sections thirty-four and thirty-five of this Act shall not apply.

30 (7) The giving of a direction under this section shall not affect the right of the judgment debtor to make an application under section forty-two of this Act, and, in the event of any such application

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application being made, that section shall have effect in all respects as if no action had been taken under this section.

- 5 (b) ~~(a)~~ by inserting in subsection one of section forty-three after the words "entered up" the words " or of his solicitor or agent shown on the record".

Sec. 43.
(Execution of process.)

PART X.

APPEALS FROM JUSTICES.

22. ~~22.~~ The Justices Act, 1902-1958, is amended—

Amendment of Act No. 27, 1902.

- 10 (a) (i) by inserting in subsection one of section one hundred and four after the words "apply to" the words "a Judge of";
- 15 (ii) by omitting from subsection two of the same section the word "Court" and by inserting in lieu thereof the word "Judge";
- (b) by omitting subsection three of section one hundred and six.
- 20 (c) by omitting subsection one of section one hundred and seven and by inserting in lieu thereof the following subsection : —
- (1) The authority and jurisdiction vested in the Supreme Court by section one hundred and six of this Act may be exercised by a Judge of the said Court sitting in Chambers.
- 25 (d) by inserting next after section one hundred and seven the following new section : —
- 30 107A. (1) Any person aggrieved by any decision or determination of a Judge made pursuant to sections one hundred and six and one hundred and seven of this Act may appeal therefrom to the Court of Appeal by leave of the Court of Appeal.

Sec. 104.
(When case refused Supreme Court may direct case to be stated.)

Sec. 106.
(Powers of Court in dealing with cases so stated.)

Sec. 107.
(Powers of Court may be exercised by Judge in Chambers.)

New sec. 107A.

Appeal to Court of Appeal.

(2)

Law Reform (Miscellaneous Provisions).

(2) Any such appeal shall be in accordance with rules of court of the Court of Appeal made under section 21K of the Supreme Court and Circuit Courts Act, 1900-1965.

- 5 (e) by inserting in section one hundred and eight after Sec. 108.
the words "Supreme Court" the words "or by the (After
Court of Appeal on appeal thereto"; decision of
Court
Justices to
enforce
conviction
or order.)
- 10 (f) by omitting from section one hundred and nine Sec. 109.
the words "said Court" and by inserting in lieu (Certiorari
thereof the words "Supreme Court or of the Court not requisite
of Appeal on appeal thereto"; when case
stated.)
- (g) by omitting subsections four and five of section Sec. 112.
one hundred and twelve and by inserting in lieu (Any person
thereof the following subsection :— aggrieved by
conviction or
order may
apply for
prohibition.)
- 15 (4) Any application under this section may be
heard and determined by a Judge of the Supreme
Court in Chambers.
- (h) by omitting section one hundred and fourteen and Subst. sec.
by inserting in lieu thereof the following section :— 114.
- 20 114. Any rule or order granted or made under Before
section one hundred and twelve of this Act shall whom rule to
be made returnable before a Judge of the Supreme be return-
Court in Chambers. able.
- 25 (i) by omitting from section one hundred and fifteen Sec. 115.
the words "Court or" wherever occurring; (Powers of
Court or
Judge.)

(j)

Law Reform (Miscellaneous Provisions).

- (j) (i) by omitting subsection one of section one hundred and sixteen and by inserting in lieu thereof the following subsection :—
- 5 (1) (a) Any person aggrieved by any decision or determination of a Judge made pursuant to sections one hundred and fourteen and one hundred and fifteen of this Act may appeal therefrom to the Court of Appeal by leave of the Court of Appeal.
- 10 (b) Any such appeal shall be in accordance with rules of court of the Court of Appeal made under section 21K of the Supreme Court and Circuit Courts Act, 1900-1965.
- 15 (ii) by omitting from subsection two of the same section the word "Court" and by inserting in lieu thereof the words "Court of Appeal";
- (k) by omitting from section one hundred and seven-
 20 teen the words "Court or Judge" and by inserting in lieu thereof the words "Judge or of the Court of Appeal in respect of any matter coming before it on appeal or reference".

Sec. 116.
 (Certain
 rules and
 writs
 made by
 Judge may
 be reviewed
 by Court.)

Sec. 117.
 (Costs.)

PART XI.

AMENDMENT OF VARIOUS ACTS.

- 25 ~~2324.~~ The Supreme Court and Circuit Courts Act, 1900-1965, is amended by omitting section twenty and by inserting in lieu thereof the following section :—
- 30 20. (1) Applications for a rule or order nisi for prohibition, mandamus or certiorari or for an order for the issue of a writ of habeas corpus may be heard and disposed of by a Judge, whether during term or in vacation.

Amendment
 of Act No.
 35, 1900.
 Subst. sec.
 20.
 Exercise of
 powers by
 single Judge
 or Judge
 of Appeal
 in certain
 cases.

(2)

Law Reform (Miscellaneous Provisions).

(2) Applications to the Court of Appeal to make absolute a rule or order nisi for prohibition, mandamus or certiorari or to make absolute an order for the issue of a writ of habeas corpus may, in vacation, be heard and disposed of by a Judge of Appeal.

5

(3) Any person aggrieved by any decision of a Judge under subsection one of this section or of a Judge of Appeal under subsection two of this section may appeal therefrom to the Court of Appeal. Any such appeal shall be in accordance with rules of court of the Court of Appeal made under section 21K of this Act.

10

24. ~~25.~~ The Common Law Procedure Act, 1899-1962, is further amended by emitting section two hundred and sixty-five and by inserting in lieu thereof the following section:—

Amendment
of Act No.
21, 1899.
Subst. sec.
Sec. 265.

15

265. All costs of any action not herein or otherwise provided for shall be paid by or apportioned between the parties in such manner as the court or judge thinks fit and in default of any special direction shall abide the event of the action or the finding or judgment on any issue, and such costs shall be recoverable accordingly.

20

Costs in
discretion
of judge.
(cf. Act No.
23, 1912,
sec. 129.)

by adding at the end of section two hundred and sixty-five the following proviso:—

25

Provided that where a plaintiff obtains a verdict against one or more defendants in an action but fails to obtain a verdict against another defendant or other defendants in the said action then such plaintiff may be awarded against the unsuccessful defendant or defendants the costs of the successful defendant or defendants which are awarded against the plaintiff.

30

Law Reform (Miscellaneous Provisions).

26. The Workers' Compensation Act, 1926-1965, is amended by omitting section 64A.

Amendment of Act No. 15, 1926.

Sec. 64A.
(In actions for damages no reference to be made to compensation.)

25. 27. The Supreme Court Procedure Act, 1900-1965, is further amended by omitting subsection five of section five.

Amendment of Act No. 49, 1900.

Sec. 5.
(Finding of judge to be finding of jury.)

5 26. 28. The Jury Act, 1912-1965, is further amended by omitting from section thirty the words "either the plaintiff or the defendant in any" and by inserting in lieu thereof the words "any party to an".

Amendment of Act No. 31, 1912.
Sec. 30.
(Juries of twelve.)

10 27. 29. The Motor Traffic Act, 1909, as amended by subsequent Acts, is amended by inserting next after section 18B the following new section :—

Amendment of Act No. 5, 1909.

18C. (1) Where—

Ex parte procedure for offences referred to in section 18B.

15 (a) the matter of an information for an offence referred to in subsection one of section 18B of this Act has been substantiated by the oath of the informant;

20 (b) a summons for the appearance of the defendant has been served on him in the manner provided by the Justices Act, 1902, as amended by subsequent Acts; and

(c) the defendant does not appear at the time and place fixed for the hearing of the information, the court before which the information comes for hearing may if it is satisfied that—

25 (d) the facts as alleged in the summons constitute such an offence; and

(e)

Law Reform (Miscellaneous Provisions).

(e) the circumstances of the offence are reasonably described in the summons, and reasonably sufficient particulars thereof are set out in the summons,

5 make an order imposing on the defendant a penalty to be paid within such time as may be specified in the order, and may, if it thinks fit, make an order under section eighty-one of the Justices Act, 1902, as amended by subsequent Acts, for the payment by the defendant of costs.

10 (2) The provisions of section 556A of the Crimes Act, 1900, as amended by subsequent Acts, apply to any proceedings under subsection one of this section as if the defendant had been charged before the court with the offence referred to in the information.

15 (3) A penalty imposed by an order under subsection one of this section shall not exceed the amount of the penalty specified in the Act or regulation creating the offence in respect of which the penalty is so imposed.

20 (4) In determining the amount of the penalty to be imposed by an order under subsection one of this section, the court may take into account any report made to it by or on behalf of the informant with respect to the character or antecedents **penalties or previous convictions under this Act** of the defendant and to the circumstances of the offence and any information that the defendant causes to be brought to the notice of the court.

25 (5) An order under subsection one of this section shall, for the purposes of section eighty-two and Part V of the Justices Act, 1902, as amended by subsequent Acts, be deemed to be an order under that Act, as so amended.

30 (6) Section seventy-five of the Justices Act, 1902, as amended by subsequent Acts, does not apply in any case where an information is dealt with under subsection one of this section.

(7)

Law Reform (Miscellaneous Provisions).

5 (7) A reference in subsection one of this section to the time and place fixed for the hearing of an information shall, where the hearing of the information has been adjourned and notice of the time and place to which the hearing has been adjourned has been given to the defendant or sent to him at his last known place of abode or business, include a reference to the time and place specified in that notice.

10 (8) Section fifteen of the Justices Act, 1902, as amended by subsequent Acts, shall be construed as if this section formed part of that Act, as so amended.

(9) The jurisdiction of a court under this section shall not be exercised except by a stipendiary magistrate.

15 (10) The provisions of this section are supplemental to and not in derogation of the provisions of any Act in relation to proceedings that may be taken in respect of offences referred to in subsection one of section 18B of this Act.

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SCHEDULE.

Sec. 1.

Reference to Act.	Short title.	Citation.
5 No. 21, 1899.	Common Law Procedure Act, 1899.	Common Law Procedure Act, 1899-1965.
No. 35, 1900.	Supreme Court and Circuit Courts Act, 1900	Supreme Court and Circuit Courts Act, 1900-1965.
10 No. 49, 1900.	Supreme Court Procedure Act, 1900.	Supreme Court Procedure Act, 1900-1965.
No. 24, 1901.	Equity Act, 1901 ..	Equity Act, 1901-1965.
No. 27, 1902.	Justices Act, 1902 ..	Justices Act, 1902-1965.
15 No. 19, 1903.	Commercial Causes Act, 1903.	Commercial Causes Act, 1903-1965.
No. 5, 1909	Motor Traffic Act, 1909..	Motor Traffic Act, 1909-1965.
20 No. 23, 1912.	District Courts Act, 1912	District Courts Act, 1912-1965.
No. 31, 1912.	Jury Act, 1912	Jury Act, 1912-1965.
No. 33, 1912.	Small Debts Recovery Act, 1912.	Small Debts Recovery Act, 1912-1965.
25 No. 15, 1926.	Workers' Compensation Act, 1926.	Workers' Compensation Act, 1926-1965.
No. 15, 1942.	Motor Vehicles (Third Party Insurance) Act, 1942.	Motor Vehicles (Third Party Insurance) Act, 1942-1965.
30		

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1965

[3s. 0d. (30c)]

After Re-committal

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 2 December, 1965, A.M.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, December, 1965.*

New South Wales



ANNO QUARTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1965.

An Act to make provision for and with respect to the mode of trial of certain classes of civil actions; to amend the common law doctrine of contributory negligence; to make further provision for and with respect to the payment or the provision of security for payment of moneys into court in civil actions; to confer on the Supreme Court a special jurisdiction exercisable as an extension of its equitable jurisdiction, to make general declarations of right; to enable the Supreme Court in its Commercial Causes jurisdiction to make declarations of right in addition to or in substitution for verdicts and judgments; to enable the Court of Appeal, in special circumstances, to substitute its assessment for the verdict of a jury; to extend the procedure relating

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relating to minor traffic offences; to make amendments of a procedural or administrative nature to various Acts; for these and other purposes to amend the Common Law Procedure Act, 1899–1962, the District Courts Act, 1912–1965, the Equity Act, 1901–1965, the Motor Traffic Act, 1909, and certain other Acts in certain respects; and for purposes connected therewith.

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 : —

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Law Reform Short title and citation.
(Miscellaneous Provisions) Act, 1965".

10 (2) The Acts, as amended by subsequent Acts and by this Act, specified in the first and second columns of the Schedule to this Act may be cited as respectively specified in the third column of that Schedule.

2. (1) This Part of this Act shall commence on the day Commence-
ment.
15 upon which the assent of Her Majesty to this Act is signified.

(2) Subject to subsection one of this section this Act shall commence upon such date or dates as may be appointed and notified pursuant to subsection three of this section.

(3) The Governor may, from time to time, appoint
20 and notify by proclamation published in the Gazette the date upon which any Part or provision of this Act specified in the proclamation shall commence and may appoint different dates for

Law Reform (Miscellaneous Provisions).

for different Parts or provisions (whether contained in the same Part or section or in different Parts or sections) and the Part or provision so specified shall commence accordingly.

3. This Act is divided into Parts as follows :—

Division
into Parts.

- 5 PART I.—PRELIMINARY—ss. 1-3.
PART II.—HEARING AND DETERMINATION OF CIVIL ACTIONS—ss. 4-7.6.
PART III.—AMENDMENT OF DOCTRINE OF CONTRIBUTORY NEGLIGENCE—ss. 8-11.7-10.
10 PART IV.—PAYMENT INTO COURT—ss. 12-15.11-14.
PART V.—DECLARATORY ORDERS—ss. 16, 17.15, 16.
PART VI.—POWER TO ENTER SUBSTITUTED VERDICT—s. 18.17.
PART VII.—INTEREST ON VERDICT AND ON COSTS—ss. 19, 20.18, 19.
15 PART VIII.—AMENDMENT OF DISTRICT COURTS ACT, 1912-1965—s. 21.20.
PART IX.—AMENDMENT OF SMALL DEBTS RECOVERY ACT, 1912-1961—s. 22.21.
20 PART X.—APPEALS FROM JUSTICES—s. 23.22.
PART XI.—AMENDMENT OF VARIOUS ACTS—ss. 24-29.23-27.

PART II.

HEARING AND DETERMINATION OF CIVIL ACTIONS.

- 25 4. (1) This Part shall apply to any action in the Application
Supreme Court or in a District Court **instituted after the** of Part.
commencement of this Act in which issues of fact are to be
tried or damages or sums of money recoverable are to be
assessed where—

- 30 (a) the action is for damages—
(i) in respect of the death of or bodily injury
to any person caused by or arising out of
the use of a motor vehicle; or

(ii)

Law Reform (Miscellaneous Provisions).

- (ii) in respect of damage to property caused by or arising out of the use of a motor vehicle; or
- (iii) in respect of any other matter in which the liability incurred was caused by or arose out of the use of a motor vehicle;
- (b) contribution is claimed under Part III of the Law Reform (Miscellaneous Provisions) Act, 1946, in respect of damages of the nature referred to in paragraph (a) of this subsection.

(2) This Part shall be read and construed with the Motor Vehicles (Third Party Insurance) Act, 1942-1963.

5. (1) In any action to which this Part applies the court or a judge may on the application of any party made not later than such time before the trial as may be limited by rules of court, upon being satisfied that circumstances exist which render it desirable to do so and shall, where both parties so apply, order that the action be tried with a jury; but, save as aforesaid, any action to which this Part applies shall notwithstanding section twenty-nine of the Jury Act, 1912-1965, or section ninety of the District Courts Act, 1912-1965, be tried by a judge without a jury:

Amendment
of procedure
as to trials
by jury.
23 & 24
Geo V.
c. 36.

Provided that the provisions of this section shall be without prejudice to the power of the court or a judge to order, in accordance with rules of court, that different questions of fact arising in any action be tried by different modes of trial, and where any such order is made the provisions of this section shall have effect accordingly.

(2) Where an order has been made under subsection one of this section for the trial of an action with a jury any party to that action may apply under section thirty of the Jury Act, 1912-1965, for an order that the trial be had by a jury consisting of twelve persons.

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5. (1) In any action to which this Part applies any or either party may at any time not later than twenty-one days after the action has been set down for trial, or within such further period as the Court may allow, require that the action be
5 **tried with a jury and thereupon the action shall be so tried ; but save as aforesaid any action to which this Part applies shall, notwithstanding section 29 of the Jury Act, 1912-1965, be tried by a Judge without a jury.**

(2) A party so requiring a jury shall within the time
10 **limited by subsection one of this section file and serve a notice to that effect upon the other party or parties.**

(3) Where any action in the Supreme Court is, by force of this section, to be tried by a judge without a jury the following provisions shall have effect :—

- 15 (a) The verdict or finding of the judge shall be of the like force and effect as the verdict or finding of a jury.
- (b) Nothing in this subsection shall authorise judgment to be signed on the verdict or finding, but judgment
20 may be directed to be entered as provided in this section, and the entry shall have the like force and effect in all respects as the signing of judgment.
- (c) The judge may, either at or after the trial, direct that judgment be entered for any or either party.
- 25 (d) The judge may adjourn the case for further consideration or may leave any party to move the Court of Appeal for judgment, or may refer the case to the Court of Appeal for its determination.

30 The Court of Appeal shall have jurisdiction to direct judgment to be entered for any or either party.

- (e) Any party may appeal to the Court of Appeal against any judgment so directed by the judge to be entered.

(f)

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- (f) The appeal shall be by way of rehearing and on the appeal the Court of Appeal shall—
- 5 (i) have all the powers and duties of the judge as to amendment or otherwise, including the power to make findings of fact and to assess damages or compensation;
- 10 (ii) have full discretionary power to receive further evidence upon questions of fact, such evidence to be taken either by oral evidence in court, by affidavit, or by deposition taken before a commissioner or examiner, and to be admitted on special grounds only and not without special leave of the Court of Appeal.
- 15 (g) The Court of Appeal may direct the appeal to stand over for further consideration, and direct such issues or questions to be tried or determined or the amount of any damages or compensation to be assessed by a judge either with or without a jury as it may think fit.
- 20 (h) The Court of Appeal may on the appeal give any judgment and make any order which ought to have been given or made in the first instance, and may make such further or other order as the case requires, and in particular may make—
- 25 (a) any order which it might make under section seven of the Supreme Court Procedure Act, 1900-1965;
- 30 (b) such order as to the whole or any part of the costs of the appeal or of the cause or matter as may be just.
- 35 (i) The powers conferred by this section may be exercised by the Court of Appeal notwithstanding that the notice of appeal is that part only of the judgment may be reversed or varied, and such powers may be exercised in favour of all or any of the respondents or parties, although such respondents or parties have not appealed from or complained of the judgment.

(j)

Law Reform (Miscellaneous Provisions).

- (j) Where the judge leaves any party to move the Court of Appeal for judgment, or refers the case to the Court of Appeal for its determination, the powers conferred on the Court of Appeal by paragraphs (f) and (g) of this subsection shall extend to the motion or reference.
- (k) Every application for a new trial or to set aside a verdict finding or judgment, or to have a nonsuit or verdict entered, in any case where any action issue or question has been tried before a judge without a jury, shall be made by appeal to the Court of Appeal and not otherwise.
6. (1) Where an action to which this Part applies was instituted before the commencement of this Part in the Supreme Court or in a District Court then—
- (a) if such action is listed in the daily causes list for hearing within one month after such commencement such action may be continued and completed as if this Act had not been enacted;
- (b) if such action is not so listed for hearing within one month after such commencement then notwithstanding anything in any Act or in any rule of court relating to the mode of trial of actions, or any steps taken by the parties, the provisions of section five of this Act shall apply to the hearing and determination of such action.
- (2) Where an action to which this Part applies is instituted after the commencement of this Part, in the Supreme Court or in a District Court, then, notwithstanding anything in any Act or in any rule of court relating to the mode of trial of actions, the provisions of section five of this Act shall apply to the hearing and determination of such action.
67. (1) Where, in any action to which this Part applies, a third party notice has been served under the Law Reform (Miscellaneous Provisions) Act, 1946, the provisions of sections five and six of this Act shall extend to the hearing and determination of issues in the third party proceedings.

Transitional provisions.

Third party proceedings and contribution.

Law Reform (Miscellaneous Provisions).

(2) Where, in any action to which this Part applies, proceedings are instituted for contribution under the Law Reform (Miscellaneous Provisions) Act, 1946, the provisions of sections five ~~and six~~ of this Act shall extend to the hearing 5 and determination of issues in those proceedings.

PART III.

AMENDMENT OF DOCTRINE OF CONTRIBUTORY NEGLIGENCE.

~~8. Nothing in this Part shall affect the operation of the~~ Saving.
~~Statutory Duties (Contributory Negligence) Act, 1945.~~

10 **78. Nothing in this Part shall apply to any action for damages founded upon a breach of statutory duty imposed on a defendant. Nothing in this Part shall affect the provisions and operation of the Statutory Duties (Contributory Negligence) Act, 1945.**

15 **89. This Part shall not apply to any case in which the acts** Application
or omissions giving rise to the claim occurred before the of Part.
commencement of this Part.

~~910.~~ In this Part, unless the context or subject matter other- Definitions.
wise indicates or requires—

20 “Court” means in relation to any claim the court by or before whom the claim falls to be determined.

“Damage” includes loss of life and personal injury.

25 “Fault” means negligence, ~~breach of statutory duty~~ or other act or omission which gives rise to a liability in tort or would, apart from this Part, give rise to the defence of contributory negligence **but does not mean or include a breach of statutory duty.**

30 ~~1011.~~ (1) Where any person suffers damage as the result partly of his own fault and partly of the fault of any other person or persons, a claim in respect of that damage shall not be defeated by reason of the fault of the person suffering the damage, but the damages recoverable in respect thereof shall

Apportion-
ment of
liability
in case of
contributory
negligence.
8 & 9
Geo. VI
c. 28. s. 1,
be

Law Reform (Miscellaneous Provisions).

be reduced to such extent as the court thinks just and equitable having regard to the claimant's share in the responsibility for the damage :

Provided that—

- 5 (a) this subsection shall not operate to defeat any defence arising under a contract;
- (b) where any contract or enactment providing for the limitation of liability is applicable to the claim, the amount of damages recoverable by the claimant by virtue of this subsection shall not exceed the maximum limit so applicable.
- 10 (c) where any payments made to the claimant by way of compensation take effect pursuant to section 63 (5) of the Workers' Compensation Act, 1926-1965, as a satisfaction of the judgment obtained by him against his employer, such payments shall be reduced to the same extent as the damages recoverable by him and shall be a satisfaction of the judgment to such reduced extent only ;
- 15 (d) where the claimant is liable to repay compensation to his employer pursuant to section 64 (a) of the Workers' Compensation Act, 1926-1965, the amount of compensation so repayable shall be reduced to the same extent as the damages recoverable by him ;
- 20 (e) where the cost of any medical or hospital treatment or ambulance service for which the claimant's employer incurs liability under section 10 of the Workers' Compensation Act, 1926-1965, remains unpaid at the time the claimant recovers damages the claimant's liability in respect of such cost shall as between himself and his employer be reduced to the same extent as his damages and his employer shall notwithstanding the recovery of damages and the provisions of section 64 (a) of the Workers' Compensation Act, 1926-1965, remain liable to pay to him the balance of such cost under section 10 of the said Act.
- 25
- 30
- 35

(2)

Law Reform (Miscellaneous Provisions).

(2) Where damages are recoverable by any person by virtue of the foregoing subsection subject to such reduction as is therein mentioned, the court shall find and record the total damages which would have been recoverable if the claimant had not been at fault.

(3) Section five of the Law Reform (Miscellaneous Provisions) Act, 1946, shall apply in any case where two or more persons are liable or would, if they had all been sued, be liable by virtue of subsection one of this section in respect of the damage suffered by any person.

(4) Where any person dies as the result partly of his own fault and partly of the fault of any other person or persons, an action for damages for the benefit of dependants under the Compensation to Relatives Act, 1897-1953, shall not be defeated by the fault of the deceased but if the circumstances are such that if an action were brought for the benefit of the estate of the deceased under the Law Reform (Miscellaneous Provisions) Act, 1944, the damages recoverable would be reduced under subsection one of this section, any damages recoverable in an action brought for the benefit of the dependants of that person under the Compensation to Relatives Act, 1897-1953, shall be reduced to a proportionate extent.

(4) No action for damages for the benefit of dependants of a deceased person under the Compensation to Relatives Act, 1897-1953, shall be defeated by the fault or breach of statutory duty of the deceased person nor shall the damages recoverable in such action be reduced by reason of such fault or of such breach of statutory duty.

(5) Where, in any case to which subsection one of this section applies, one of the persons at fault avoids liability to any other such person or his personal representative by pleading the Statute of Limitations, or any other enactment limiting the time within which proceedings may be taken, he shall not be entitled to recover any damages or contributions from that other person or representative by virtue of the said subsection.

(6)

Law Reform (Miscellaneous Provisions).

(6) Where any case to which subsection one of this section applies is tried—

- (a) by a judge sitting without a jury the judge shall make the apportionment under subsection one of this section; or
- (b) by a judge sitting with a jury, the jury shall determine the total damages which would have been recoverable if the claimant had not been at fault and the extent to which those damages are to be reduced.

PART IV.

PAYMENT INTO COURT.

1142. The Motor Vehicles (Third Party Insurance) Act, 1942-1963, is amended by omitting section 38A.

Amendment
of Act No.
15, 1942.
Sec. 38A.
(Payment
into court
excluded in
certain
cases.)

15 1213. The Common Law Procedure Act, 1899-1962, is amended—

Amendment
of Act No.
21, 1899.

- (a) by inserting in subsection one of section eighty after the words “pay into Court” the words “or deposit in the Court a bond or undertaking in the prescribed form securing payment of”;
- (b) (i) by inserting in subsection one of section eighty-two after the words “order to pay” the words “or to deposit a bond or undertaking securing payment of”;
- (ii) by inserting in the same subsection after the words “paid to” the words “or the bond or undertaking deposited with”;

Sec. 80.
(Payment
into
Court.)

Sec. 82.
(No order
to pay
money into
Court.)

(c) by inserting next after section eighty-two the following new section : —

New sec.
82A.

- 82A. (1) Money may be paid into Court or a bond or undertaking securing the payment of money into Court may be deposited, with an appropriate plea at any time before the date of hearing joinder of issue.
- (2) issue.

Payment
into Court
at any time
before
hearing.
joinder of
issue.

Law Reform (Miscellaneous Provisions).

5 (2) This section applies whether the money is paid in or secured under the provisions of this Act or pursuant to rules of Court, and applies whether or not the payment or deposit is made with or without denial of liability.

- (d) (i) by inserting in section eighty-three after the word "payment" the words "or of deposit of a bond or undertaking securing payment"; Sec. 83. (Proceedings by plaintiff after payment into Court.)
- 10 (ii) by inserting in paragraph (a) of the same section after the words "so paid into Court" the words "or so secured";
- (iii) by inserting in the same paragraph after the words "paid in" the words "or secured";
- 15 (iv) by inserting in paragraph (b) of the same section after the words "sum paid into Court" the words "or secured";

- (e) by inserting next after section eighty-three the following new section : — New sec. 83A.

20 83A. (1) The bond or undertaking referred to in sections eighty, eighty-two, 82A and eighty-three of this Act shall be a bond or undertaking given by an insurance company which is a licensed insurer under the Workers' Compensation Act, 1926-1965, or an authorised insurer under the Motor Vehicles (Third Party Insurance) Act, 1942-1963.

25

(2) (a) Where the plaintiff accepts the sum secured by any such bond or undertaking the person giving the bond or undertaking shall, within seven days after notice of acceptance pay the sum secured to the proper officer of the Court.

30

(b) If he fails to do so he shall not be entitled to any advantage by reason of his deposit in the court of the undertaking, and the plaintiff may either withdraw his acceptance or apply to the court for an order directing payment to him of the amount stated in the bond.

35

cf. Rules of Sup. Court. (Vict.) Ord. 22 R. 1 (5).

In

Law Reform (Miscellaneous Provisions).

In any case where the deposit was made by one or more defendants in proceedings under Part III of the Law Reform (Miscellaneous Provisions) Act, 1946, the Court may make such order subject to such conditions as it may think just.

(c) Any order for the payment of money made under the authority of paragraph (b) of this subsection shall have the effect of a judgment at law and the plaintiff may have execution thereon for the money payable, and shall be entitled to all the remedies given to judgment creditors by the Judgment Creditors' Remedies Act, 1901-1957.

1344. The District Courts Act, 1912-1965, is amended—

- 15 (a) (i) by omitting from subsection one of section seventy-two the words "within the prescribed time" and by inserting in lieu thereof the words "at any time before the date of hearing" "at least five clear days before the return day";
- 20 (ii) by inserting in subsection one of the same section after the word "court" the words "or deposit with the court a bond or undertaking in the prescribed form securing payment of";
- 25 (iii) by inserting in subsection two of the same section after the word "payment" the words "or deposit";
- 30 (iv) by inserting in subsection three of the same section after the word "payment" the words "or deposit";
- (v) by inserting in subsection four of the same section after the words "paid in" the words "or secured";
- 35 (vi) by inserting in subsection five of the same section after the words "paid into court" the words "or secured";

(vii)

Amendment
of Act No.
23, 1912.
Sec. 72.
(Payment
into court of
money by
defendant.)

Law Reform (Miscellaneous Provisions).

(vii) by inserting in the same subsection after the words "payment into court" the words "or, as the case may be, the deposit of such bond or undertaking";

5 (b) by inserting next after section seventy-two the following new section :— New sec.
72A.

72A. (1) The bond or undertaking referred to Bond.
in section seventy-two of this Act shall be a bond
given by an insurance company which is a licensed
10 insurer under the Workers' Compensation Act,
1926-1965, or an authorised insurer under the
Motor Vehicles (Third Party Insurance) Act,
1942-1963.

15 (2) (a) Where the plaintiff elects to
accept the sum secured by any such bond or under-
taking the person giving the bond or undertaking
shall, within seven days after notice of acceptance
pay the sum secured to the proper officer of the
court.

20 (b) If he fails to do so he shall not
be entitled to any advantage by reason of his deposit
in the court of the undertaking, and the plaintiff
may either withdraw his acceptance or apply to the
court for an order directing payment to him of the
25 amount stated in the bond. cf. Rules of
Sup. Court.
(Vict.)
Ord. 22 R. 1
(5).

30 In any case where the deposit was made by one
or more defendants in proceedings under Part III
of the Law Reform (Miscellaneous Provisions) Act,
1946, the court may make such order subject to
such conditions as it may think just.

35 (c) Any order for the payment of
money made under the authority of paragraph (b)
of this subsection shall have the effect of a judg-
ment at law and the plaintiff may have execution
thereon for the money payable, and shall be entitled
to all the remedies given to judgment creditors by
the Judgment Creditors' Remedies Act, 1901-1957.

Law Reform (Miscellaneous Provisions).

1415. The rules of court of the Supreme Court or of a District Court in force at the commencement of this Part with respect to the payment of moneys into court whether with or without denial of liability, shall extend, mutatis mutandis, to the deposit of a bond or undertaking securing payment into court of moneys, but may be amended or replaced by rules made after the commencement of this Part.

Existing
rules of court
extended.

PART V.

DECLARATORY ORDERS.

10 1546. The Equity Act, 1901-1965, is amended—

Amendment
of Act No.
24, 1901.

- (a) by inserting at the end of the last definition in section three the words “and also includes the jurisdiction conferred by section ten of this Act”; Sec. 3.
(Interpretation.)
- 15 (b) by inserting in subsection one of section four after the word “including” the words “the jurisdiction conferred by section ten of this Act and including also”; Sec. 4.
(Appointment and powers of the Chief Judge in Equity.)
- 20 (c) by inserting in section eight after the word “relief” the words “or for purposes relevant to the exercise of the jurisdiction conferred by section ten of this Act”; Sec. 8.
(Power to decide legal titles, &c.)
- (d) by omitting section ten and by inserting in lieu thereof the following new section : — Subst. sec.
10.

25 10. (1) In addition to the jurisdiction which is otherwise vested in it, the Court shall have jurisdiction to make binding declarations of right whether or not any consequential relief is or could be claimed, and whether or not the suit in which the declaration is sought is a suit for equitable relief or a suit which relates to equitable rights or titles.

Declarations
of right.

30 No suit shall be open to objection on the ground that a merely declaratory decree is sought thereby.

(2)

Law Reform (Miscellaneous Provisions).

(2) Without limiting the generality of the jurisdiction conferred by subsection one of this section, the Court may by decree or order declare—

- 5 (a) the nature, quality and extent of the estates, interests, powers, rights, liabilities or duties of any persons in respect of any real or personal property or arising under any disposition of any real or personal property including any sale, conveyance, transfer, 10 assignment, mortgage, charge, encumbrance, debenture, pledge, lease, bailment, or hiring or arising under any agreement or option for or relating to any such disposition as aforesaid;
- 15 (b) the interests, powers, rights and liabilities or duties of any persons arising under—
 - (i) any partnership or partnership agreement;
 - 20 (ii) the memorandum or articles of association or other constitution of any company or other corporation;
 - (iii) the rules, by-laws or other constitution of any unincorporated association;
 - 25 (iv) any agreement relating to any patent, trade mark, trade name, copyright or industrial design;
 - (v) any agreement for or relating to any guarantee or indemnity;
 - 30 (vi) generally any contract or agreement whether of the same or a different class;
 - (vii) any Act or any ordinance, rule, 35 regulation or other instrument having effect under any Act or by reason of any executive, ministerial or administrative act done or purporting to be done in pursuance of any Act or of any such ordinance, 40 rule, regulation or other instrument.

(3)

Law Reform (Miscellaneous Provisions).

(3) A suit for a declaration of right may be commenced either by statement of claim or in a summary manner by originating summons under the Fourth Schedule to this Act.

- 5 (e) (i) by inserting in paragraph (c) of section thirty Sec. 30.
after the word "served" the words "or the (Service out
declaration of right sought"; of the juris-
diction.)
- (ii) by inserting in the same section next after
10 paragraph (e) the following new para-
graphs :—
- (e1) the suit or proceeding is for a declara-
tion of right affecting any person
domiciled or any property situated
within the jurisdiction; or
- 15 (e2) the suit or proceeding is for a declara-
tion as to the interests, powers, rights
and liabilities or duties of any persons
or class of persons of whom the person
to be served is one, arising under any
20 Act or any ordinance, rule, regula-
tion or other instrument having effect
under any Act or by reason of any
executive, ministerial or administrative
act done or purporting to be done in
25 pursuance of any Act or of any such
ordinance, rule, regulation or other
instrument; or.

1617. The Commercial Causes Act, 1903-1965, is amended Amendment
by inserting next after section seven the following new of Act No.
30 sections :— 19, 1903.

New secs. 7A
and 7B.

7A. The Judge by or before whom any commercial Power to
cause is tried may in addition to or in substitution for make
any verdict or judgment for debt or damages or for declaratory
the return of goods make such binding declaration of order.
35 right with respect to the subject matter of the cause as
to him may seem appropriate.

Law Reform (Miscellaneous Provisions).

7B. (1) Where a commercial dispute has arisen concerning the construction of a document or its application to any facts, any party to the dispute may apply to a Judge in chambers for the determination of the questions involved in such dispute notwithstanding that no commercial cause has been commenced. Commercial disputes.

(2) A commercial dispute is a dispute which would be a commercial cause if made the subject of an action at common law.

(3) An application under this section may be made in a summary manner by summons returnable on two days' notice supported by an affidavit annexing the document and deposing to any relevant facts.

(4) Where it is necessary in the determination of a commercial dispute to decide any question of fact the Judge shall settle the issues for trial and give any consequential directions necessary for the determination of such issues in a convenient and expeditious manner.

(5) A determination of any issue of fact or of any question of law pursuant to this section shall be binding on all parties to the summons in the same manner as if the issue or question had been determined in a commercial cause.

PART VI.

POWER TO ENTER SUBSTITUTED VERDICT.

1748. The Common Law Procedure Act, 1899-1962, is further amended by inserting next after section one hundred and sixty the following new section :—

Amendment
of Act No.
21, 1899.
New sec.
160A.

160A. (1) This section applies to an application to the Court of Appeal for a new trial or to set aside a verdict finding or judgment after trial with a jury. Substituted verdict.

(2) For the purposes of this section the Court of Appeal shall have full power and jurisdiction to make findings of fact and to assess damages or compensation.

(3)

Law Reform (Miscellaneous Provisions).

5 (3) The powers conferred by this section shall be exercisable only where on such application the Court of Appeal would, but for this section, have set aside the verdict finding or judgment and ordered a new trial on the issue of damages.

(4) The Court of Appeal shall not exercise the powers conferred by this section unless **the parties consent and** it is satisfied—

10 ~~(a)~~ that it is fully able to assess the damages on a perusal of the evidence contained in the documents before it, or on admitted facts, without seeing or hearing the plaintiff or defendant or other witnesses ; ~~and~~

15 (b) that one of the following circumstances exists namely : —

(i) it is desirable that the power be exercised to avoid a multiplicity of trials; or

20 (ii) as a result of an error of law on the part of the trial judge or a manifest error on the part of the jury, some item or items of damages has or have been wrongly included in or excluded from the assessment; or

25 (iii) the parties consent.

(5) The powers conferred by this section may also be exercised in appeals from any District Court whether the court giving the decision appealed from was constituted by a judge and jury or a judge sitting alone.

PART

Law Reform (Miscellaneous Provisions).

PART VII.

INTEREST ON VERDICT AND ON COSTS.

1849. The Common Law Procedure Act, 1899-1962, is further amended by inserting next after section one hundred and forty-three the following new section : —

Amendment
of Act No.
21, 1899.

New sec.
143A.

143A. Notwithstanding anything in sections one hundred and forty-two and one hundred and forty-three—

Interest on
verdict and
costs.

- 10 (a) interest shall not be payable on the amount of the verdict if such amount is paid to or at the direction of the plaintiff within twenty-one days after the date of verdict ;
- 15 (b) interest shall not be payable on costs payable to the plaintiff if the amount of such costs is paid within twenty-one days after assessment or after taxation.

1920. The District Courts Act, 1912-1965, is amended by inserting next after section 101A the following new section : —

Amendment
of Act No.
23, 1912.

New sec.
101B.

20 101B. Notwithstanding anything in section 101A of this Act—

Interest on
verdict and
costs.

- 25 (a) interest shall not be payable on any judgment debt if the amount of such judgment debt is paid to or at the direction of the plaintiff within twenty-one days after the judgment or verdict was given or, as the case may be, the judgment was entered ;
- 30 (b) interest shall not be payable on costs payable to the plaintiff if the amount of such costs is paid within twenty-one days after assessment or after taxation.

PART

Law Reform (Miscellaneous Provisions).

PART VIII.

AMENDMENT OF DISTRICT COURTS ACT, 1912-1965.

2021. The District Courts Act, 1912-1965, is further amended—

Amendment
of Act No.
23, 1912.

- 5 (a) by omitting section sixty-five and by inserting in
lieu thereof the following section :—
65. A default summons shall be served in the
same manner as is provided by or under section
sixty-three of this Act for the service of an ordinary
summons.
- 10 (b) (i) by omitting from section sixty-seven the word
“personal” where firstly occurring;
- (ii) by omitting from the same section the words
“or where service has not been personal,
within the prescribed number of days after
leave to proceed as aforesaid”;
- 15 (iii) by omitting from the same section the words
“three months” and by inserting in lieu
thereof the words “twelve months”;
- 20 (iv) by omitting from the same section the words
“personal service or of an order of leave to
proceed” and by inserting in lieu thereof the
word “service”;
- 25 (a)(e) by omitting from subsection one of section eighty-
two the words “upon an affidavit by such party, or
his attorney, of his belief that any document to the
production of which he is entitled for the purpose
of discovery or otherwise, is in the possession or
power of the opposite party”;
- 30 (b)(4) by omitting from subsection two of section eighty-
six the words “The judge at any time during the
sitting of the court at which an action has been
so struck out may” and by inserting in lieu thereof
the words “Where an action has been so struck out
the judge may, upon application made in that
behalf”;
- 35

Subst.
sec. 65.
Service of
default
summons.

Sec. 67.
(Judgment
in default
of defence.)

Sec. 82.
(Discovery
of
documents.)

Sec. 86.
(Case
struck out.)

(c)

Law Reform (Miscellaneous Provisions).

(c)(e) by inserting at the end of section ninety-two the following new subsection : — Sec. 92.
(Number of jurors.)

5 (2) To remove doubts it is hereby declared that section 30A of the Jury Act, 1912-1965, applies to and in respect of any cause or issue for trial by jury in any District Court.

(d)(f) by inserting next after section ninety-five the following new section : — New sec. 95A.

10 95A. Where at a trial by jury of any cause or issue in a District Court the jury returns a verdict for an amount in excess of three thousand pounds the judge may reduce the amount of the verdict to three thousand pounds, and, in any case where the jury had made an apportionment of the verdict returned by it the judge may make a corresponding apportionment of the amount of the verdict as so reduced. Amount of verdict exceeding three thousand pounds.

15

20 95A. Where at a trial of any cause or issue in a District Court a verdict is returned for or the total amount which would have been recoverable if the claimant had not been at fault is found at an amount in excess of three thousand pounds but not exceeding five thousand pounds the Court shall find and record the amount of such verdict or, as the case may be, such total amount and the plaintiff shall be entitled to recover the full amount of such verdict, or as the case may be, of such total amount reduced in accordance with section ten of the Law Reform (Miscellaneous Provisions) Act, 1965, notwithstanding that the amount claimed does not exceed three thousand pounds.

25

30

(e)(g) by omitting from subsection three of section one hundred and twenty-seven the words "supported by an affidavit showing" and by inserting in lieu thereof the words "shown by affidavit or otherwise". Sec. 127.
(Interpretation.)

35

PART

Law Reform (Miscellaneous Provisions).

PART IX.

AMENDMENT OF SMALL DEBTS RECOVERY ACT, 1912-1961.

21~~22~~. The Small Debts Recovery Act, 1912-1961, is amended—

- 5 (a) by omitting section twenty-six and by inserting in lieu thereof the following section :—
26. A default summons or duplicate thereof shall be served in the same manner as is provided by or under section nineteen of this Act for the service of an ordinary summons.
- 10 (b) (i) by omitting from section twenty-eight the word “personal” where firstly occurring;
- (ii) by omitting from the same section the words “or where service has not been personal within
- 15 fourteen days after leave to proceed as afore-said”;
- (iii) by omitting from the same section the words “three months” and by inserting in lieu thereof the words “twelve months”;
- 20 (iv) by omitting from the same section the words “personal service, or of an order of leave to proceed” and by inserting in lieu thereof the word “service”;
- 25 (a)(e) by inserting next after section thirty-five the following new section :—
- 35A. (1) In any action in which a default summons has been issued the defendant may sign a statement confessing the amount of the debt or demand for which the plaint has been issued, conditionally upon the granting of an application accompanying such statement of confession that if and when judgment is entered consequent upon such statement of confession a direction be given that the amount of the judgment be paid at such times and by such instalments as are offered in such application.

Amendment
of Act No.
33, 1912.

Subst. sec.
26.

Service of
default
summons.

Sec. 28.
(Judgment
in default
of defence.)

New sec.
35A.

Confession
of debt
subject to
conditions.

Law Reform (Miscellaneous Provisions).

(2) Any such statement and application shall be signed in the presence of the registrar of the court in which the plaint was issued or of an attorney or a justice of the peace.

5 (3) (a) Every such application shall be supported by an affidavit in the prescribed form.

(b) Proof shall be furnished by affidavit of the signature of the person signing such statement of confession.

10 (4) The registrar shall receive such statement of confession and application, and shall, as soon as convenient thereafter send notice of the same to the plaintiff.

15 (5) (a) If within five days of notice of the statement of confession and of the application having been sent to him by the registrar the plaintiff does not inform the registrar that he opposes the application the registrar shall enter judgment for the amount of the debt or demand for which the plaint was issued and shall give a direction for payment at such times and by such instalments as were offered in the application.

20 (b) If within five days of such notice having been given the plaintiff informs the registrar that he opposes the application the registrar shall inform the defendant accordingly, and in such event the statement of confession shall not be available in evidence and the time for filing notice of grounds of defence shall commence to run as from the time the defendant is so informed.

25 (6) Where action is taken under this section the provisions of sections thirty-four and thirty-five of this Act shall not apply.

30 (7) The giving of a direction under this section shall not affect the right of the judgment debtor to make an application under section forty-two of this Act, and, in the event of any such application

Law Reform (Miscellaneous Provisions).

application being made, that section shall have effect in all respects as if no action had been taken under this section.

- (b) ~~(d)~~ by inserting in subsection one of section forty-three after the words "entered up" the words " or of his solicitor or agent shown on the record".

Sec. 43.
(Execution of process.)

PART X.

APPEALS FROM JUSTICES.

22. ~~22.~~ The Justices Act, 1902-1958, is amended—

Amendment of Act No. 27, 1902.

- 10 (a) (i) by inserting in subsection one of section one hundred and four after the words "apply to" the words "a Judge of";
- (ii) by omitting from subsection two of the same section the word "Court" and by inserting in lieu thereof the word "Judge";
- 15 (b) by omitting subsection three of section one hundred and six.
- (c) by omitting subsection one of section one hundred and seven and by inserting in lieu thereof the following subsection :—
- 20 (1) The authority and jurisdiction vested in the Supreme Court by section one hundred and six of this Act may be exercised by a Judge of the said Court sitting in Chambers.
- 25 (d) by inserting next after section one hundred and seven the following new section :—
- 107A. (1) Any person aggrieved by any decision or determination of a Judge made pursuant to sections one hundred and six and one hundred and seven of this Act may appeal therefrom to the Court of Appeal by leave of the Court of Appeal.
- 30

Sec. 104.
(When case refused Supreme Court may direct case to be stated.)

Sec. 106.
(Powers of Court in dealing with cases so stated.)

Sec. 107.
(Powers of Court may be exercised by Judge in Chambers.)

New sec. 107A.

Appeal to Court of Appeal.

(2)

Law Reform (Miscellaneous Provisions).

(2) Any such appeal shall be in accordance with rules of court of the Court of Appeal made under section 21K of the Supreme Court and Circuit Courts Act, 1900-1965.

- 5 (e) by inserting in section one hundred and eight after Sec. 108.
the words "Supreme Court" the words "or by the (After
Court of Appeal on appeal thereto"; decision of
Court
Justices to
enforce
conviction
or order.)
- 10 (f) by omitting from section one hundred and nine Sec. 109.
the words "said Court" and by inserting in lieu (Certiorari
thereof the words "Supreme Court or of the Court not requisite
of Appeal on appeal thereto"; when case
stated.)
- (g) by omitting subsections four and five of section Sec. 112.
one hundred and twelve and by inserting in lieu (Any person
thereof the following subsection :— aggrieved by
conviction or
order may
apply for
prohibition.)
- 15 (4) Any application under this section may be
heard and determined by a Judge of the Supreme
Court in Chambers.
- (h) by omitting section one hundred and fourteen and Subst. sec.
by inserting in lieu thereof the following section :— 114.
- 20 114. Any rule or order granted or made under Before
section one hundred and twelve of this Act shall whom rule to
be made returnable before a Judge of the Supreme be return-
Court in Chambers. able.
- 25 (i) by omitting from section one hundred and fifteen Sec. 115.
the words "Court or" wherever occurring; (Powers of
Court or
Judge.)

(j)

Law Reform (Miscellaneous Provisions).

- (j) (i) by omitting subsection one of section one hundred and sixteen and by inserting in lieu thereof the following subsection :—
- 5 (1) (a) Any person aggrieved by any decision or determination of a Judge made pursuant to sections one hundred and fourteen and one hundred and fifteen of this Act may appeal therefrom to the Court of Appeal by leave of the Court of Appeal.
- 10 (b) Any such appeal shall be in accordance with rules of court of the Court of Appeal made under section 21K of the Supreme Court and Circuit Courts Act, 1900-1965.
- 15 (ii) by omitting from subsection two of the same section the word "Court" and by inserting in lieu thereof the words "Court of Appeal";
- 20 (k) by omitting from section one hundred and seven-
 teen the words "Court or Judge" and by inserting
 in lieu thereof the words "Judge or of the Court
 of Appeal in respect of any matter coming before
 it on appeal or reference".

Sec. 116.
 (Certain
 rules and
 writs
 made by
 Judge may
 be reviewed
 by Court.)

Sec. 117.
 (Costs.)

PART XI.

AMENDMENT OF VARIOUS ACTS.

- 25 ~~23~~24. The Supreme Court and Circuit Courts Act, 1900-
 1965, is amended by omitting section twenty and by inserting
 in lieu thereof the following section :—
- 30 20. (1) Applications for a rule or order nisi for
 prohibition, mandamus or certiorari or for an order for
 the issue of a writ of habeas corpus may be heard and
 disposed of by a Judge, whether during term or in
 vacation.

Amendment
 of Act No.
 35, 1900.
 Subst. sec.
 20.

Exercise of
 powers by
 single Judge
 or Judge
 of Appeal
 in certain
 cases.

(2)

Law Reform (Miscellaneous Provisions).

5 (2) Applications to the Court of Appeal to make absolute a rule or order nisi for prohibition, mandamus or certiorari or to make absolute an order for the issue of a writ of habeas corpus may, in vacation, be heard and disposed of by a Judge of Appeal.

10 (3) Any person aggrieved by any decision of a Judge under subsection one of this section or of a Judge of Appeal under subsection two of this section may appeal therefrom to the Court of Appeal. Any such appeal shall be in accordance with rules of court of the Court of Appeal made under section 21K of this Act.

15 **24. 25.** The Common Law Procedure Act, 1899-1962, is further amended by omitting section two hundred and sixty-five and by inserting in lieu thereof the following section:—
Amendment of Act No. 21, 1899. Subst. sec. Sec. 265.

20 265. All costs of any action not herein or otherwise provided for shall be paid by or apportioned between the parties in such manner as the court or judge thinks fit and in default of any special direction shall abide the event of the action or the finding or judgment on any issue, and such costs shall be recoverable accordingly.
Costs in discretion of judge. (cf. Act No. 23, 1912, sec. 179.)

by adding at the end of section two hundred and sixty-five the following proviso :—

25 **Provided that where a plaintiff obtains a verdict against one or more defendants in an action but fails to obtain a verdict against another defendant or other defendants in the said action then such plaintiff may be awarded against the unsuccessful defendant or defendants the costs of the successful defendant or defendants which are awarded against the plaintiff.**
 30

Law Reform (Miscellaneous Provisions).

26. The Workers' Compensation Act, 1926-1965, is amended by omitting section 64A.
25. 27. The Supreme Court Procedure Act, 1900-1965, is further amended by omitting subsection five of section five.
- 5 26. 28. The Jury Act, 1912-1965, is further amended by omitting from section thirty the words "either the plaintiff or the defendant in any" and by inserting in lieu thereof the words "any party to an".
- 10 27. 29. The Motor Traffic Act, 1909, as amended by subsequent Acts, is amended by inserting next after section 18B the following new section :—
- 18c. (1) Where—
- 15 (a) the matter of an information for an offence referred to in subsection one of section 18B of this Act has been substantiated by the oath of the informant;
- 20 (b) a summons for the appearance of the defendant has been served on him in the manner provided by the Justices Act, 1902, as amended by subsequent Acts; and
- (c) the defendant does not appear at the time and place fixed for the hearing of the information, the court before which the information comes for hearing may if it is satisfied that—
- 25 (d) the facts as alleged in the summons constitute such an offence; and

Amendment of Act No. 15, 1926.
Sec. 64A.
(In actions for damages no reference to be made to compensation.)

Amendment of Act No. 49, 1900.
Sec. 5.
(Finding of judge to be finding of jury.)

Amendment of Act No. 31, 1912.
Sec. 30.
(Juries of twelve.)

Amendment of Act No. 5, 1909.

Ex parte procedure for offences referred to in section 18B.

(e)

Law Reform (Miscellaneous Provisions).

(e) the circumstances of the offence are reasonably described in the summons,
and reasonably sufficient particulars thereof are set out in the summons,

5 make an order imposing on the defendant a penalty to be paid within such time as may be specified in the order, and may, if it thinks fit, make an order under section eighty-one of the Justices Act, 1902, as amended
10 by subsequent Acts, for the payment by the defendant of costs.

(2) The provisions of section 556A of the Crimes Act, 1900, as amended by subsequent Acts, apply to any proceedings under subsection one of this section as if the defendant had been charged before the court
15 with the offence referred to in the information.

(3) A penalty imposed by an order under subsection one of this section shall not exceed the amount of the penalty specified in the Act or regulation creating the offence in respect of which the penalty is so imposed.

20 (4) In determining the amount of the penalty to be imposed by an order under subsection one of this section, the court may take into account any report made to it by or on behalf of the informant with respect to the character or antecedents **penalties or previous convictions under this Act** of the defendant and to the
25 circumstances of the offence and any information that the defendant causes to be brought to the notice of the court.

(5) An order under subsection one of this section shall, for the purposes of section eighty-two and Part V of the Justices Act, 1902, as amended by subsequent Acts, be deemed to be an order under that Act, as so amended.

35 (6) Section seventy-five of the Justices Act, 1902, as amended by subsequent Acts, does not apply in any case where an information is dealt with under subsection one of this section.

(7)

Law Reform (Miscellaneous Provisions).

5 (7) A reference in subsection one of this section to the time and place fixed for the hearing of an information shall, where the hearing of the information has been adjourned and notice of the time and place to which the hearing has been adjourned has been given to the defendant or sent to him at his last known place of abode or business, include a reference to the time and place specified in that notice.

10 (8) Section fifteen of the Justices Act, 1902, as amended by subsequent Acts, shall be construed as if this section formed part of that Act, as so amended.

(9) The jurisdiction of a court under this section shall not be exercised except by a stipendiary magistrate.

15 (10) The provisions of this section are supplemental to and not in derogation of the provisions of any Act in relation to proceedings that may be taken in respect of offences referred to in subsection one of section 18B of this Act.

SCHEDULE.

Law Reform (Miscellaneous Provisions).

SCHEDULE.

Sec. 1.

Reference to Act.	Short title.	Citation.
5 No. 21, 1899. No. 35, 1900.	Common Law Procedure Act, 1899. Supreme Court and Circuit Courts Act, 1900	Common Law Procedure Act, 1899-1965. Supreme Court and Circuit Courts Act, 1900-1965.
10 No. 49, 1900. No. 24, 1901. No. 27, 1902.	Supreme Court Procedure Act, 1900. Equity Act, 1901 .. Justices Act, 1902 ..	Supreme Court Procedure Act, 1900-1965. Equity Act, 1901-1965. Justices Act, 1902-1965.
15 No. 19, 1903. No. 5, 1909	Commercial Causes Act, 1903. Motor Traffic Act, 1909..	Commercial Causes Act, 1903-1965. Motor Traffic Act, 1909- 1965.
20 No. 23, 1912. No. 31, 1912. No. 33, 1912.	District Courts Act, 1912 Jury Act, 1912 Small Debts Recovery Act, 1912.	District Courts Act, 1912- 1965. Jury Act, 1912-1965. Small Debts Recovery Act, 1912-1965.
25 No. 15, 1926 No. 15, 1942.	Workers' Compensation Act, 1926. Motor Vehicles (Third Party Insurance) Act, 1942.	Workers' Compensation Act, 1926-1965. Motor Vehicles (Third Party Insurance) Act, 1942-1965.
30		

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1965
[3s. 0d. (30c)]

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 2 December, 1965, A.M.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with
Amendments.*

Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, December, 1965.*

New South Wales



ANNO QUARTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1965.

An Act to make provision for and with respect to the mode of trial of certain classes of civil actions; to amend the common law doctrine of contributory negligence; to make further provision for and with respect to the payment or the provision of security for payment of moneys into court in civil actions; to confer on the Supreme Court a special jurisdiction exercisable as an extension of its equitable jurisdiction, to make general declarations of right; to enable the Supreme Court in its Commercial Causes jurisdiction to make declarations of right in addition to or in substitution for verdicts and judgments; to enable the Court of Appeal, in special circumstances, to substitute its assessment for the verdict of a jury; to extend the procedure relating

Law Reform (Miscellaneous Provisions).

relating to minor traffic offences; to make amendments of a procedural or administrative nature to various Acts; for these and other purposes to amend the Common Law Procedure Act, 1899–1962, the District Courts Act, 1912–1965, the Equity Act, 1901–1965, the Motor Traffic Act, 1909, and certain other Acts in certain respects; and for purposes connected therewith.

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 : —

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Law Reform Short title and citation.
(Miscellaneous Provisions) Act, 1965".
- 10 (2) The Acts, as amended by subsequent Acts and by this Act, specified in the first and second columns of the Schedule to this Act may be cited as respectively specified in the third column of that Schedule.
- 15 2. (1) This Part of this Act shall commence on the day Commence-
ment. upon which the assent of Her Majesty to this Act is signified.
- (2) Subject to subsection one of this section this Act shall commence upon such date or dates as may be appointed and notified pursuant to subsection three of this section.
- 20 (3) The Governor may, from time to time, appoint and notify by proclamation published in the Gazette the date upon which any Part or provision of this Act specified in the proclamation shall commence and may appoint different dates for

Law Reform (Miscellaneous Provisions).

for different Parts or provisions (whether contained in the same Part or section or in different Parts or sections) and the Part or provision so specified shall commence accordingly.

3. This Act is divided into Parts as follows : —

Division
into Parts.

- 5 PART I.—PRELIMINARY—ss. 1-3.
- PART II.—HEARING AND DETERMINATION OF CIVIL ACTIONS—ss. 4-7.6.
- PART III.—AMENDMENT OF DOCTRINE OF CONTRIBUTORY NEGLIGENCE—ss. 8-11.7-10.
- 10 PART IV.—PAYMENT INTO COURT—ss. 12-15.11-14.
- PART V.—DECLARATORY ORDERS—ss. 16, 17.15, 16.
- PART VI.—POWER TO ENTER SUBSTITUTED VERDICT—s. 18.17.
- PART VII.—INTEREST ON VERDICT AND ON COSTS—ss. 19, 20.18, 19.
- 15 PART VIII.—AMENDMENT OF DISTRICT COURTS ACT, 1912-1965—s. 21.20.
- PART IX.—AMENDMENT OF SMALL DEBTS RECOVERY ACT, 1912-1961—s. 22.21.
- 20 PART X.—APPEALS FROM JUSTICES—s. 23.22.
- PART XI.—AMENDMENT OF VARIOUS ACTS—ss. 24-29.23-27.

PART II.

HEARING AND DETERMINATION OF CIVIL ACTIONS.

- 25 4. (1) This Part shall apply to any action in the Application of Part.
Supreme Court or in a District Court instituted after the commencement of this Act in which issues of fact are to be tried or damages or sums of money recoverable are to be assessed where—

- 30 (a) the action is for damages—
 - (i) in respect of the death of or bodily injury to any person caused by or arising out of the use of a motor vehicle; or

(ii)

Law Reform (Miscellaneous Provisions).

- (ii) in respect of damage to property caused by or arising out of the use of a motor vehicle; or
- (iii) in respect of any other matter in which the liability incurred was caused by or arose out of the use of a motor vehicle;
- (b) contribution is claimed under Part III of the Law Reform (Miscellaneous Provisions) Act, 1946, in respect of damages of the nature referred to in paragraph (a) of this subsection.

(2) This Part shall be read and construed with the Motor Vehicles (Third Party Insurance) Act, 1942-1963.

5. (1) In any action to which this Part applies the court or a judge may on the application of any party made not later than such time before the trial as may be limited by rules of court, upon being satisfied that circumstances exist which render it desirable to do so and shall, where both parties so apply, order that the action be tried with a jury; but, save as aforesaid, any action to which this Part applies shall notwithstanding section twenty-nine of the Jury Act, 1912-1965, or section ninety of the District Courts Act, 1912-1965, be tried by a judge without a jury:

Amendment
of procedure
as to trials
by jury.
23 & 24
Geo V.
c. 36.

Provided that the provisions of this section shall be without prejudice to the power of the court or a judge to order, in accordance with rules of court, that different questions of fact arising in any action be tried by different modes of trial, and where any such order is made the provisions of this section shall have effect accordingly.

(2) Where an order has been made under subsection one of this section for the trial of an action with a jury any party to that action may apply under section thirty of the Jury Act, 1912-1965, for an order that the trial be had by a jury consisting of twelve persons.

Law Reform (Miscellaneous Provisions).

5. (1) In any action to which this Part applies any or either party may at any time not later than twenty-one days after the action has been set down for trial, or within such further period as the Court may allow, require that the action be
5 tried with a jury and thereupon the action shall be so tried ; but save as aforesaid any action to which this Part applies shall, notwithstanding section 29 of the Jury Act, 1912-1965, be tried by a Judge without a jury.

(2) A party so requiring a jury shall within the time
10 limited by subsection one of this section file and serve a notice to that effect upon the other party or parties.

(3) Where any action in the Supreme Court is, by force of this section, to be tried by a judge without a jury the following provisions shall have effect : —

- 15 (a) The verdict or finding of the judge shall be of the like force and effect as the verdict or finding of a jury.
- (b) Nothing in this subsection shall authorise judgment to be signed on the verdict or finding, but judgment
20 may be directed to be entered as provided in this section, and the entry shall have the like force and effect in all respects as the signing of judgment.
- (c) The judge may, either at or after the trial, direct that judgment be entered for any or either party.
- 25 (d) The judge may adjourn the case for further consideration or may leave any party to move the Court of Appeal for judgment, or may refer the case to the Court of Appeal for its determination.

30 The Court of Appeal shall have jurisdiction to direct judgment to be entered for any or either party.

- (e) Any party may appeal to the Court of Appeal against any judgment so directed by the judge to be entered.

(f)

Law Reform (Miscellaneous Provisions).

(f) The appeal shall be by way of rehearing and on the appeal the Court of Appeal shall—

5 (i) have all the powers and duties of the judge as to amendment or otherwise, including the power to make findings of fact and to assess damages or compensation;

10 (ii) have full discretionary power to receive further evidence upon questions of fact, such evidence to be taken either by oral evidence in court, by affidavit, or by deposition taken before a commissioner or examiner, and to be admitted on special grounds only and not without special leave of the Court of Appeal.

15 (g) The Court of Appeal may direct the appeal to stand over for further consideration, and direct such issues or questions to be tried or determined or the amount of any damages or compensation to be assessed by a judge either with or without a jury as it may think fit.

20 (h) The Court of Appeal may on the appeal give any judgment and make any order which ought to have been given or made in the first instance, and may make such further or other order as the case requires, and in particular may make—

25 (a) any order which it might make under section seven of the Supreme Court Procedure Act, 1900-1965;

30 (b) such order as to the whole or any part of the costs of the appeal or of the cause or matter as may be just.

35 (i) The powers conferred by this section may be exercised by the Court of Appeal notwithstanding that the notice of appeal is that part only of the judgment may be reversed or varied, and such powers may be exercised in favour of all or any of the respondents or parties, although such respondents or parties have not appealed from or complained of the judgment.

(j)

Law Reform (Miscellaneous Provisions).

- (j) Where the judge leaves any party to move the Court of Appeal for judgment, or refers the case to the Court of Appeal for its determination, the powers conferred on the Court of Appeal by paragraphs (f) and (g) of this subsection shall extend to the motion or reference.
- (k) Every application for a new trial or to set aside a verdict finding or judgment, or to have a nonsuit or verdict entered, in any case where any action issue or question has been tried before a judge without a jury, shall be made by appeal to the Court of Appeal and not otherwise.
6. (1) Where an action to which this Part applies was instituted before the commencement of this Part in the Supreme Court or in a District Court then—
- (a) if such action is listed in the daily causes list for hearing within one month after such commencement such action may be continued and completed as if this Act had not been enacted;
- (b) if such action is not so listed for hearing within one month after such commencement then notwithstanding anything in any Act or in any rule of court relating to the mode of trial of actions, or any steps taken by the parties, the provisions of section five of this Act shall apply to the hearing and determination of such action.
- (2) Where an action to which this Part applies is instituted after the commencement of this Part, in the Supreme Court or in a District Court, then, notwithstanding anything in any Act or in any rule of court relating to the mode of trial of actions, the provisions of section five of this Act shall apply to the hearing and determination of such action.
67. (1) Where, in any action to which this Part applies, a third party notice has been served under the Law Reform (Miscellaneous Provisions) Act, 1946, the provisions of sections five and six of this Act shall extend to the hearing and determination of issues in the third party proceedings.

Transitional provisions.

Third party proceedings and contribution.

(2)

Law Reform (Miscellaneous Provisions).

(2) Where, in any action to which this Part applies, proceedings are instituted for contribution under the Law Reform (Miscellaneous Provisions) Act, 1946, the provisions of sections five ~~and six~~ of this Act shall extend to the hearing and determination of issues in those proceedings.

PART III.

AMENDMENT OF DOCTRINE OF CONTRIBUTORY NEGLIGENCE.

8. Nothing in this Part shall affect the operation of the Saving. Statutory Duties (Contributory Negligence) Act, 1945.

10 78. Nothing in this Part shall apply to any action for damages founded upon a breach of statutory duty imposed on a defendant. Nothing in this Part shall affect the provisions and operation of the Statutory Duties (Contributory Negligence) Act, 1945.

15 89. This Part shall not apply to any case in which the acts or omissions giving rise to the claim occurred before the commencement of this Part. Application of Part.

940. In this Part, unless the context or subject matter otherwise indicates or requires— Definitions.

20 “Court” means in relation to any claim the court by or before whom the claim falls to be determined.

“Damage” includes loss of life and personal injury.

25 “Fault” means negligence, breach of statutory duty or other act or omission which gives rise to a liability in tort or would, apart from this Part, give rise to the defence of contributory negligence but does not mean or include a breach of statutory duty.

1044. (1) Where any person suffers damage as the result partly of his own fault and partly of the fault of any other person or persons, a claim in respect of that damage shall not be defeated by reason of the fault of the person suffering the damage, but the damages recoverable in respect thereof shall

Apportionment of liability in case of contributory negligence. 8 & 9 Geo. VI c. 28. s. 1.

be

Law Reform (Miscellaneous Provisions).

be reduced to such extent as the court thinks just and equitable having regard to the claimant's share in the responsibility for the damage :

Provided that—

- 5 (a) this subsection shall not operate to defeat any defence arising under a contract;
- (b) where any contract or enactment providing for the limitation of liability is applicable to the claim, the amount of damages recoverable by the claimant by virtue of this subsection shall not exceed the maximum limit so applicable.
- 10
- (c) where any payments made to the claimant by way of compensation take effect pursuant to section 63 (5) of the Workers' Compensation Act, 1926-1965, as a satisfaction of the judgment obtained by him against his employer, such payments shall be reduced to the same extent as the damages recoverable by him and shall be a satisfaction of the judgment to such reduced extent only ;
- 15
- (d) where the claimant is liable to repay compensation to his employer pursuant to section 64 (a) of the Workers' Compensation Act, 1926-1965, the amount of compensation so repayable shall be reduced to the same extent as the damages recoverable by him ;
- 20
- (e) where the cost of any medical or hospital treatment or ambulance service for which the claimant's employer incurs liability under section 10 of the Workers' Compensation Act, 1926-1965, remains unpaid at the time the claimant recovers damages the claimant's liability in respect of such cost shall as between himself and his employer be reduced to the same extent as his damages and his employer shall notwithstanding the recovery of damages and the provisions of section 64 (a) of the Workers' Compensation Act, 1926-1965, remain liable to pay to him the balance of such cost under section 10 of the said Act.
- 25
- 30
- 35

(2)

Law Reform (Miscellaneous Provisions).

(2) Where damages are recoverable by any person by virtue of the foregoing subsection subject to such reduction as is therein mentioned, the court shall find and record the total damages which would have been recoverable if the
5 claimant had not been at fault.

(3) Section five of the Law Reform (Miscellaneous Provisions) Act, 1946, shall apply in any case where two or more persons are liable or would, if they had all been sued, be liable by virtue of subsection one of this section in respect
10 of the damage suffered by any person.

(4) Where any person dies as the result partly of his own fault and partly of the fault of any other person or persons, an action for damages for the benefit of dependants under the Compensation to Relatives Act, 1897-1953, shall
15 not be defeated by the fault of the deceased but if the circumstances are such that if an action were brought for the benefit of the estate of the deceased under the Law Reform (Miscellaneous Provisions) Act, 1944, the damages recoverable would be reduced under subsection one of this section, any
20 damages recoverable in an action brought for the benefit of the dependants of that person under the Compensation to Relatives Act, 1897-1953, shall be reduced to a proportionate extent.

(4) No action for damages for the benefit of dependants of a deceased person under the Compensation to
25 Relatives Act, 1897-1953, shall be defeated nor shall the damages in any such action be reduced by reason of any contributory negligence on the part of the deceased.

(5) Where, in any case to which subsection one of
30 this section applies, one of the persons at fault avoids liability to any other such person or his personal representative by pleading the Statute of Limitations, or any other enactment limiting the time within which proceedings may be taken, he shall not be entitled to recover any damages or contributions
35 from that other person or representative by virtue of the said subsection.

(6)

Law Reform (Miscellaneous Provisions).

(6) Where any case to which subsection one of this section applies is tried—

- 5 (a) by a judge sitting without a jury the judge shall make the apportionment under subsection one of this section; or
- (b) by a judge sitting with a jury, the jury shall determine the total damages which would have been recoverable if the claimant had not been at fault and the extent to which those damages are to be reduced.
- 10

PART IV.**PAYMENT INTO COURT.**

1112. The Motor Vehicles (Third Party Insurance) Act, 1942-1963, is amended by omitting section 38A.

Amendment
of Act No.
15, 1942.
Sec. 38A.
(Payment
into court
excluded in
certain
cases.)

15 **1213.** The Common Law Procedure Act, 1899-1962, is amended—

Amendment
of Act No.
21, 1899.

- (a) by inserting in subsection one of section eighty after the words "pay into Court" the words "or deposit in the Court a bond or undertaking in the prescribed form securing payment of";
- 20 (b) (i) by inserting in subsection one of section eighty-two after the words "order to pay" the words "or to deposit a bond or undertaking securing payment of";
- 25 (ii) by inserting in the same subsection after the words "paid to" the words "or the bond or undertaking deposited with";
- (c) by inserting next after section eighty-two the following new section : —
- New sec.
82A.

30 **82A. (1)** Money may be paid into Court or a bond or undertaking securing the payment of money into Court may be deposited, with an appropriate plea at any time before the date of hearing **joinder of issue.**

(2) **joinder of issue.**

Law Reform (Miscellaneous Provisions).

- 5 (2) This section applies whether the money is paid in or secured under the provisions of this Act or pursuant to rules of Court, and applies whether or not the payment or deposit is made with or without denial of liability.
- (d) (i) by inserting in section eighty-three after the word "payment" the words "or of deposit of a bond or undertaking securing payment"; Sec. 83. (Proceedings by plaintiff after payment into Court.)
- 10 (ii) by inserting in paragraph (a) of the same section after the words "so paid into Court" the words "or so secured";
- (iii) by inserting in the same paragraph after the words "paid in" the words "or secured";
- 15 (iv) by inserting in paragraph (b) of the same section after the words "sum paid into Court" the words "or secured";
- (e) by inserting next after section eighty-three the following new section : — New sec. 83A.
- 20 83A. (1) The bond or undertaking referred to in sections eighty, eighty-two, 82A and eighty-three of this Act shall be a bond or undertaking given by an insurance company which is a licensed insurer under the Workers' Compensation Act, 1926-1965, or an authorised insurer under the Motor Vehicles (Third Party Insurance) Act, 1942-1963. Bond.
- 25 (2) (a) Where the plaintiff accepts the sum secured by any such bond or undertaking the person giving the bond or undertaking shall, within seven days after notice of acceptance pay the sum secured to the proper officer of the Court.
- 30 (b) If he fails to do so he shall not be entitled to any advantage by reason of his deposit in the court of the undertaking, and the plaintiff may either withdraw his acceptance or apply to the court for an order directing payment to him of the amount stated in the bond. cf. Rules of Sup. Court. (Vict.) Ord. 22 R. 1 (5).
- 35

In

Law Reform (Miscellaneous Provisions).

In any case where the deposit was made by one or more defendants in proceedings under Part III of the Law Reform (Miscellaneous Provisions) Act, 1946, the Court may make such order subject to such conditions as it may think just.

(c) Any order for the payment of money made under the authority of paragraph (b) of this subsection shall have the effect of a judgment at law and the plaintiff may have execution thereon for the money payable, and shall be entitled to all the remedies given to judgment creditors by the Judgment Creditors' Remedies Act, 1901-1957.

1344. The District Courts Act, 1912-1965, is amended—

- 15 (a) (i) by omitting from subsection one of section seventy-two the words "within the prescribed time" and by inserting in lieu thereof the words "at any time before the date of hearing" "at least five clear days before the return day";
- 20 (ii) by inserting in subsection one of the same section after the word "court" the words "or deposit with the court a bond or undertaking in the prescribed form securing payment of";
- 25 (iii) by inserting in subsection two of the same section after the word "payment" the words "or deposit";
- 30 (iv) by inserting in subsection three of the same section after the word "payment" the words "or deposit";
- (v) by inserting in subsection four of the same section after the words "paid in" the words "or secured";
- 35 (vi) by inserting in subsection five of the same section after the words "paid into court" the words "or secured";

(vii)

Amendment
of Act No.
23, 1912.
Sec. 72.
(Payment
into court of
money by
defendant.)

Law Reform (Miscellaneous Provisions).

(vii) by inserting in the same subsection after the words "payment into court" the words "or, as the case may be, the deposit of such bond or undertaking";

5 (b) by inserting next after section seventy-two the following new section :— New sec.
72A.

72A. (1) The bond or undertaking referred to Bond.
in section seventy-two of this Act shall be a bond
given by an insurance company which is a licensed
10 insurer under the Workers' Compensation Act,
1926-1965, or an authorised insurer under the
Motor Vehicles (Third Party Insurance) Act,
1942-1963.

15 (2) (a) Where the plaintiff elects to
accept the sum secured by any such bond or under-
taking the person giving the bond or undertaking
shall, within seven days after notice of acceptance
pay the sum secured to the proper officer of the
court.

20 (b) If he fails to do so he shall not
be entitled to any advantage by reason of his deposit
in the court of the undertaking, and the plaintiff
may either withdraw his acceptance or apply to the
court for an order directing payment to him of the
25 amount stated in the bond. cf. Rules of
Sup. Court.
(Vict.)
Ord. 22 R. 1
(5).

30 In any case where the deposit was made by one
or more defendants in proceedings under Part III
of the Law Reform (Miscellaneous Provisions) Act,
1946, the court may make such order subject to
such conditions as it may think just.

35 (c) Any order for the payment of
money made under the authority of paragraph (b)
of this subsection shall have the effect of a judg-
ment at law and the plaintiff may have execution
thereon for the money payable, and shall be entitled
to all the remedies given to judgment creditors by
the Judgment Creditors' Remedies Act, 1901-1957.

Law Reform (Miscellaneous Provisions).

1415. The rules of court of the Supreme Court or of a District Court in force at the commencement of this Part with respect to the payment of moneys into court whether with or without denial of liability, shall extend, mutatis mutandis, to the deposit of a bond or undertaking securing payment into court of moneys, but may be amended or replaced by rules made after the commencement of this Part.

Existing
rules of court
extended.

PART V.

DECLARATORY ORDERS.

10 1546. The Equity Act, 1901-1965, is amended—

Amendment
of Act No.
24, 1901.

(a) by inserting at the end of the last definition in section three the words “and also includes the jurisdiction conferred by section ten of this Act”;

Sec. 3.
(Interpre-
tation.)

15 (b) by inserting in subsection one of section four after the word “including” the words “the jurisdiction conferred by section ten of this Act and including also”;

Sec. 4.
(Appoint-
ment and
powers of
the Chief
Judge in
Equity.)

20 (c) by inserting in section eight after the word “relief” the words “or for purposes relevant to the exercise of the jurisdiction conferred by section ten of this Act”;

Sec. 8.
(Power to
decide legal
titles, &c.)

(d) by omitting section ten and by inserting in lieu thereof the following new section : —

Subst. sec.
10.

25 10. (1) In addition to the jurisdiction which is otherwise vested in it, the Court shall have jurisdiction to make binding declarations of right whether or not any consequential relief is or could be claimed, and whether or not the suit in which the declaration is sought is a suit for equitable relief or a suit which relates to equitable rights or titles.

Declarations
of right.

30 No suit shall be open to objection on the ground that a merely declaratory decree is sought thereby.

(2)

Law Reform (Miscellaneous Provisions).

(2) Without limiting the generality of the jurisdiction conferred by subsection one of this section, the Court may by decree or order declare—

- 5 (a) the nature, quality and extent of the estates, interests, powers, rights, liabilities or duties of any persons in respect of any real or personal property or arising under any disposition of any real or personal property including any sale, conveyance, transfer, assignment, mortgage, charge, encumbrance, debenture, pledge, lease, bailment, or hiring or arising under any agreement or option for or relating to any such disposition as aforesaid;
- 10 (b) the interests, powers, rights and liabilities or duties of any persons arising under—
- 15 (i) any partnership or partnership agreement;
- 20 (ii) the memorandum or articles of association or other constitution of any company or other corporation;
- (iii) the rules, by-laws or other constitution of any unincorporated association;
- 25 (iv) any agreement relating to any patent, trade mark, trade name, copyright or industrial design;
- (v) any agreement for or relating to any guarantee or indemnity;
- 30 (vi) generally any contract or agreement whether of the same or a different class;
- (vii) any Act or any ordinance, rule, regulation or other instrument having effect under any Act or by reason of any executive, ministerial or administrative act done or purporting to be done in pursuance of any Act or of any such ordinance, rule, regulation or other instrument.
- 35
- 40

(3)

Law Reform (Miscellaneous Provisions).

(3) A suit for a declaration of right may be commenced in a summary manner by originating summons under Rule 8A of the Fourth Schedule to this Act.

- 5 (e) (i) by inserting in paragraph (c) of section thirty Sec. 30.
 after the word "served" the words "or the (Service out of the jurisdiction.)
 declaration of right sought";
- (ii) by inserting in the same section next after
 paragraph (e) the following new para-
 10 graphs :—
- (e1) the suit or proceeding is for a declara-
 tion of right affecting any person
 domiciled or any property situated
 within the jurisdiction; or
- 15 (e2) the suit or proceeding is for a declara-
 tion as to the interests, powers, rights
 and liabilities or duties of any persons
 or class of persons of whom the person
 to be served is one, arising under any
 20 Act or any ordinance, rule, regula-
 tion or other instrument having effect
 under any Act or by reason of any
 executive, ministerial or administrative
 act done or purporting to be done in
 25 pursuance of any Act or of any such
 ordinance, rule, regulation or other
 instrument; or.

1617. The Commercial Causes Act, 1903-1965, is amended Amendment of Act No. 19, 1903.
 by inserting next after section seven the following new
 30 sections :— New secs. 7A and 7B.

7A. The Judge by or before whom any commercial Power to make declaratory order.
 cause is tried may in addition to or in substitution for
 any verdict or judgment for debt or damages or for
 the return of goods make such binding declaration of
 35 right with respect to the subject matter of the cause as
 to him may seem appropriate.

Law Reform (Miscellaneous Provisions).

7B. (1) Where a commercial dispute has arisen concerning the construction of a document or its application to any facts, any party to the dispute may apply to a Judge in chambers for the determination of the questions involved in such dispute notwithstanding that no commercial cause has been commenced.

(2) A commercial dispute is a dispute which would be a commercial cause if made the subject of an action at common law.

(3) An application under this section may be made in a summary manner by summons returnable on two days' notice supported by an affidavit annexing the document and deposing to any relevant facts.

(4) Where it is necessary in the determination of a commercial dispute to decide any question of fact the Judge shall settle the issues for trial and give any consequential directions necessary for the determination of such issues in a convenient and expeditious manner.

(5) A determination of any issue of fact or of any question of law pursuant to this section shall be binding on all parties to the summons in the same manner as if the issue or question had been determined in a commercial cause.

PART VI.

POWER TO ENTER SUBSTITUTED VERDICT.

1748. The Common Law Procedure Act, 1899-1962, is further amended by inserting next after section one hundred and sixty the following new section :—

Amendment
of Act No.
21, 1899.

New sec.
160A.

160A. (1) This section applies to an application to the Court of Appeal for a new trial or to set aside a verdict finding or judgment after trial with a jury.

Substituted
verdict.

(2) For the purposes of this section the Court of Appeal shall have full power and jurisdiction to make findings of fact and to assess damages or compensation.

(3)

Law Reform (Miscellaneous Provisions).

(3) The powers conferred by this section shall be exercisable only where on such application the Court of Appeal would, but for this section, have set aside the verdict finding or judgment and ordered a new trial on the issue of damages.

(4) The Court of Appeal shall not exercise the powers conferred by this section unless **the parties consent** and it is satisfied—

(a) that it is fully able to assess the damages on a perusal of the evidence contained in the documents before it, or on admitted facts, without seeing or hearing the plaintiff or defendant or other witnesses ; ~~and~~

(b) that one of the following circumstances exists namely :—

(i) it is desirable that the power be exercised to avoid a multiplicity of trials ; or

(ii) as a result of an error of law on the part of the trial judge or a manifest error on the part of the jury, some item or items of damages has or have been wrongly included in or excluded from the assessment ; or

(iii) the parties consent.

(5) The powers conferred by this section may also be exercised in appeals from any District Court whether the court giving the decision appealed from was constituted by a judge and jury or a judge sitting alone.

PART

Law Reform (Miscellaneous Provisions).

PART VII.

INTEREST ON VERDICT AND ON COSTS.

1819. The Common Law Procedure Act, 1899-1962, is further amended by inserting next after section one hundred and forty-three the following new section :—

Amendment
of Act No.
21, 1899.

New sec.
143A.

143A. Notwithstanding anything in sections one hundred and forty-two and one hundred and forty-three—

Interest on
verdict and
costs.

(a) interest shall not be payable on the amount of the verdict if such amount is paid to or at the direction of the plaintiff within twenty-one days after the date of verdict;

(b) interest shall not be payable on costs payable to the plaintiff if the amount of such costs is paid within twenty-one days after assessment or after taxation.

1920. The District Courts Act, 1912-1965, is amended by inserting next after section 101A the following new section :—

Amendment
of Act No.
23, 1912.

New sec.
101B.

101B. Notwithstanding anything in section 101A of this Act—

Interest on
verdict and
costs.

(a) interest shall not be payable on any judgment debt if the amount of such judgment debt is paid to or at the direction of the plaintiff within twenty-one days after the judgment or verdict was given or, as the case may be, the judgment was entered;

(b) interest shall not be payable on costs payable to the plaintiff if the amount of such costs is paid within twenty-one days after assessment or after taxation.

PART

*Law Reform (Miscellaneous Provisions).***PART VIII.****AMENDMENT OF DISTRICT COURTS ACT, 1912-1965.**

2024. The District Courts Act, 1912-1965, is further amended—

- 5 (a) by omitting section sixty-five and by inserting in lieu thereof the following section:—
65. A default summons shall be served in the same manner as is provided by or under section sixty-three of this Act for the service of an ordinary summons.
- 10 (b) (i) by omitting from section sixty-seven the word “personal” where firstly occurring;
- (ii) by omitting from the same section the words “or where service has not been personal, within the prescribed number of days after leave to proceed as aforesaid”;
- 15 (iii) by omitting from the same section the words “three months” and by inserting in lieu thereof the words “twelve months”;
- 20 (iv) by omitting from the same section the words “personal service or of an order of leave to proceed” and by inserting in lieu thereof the word “service”;
- 25 (a)(e) by omitting from subsection one of section eighty-two the words “upon an affidavit by such party, or his attorney, of his belief that any document to the production of which he is entitled for the purpose of discovery or otherwise, is in the possession or power of the opposite party”;
- 30 (b)(d) by omitting from subsection two of section eighty-six the words “The judge at any time during the sitting of the court at which an action has been so struck out may” and by inserting in lieu thereof the words “Where an action has been so struck out the judge may, upon application made in that behalf”;
- 35

Amendment
of Act No.
23, 1912.

Subst.
sec. 65.

Service of
default
summons.

Sec. 67.
(Judgment
in default
of defence.)

Sec. 82.
(Discovery
of
documents.)

Sec. 86.
(Case
struck out.)

(c)

Law Reform (Miscellaneous Provisions).

(c)(e) by inserting at the end of section ninety-two the following new subsection : — Sec. 92.
(Number of jurors.)

5 (2) To remove doubts it is hereby declared that section 30A of the Jury Act, 1912-1965, applies to and in respect of any cause or issue for trial by jury in any District Court.

(d)(f) by inserting next after section ninety-five the following new section : — New
sec. 95A.

10 95A. Where at a trial by jury of any cause or issue in a District Court the jury returns a verdict for an amount in excess of three thousand pounds the judge may reduce the amount of the verdict to three thousand pounds, and, in any case where the jury had made an apportionment of the verdict
15 returned by it the judge may make a corresponding apportionment of the amount of the verdict as so reduced. Amount of
verdict
exceeding
three
thousand
pounds.

20 95A. Where at a trial of any cause or issue in a District Court a verdict is returned for an amount in excess of three thousand pounds but not exceeding five thousand pounds the Court shall find and record the amount of such verdict and the plaintiff shall be entitled to recover the full amount thereof or such amount reduced in accordance with section
25 eleven of the Law Reform (Miscellaneous Provisions) Act, 1965, notwithstanding that the amount claimed does not exceed three thousand pounds.

30 (e)(g) by omitting from subsection three of section one hundred and twenty-seven the words "supported by an affidavit showing" and by inserting in lieu thereof the words "shown by affidavit or otherwise". Sec. 127.
(Interpre-
tation.)

PART

*Law Reform (Miscellaneous Provisions).***PART IX.****AMENDMENT OF SMALL DEBTS RECOVERY ACT, 1912-1961.**

2122. The Small Debts Recovery Act, 1912-1961, is amended—

- 5 (a) by omitting section twenty-six and by inserting in lieu thereof the following section :—

Amendment
of Act No.
33, 1912,
Subst. sec.
26.

26. A default summons or duplicate thereof shall be served in the same manner as is provided by or under section nineteen of this Act for the service of an ordinary summons.

Service of
default
summons.

- 10 (b) (i) by omitting from section twenty-eight the word "personal" where firstly occurring;
- (ii) by omitting from the same section the words "or where service has not been personal within fourteen days after leave to proceed as afore-
- 15 said";
- (iii) by omitting from the same section the words "three months" and by inserting in lieu thereof the words "twelve months";
- 20 (iv) by omitting from the same section the words "personal service, or of an order of leave to proceed" and by inserting in lieu thereof the word "service";

Sec. 24.
(Judgment
in default
of defence.)

- 25 (a)(e) by inserting next after section thirty-five the following new section :—

New sec.
35A.

35A. (1) In any action in which a default summons has been issued the defendant may sign a statement confessing the amount of the debt or demand for which the plaint has been issued, conditionally upon the granting of an application accompanying such statement of confession that if and when judgment is entered consequent upon such statement of confession a direction be given that the amount of the judgment be paid at such times and by such instalments as are offered in such application.

Confession
of debt
subject to
conditions.

Law Reform (Miscellaneous Provisions).

(2) Any such statement and application shall be signed in the presence of the registrar of the court in which the plaint was issued or of an attorney or a justice of the peace.

5 (3) (a) Every such application shall be supported by an affidavit in the prescribed form.

(b) Proof shall be furnished by affidavit of the signature of the person signing such statement of confession.

10 (4) The registrar shall receive such statement of confession and application, and shall, as soon as convenient thereafter send notice of the same to the plaintiff.

15 (5) (a) If within five days of notice of the statement of confession and of the application having been sent to him by the registrar the plaintiff does not inform the registrar that he opposes the application the registrar shall enter judgment for the amount of the debt or demand for which the plaint was issued and shall give a direction for payment at such times and by such instalments as were offered in the application.

20 (b) If within five days of such notice having been given the plaintiff informs the registrar that he opposes the application the registrar shall inform the defendant accordingly, and in such event the statement of confession shall not be available in evidence and the time for filing notice of grounds of defence shall commence to run as from the time the defendant is so informed.

25 (6) Where action is taken under this section the provisions of sections thirty-four and thirty-five of this Act shall not apply.

30 (7) The giving of a direction under this section shall not affect the right of the judgment debtor to make an application under section forty-two of this Act, and, in the event of any such application

Law Reform (Miscellaneous Provisions).

application being made, that section shall have effect in all respects as if no action had been taken under this section.

- 5 (b) ~~(d)~~ by inserting in subsection one of section forty-three after the words "entered up" the words " or of his solicitor or agent shown on the record".

Sec. 43.
(Execution of process.)

PART X.

APPEALS FROM JUSTICES.

22. ~~22.~~ The Justices Act, 1902-1958, is amended—

Amendment of Act No. 27, 1902.

- 10 (a) (i) by inserting in subsection one of section one hundred and four after the words "apply to" the words "a Judge of";
- 15 (ii) by omitting from subsection two of the same section the word "Court" and by inserting in lieu thereof the word "Judge";
- (b) by omitting subsection three of section one hundred and six.
- 20 (c) by omitting subsection one of section one hundred and seven and by inserting in lieu thereof the following subsection : —
- (1) The authority and jurisdiction vested in the Supreme Court by section one hundred and six of this Act may be exercised by a Judge of the said Court sitting in Chambers.
- 25 (d) by inserting next after section one hundred and seven the following new section : —
- 30 107A. (1) Any person aggrieved by any decision or determination of a Judge made pursuant to sections one hundred and six and one hundred and seven of this Act may appeal therefrom to the Court of Appeal by leave of the Court of Appeal.
- (2)

Sec. 104.
(When case refused Supreme Court may direct case to be stated.)

Sec. 106.
(Powers of Court in dealing with cases so stated.)

Sec. 107.
(Powers of Court may be exercised by Judge in Chambers.)

New sec. 107A.

Appeal to Court of Appeal.

Law Reform (Miscellaneous Provisions).

- (2) Any such appeal shall be in accordance with rules of court of the Court of Appeal made under section 21K of the Supreme Court and Circuit Courts Act, 1900-1965.
- 5 (e) by inserting in section one hundred and eight after Sec. 108. the words "Supreme Court" the words "or by the (After decision of Court Justices to enforce conviction or order.) Court of Appeal on appeal thereto";
- 10 (f) by omitting from section one hundred and nine Sec. 109. the words "said Court" and by inserting in lieu (Certiorari not requisite when case stated.) thereof the words "Supreme Court or of the Court of Appeal on appeal thereto";
- (g) by omitting subsections four and five of section Sec. 112. one hundred and twelve and by inserting in lieu (Any person aggrieved by conviction or order may apply for prohibition.) thereof the following subsection :—
- 15 (4) Any application under this section may be heard and determined by a Judge of the Supreme Court in Chambers.
- (h) by omitting section one hundred and fourteen and Subst. sec. 114. by inserting in lieu thereof the following section :—
- 20 114. Any rule or order granted or made under Before section one hundred and twelve of this Act shall whom rule to be made returnable before a Judge of the Supreme Court in Chambers. be returnable.
- 25 (i) by omitting from section one hundred and fifteen Sec. 115. the words "Court or" wherever occurring; (Powers of Court or Judge.)
- (j)

Law Reform (Miscellaneous Provisions).

- (j) (i) by omitting subsection one of section one hundred and sixteen and by inserting in lieu thereof the following subsection : — Sec. 116. (Certain rules and writs made by Judge may be reviewed by Court.)
- 5 (1) (a) Any person aggrieved by any decision or determination of a Judge made pursuant to sections one hundred and fourteen and one hundred and fifteen of this Act may appeal therefrom to the Court of Appeal by leave of the Court of Appeal.
- 10 (b) Any such appeal shall be in accordance with rules of court of the Court of Appeal made under section 21K of the Supreme Court and Circuit Courts Act, 1900-1965.
- 15 (ii) by omitting from subsection two of the same section the word "Court" and by inserting in lieu thereof the words "Court of Appeal";
- 20 (k) by omitting from section one hundred and seven-teen the words "Court or Judge" and by inserting in lieu thereof the words "Judge or of the Court of Appeal in respect of any matter coming before it on appeal or reference". Sec. 117. (Costs.)

PART XI.

AMENDMENT OF VARIOUS ACTS.

- 25 ~~2324.~~ The Supreme Court and Circuit Courts Act, 1900-1965, is amended by omitting section twenty and by inserting in lieu thereof the following section : — Amendment of Act No. 35, 1900. Subst. sec. 20.
- 30 20. (1) Applications for a rule or order nisi for prohibition, mandamus or certiorari or for an order for the issue of a writ of habeas corpus may be heard and disposed of by a Judge, whether during term or in vacation. Exercise of powers by single Judge or Judge of Appeal in certain cases.

(2)

Law Reform (Miscellaneous Provisions).

(2) Applications to the Court of Appeal to make absolute a rule or order nisi for prohibition, mandamus or certiorari or to make absolute an order for the issue of a writ of habeas corpus may, in vacation, be heard and disposed of by a Judge of Appeal.

(3) Any person aggrieved by any decision of a Judge under subsection one of this section or of a Judge of Appeal under subsection two of this section may appeal therefrom to the Court of Appeal. Any such appeal shall be in accordance with rules of court of the Court of Appeal made under section 21K of this Act.

24. ~~25.~~ The Common Law Procedure Act, 1899-1962, is further amended by omitting section two hundred and sixty five and by inserting in lieu thereof the following section:—

Amendment
of Act No.
21, 1899.
Subst. sec.
Sec. 265.

265. All costs of any action not herein or otherwise provided for shall be paid by or apportioned between the parties in such manner as the court or judge thinks fit and in default of any special direction shall abide the event of the action or the finding or judgment on any issue, and such costs shall be recoverable accordingly.

Costs in
discretion
of judge.
(cf. Act No.
23, 1912,
sec. 129.)

by adding at the end of section 265 the following proviso:—

25 Provided that where a plaintiff obtains a verdict against one or more defendants in an action but fails to obtain a verdict against another defendant or other defendants in the said action then such plaintiff may be awarded against the unsuccessful defendant or defendants the costs of the successful defendant or defendants which are awarded against the plaintiff.

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26. The Workers' Compensation Act, 1926-1965, is amended by omitting section 64A.

Amendment of Act No. 15, 1926.

Sec. 64A.

(In actions for damages no reference to be made to compensation.)

25. 27. The Supreme Court Procedure Act, 1900-1965, is further amended by omitting subsection five of section five.

Amendment of Act No. 49, 1900.

Sec. 5.

(Finding of judge to be finding of jury.)

5 26. 28. The Jury Act, 1912-1965, is further amended by omitting from section thirty the words "either the plaintiff or the defendant in any" and by inserting in lieu thereof the words "any party to an".

Amendment of Act No. 31, 1912.

Sec. 30.

(Juries of twelve.)

27. 29. The Motor Traffic Act, 1909, as amended by subsequent Acts, is amended by inserting next after section 18B the following new section : —

Amendment of Act No. 5, 1909.

18C. (1) Where—

Ex parte procedure for offences referred to in section 18B.

15 (a) the matter of an information for an offence referred to in subsection one of section 18B of this Act has been substantiated by the oath of the informant;

20 (b) a summons for the appearance of the defendant has been served on him in the manner provided by the Justices Act, 1902, as amended by subsequent Acts; and

(c) the defendant does not appear at the time and place fixed for the hearing of the information, the court before which the information comes for hearing may if it is satisfied that—

25 (d) the facts as alleged in the summons constitute such an offence; and

(e)

Law Reform (Miscellaneous Provisions).

(c) the circumstances of the offence are reasonably described in the summons, and reasonably sufficient particulars thereof are set out in the summons,

5 make an order imposing on the defendant a penalty to be paid within such time as may be specified in the order, and may, if it thinks fit, make an order under section eighty-one of the Justices Act, 1902, as amended by subsequent Acts, for the payment by the defendant of costs.

10 (2) The provisions of section 556A of the Crimes Act, 1900, as amended by subsequent Acts, apply to any proceedings under subsection one of this section as if the defendant had been charged before the court with the offence referred to in the information.

15 (3) A penalty imposed by an order under subsection one of this section shall not exceed the amount of the penalty specified in the Act or regulation creating the offence in respect of which the penalty is so imposed.

20 (4) In determining the amount of the penalty to be imposed by an order under subsection one of this section, the court may take into account any report made to it by or on behalf of the informant with respect to the character or antecedents **penalties or previous convictions under this Act** of the defendant and to the circumstances of the offence and any information that the defendant causes to be brought to the notice of the court.

25 (5) An order under subsection one of this section shall, for the purposes of section eighty-two and Part V of the Justices Act, 1902, as amended by subsequent Acts, be deemed to be an order under that Act, as so amended.

30 (6) Section seventy-five of the Justices Act, 1902, as amended by subsequent Acts, does not apply in any case where an information is dealt with under subsection one of this section.

(7)

Law Reform (Miscellaneous Provisions).

5 (7) A reference in subsection one of this section to the time and place fixed for the hearing of an information shall, where the hearing of the information has been adjourned and notice of the time and place to which the hearing has been adjourned has been given to the defendant or sent to him at his last known place of abode or business, include a reference to the time and place specified in that notice.

10 (8) Section fifteen of the Justices Act, 1902, as amended by subsequent Acts, shall be construed as if this section formed part of that Act, as so amended.

(9) The jurisdiction of a court under this section shall not be exercised except by a stipendiary magistrate.

15 (10) The provisions of this section are supplemental to and not in derogation of the provisions of any Act in relation to proceedings that may be taken in respect of offences referred to in subsection one of section 18B of this Act.

SCHEDULE.

Law Reform (Miscellaneous Provisions).

SCHEDULE.

Sec. 1.

Reference to Act.	Short title.	Citation.
5 No. 21, 1899.	Common Law Procedure Act, 1899.	Common Law Procedure Act, 1899-1965.
No. 35, 1900.	Supreme Court and Circuit Courts Act, 1900	Supreme Court and Circuit Courts Act, 1900-1965.
10 No. 49, 1900.	Supreme Court Procedure Act, 1900.	Supreme Court Procedure Act, 1900-1965.
No. 24, 1901.	Equity Act, 1901 ..	Equity Act, 1901-1965.
No. 27, 1902.	Justices Act, 1902 ..	Justices Act, 1902-1965.
15 No. 19, 1903.	Commercial Causes Act, 1903.	Commercial Causes Act, 1903-1965.
No. 5, 1909	Motor Traffic Act, 1909..	Motor Traffic Act, 1909-1965.
20 No. 23, 1912.	District Courts Act, 1912	District Courts Act, 1912-1965.
No. 31, 1912.	Jury Act, 1912	Jury Act, 1912-1965.
No. 33, 1912.	Small Debts Recovery Act, 1912.	Small Debts Recovery Act, 1912-1965.
25 No. 15, 1926	Workers' Compensation Act, 1926.	Workers' Compensation Act, 1926-1965.
No. 15, 1942.	Motor Vehicles (Third Party Insurance) Act, 1942.	Motor Vehicles (Third Party Insurance) Act, 1942-1965.
30		

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1965

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 2 December, 1965, A.M.*

New South Wales



ANNO QUARTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1965.

An Act to make provision for and with respect to the mode of trial of certain classes of civil actions; to amend the common law doctrine of contributory negligence; to make further provision for and with respect to the payment or the provision of security for payment of moneys into court in civil actions; to confer on the Supreme Court a special jurisdiction exercisable as an extension of its equitable jurisdiction, to make general declarations of right; to enable the Supreme Court in its Commercial Causes jurisdiction to make declarations of right in addition to or in substitution for verdicts and judgments; to enable the Court of Appeal, in special circumstances, to substitute its assessment for the verdict of a jury; to extend the procedure relating

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relating to minor traffic offences; to make amendments of a procedural or administrative nature to various Acts; for these and other purposes to amend the Common Law Procedure Act, 1899–1962, the District Courts Act, 1912–1965, the Equity Act, 1901–1965, the Motor Traffic Act, 1909, and certain other Acts in certain respects; and for purposes connected therewith.

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 :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Law Reform Short title and citation. (Miscellaneous Provisions) Act, 1965".

10 (2) The Acts, as amended by subsequent Acts and by this Act, specified in the first and second columns of the Schedule to this Act may be cited as respectively specified in the third column of that Schedule.

2. (1) This Part of this Act shall commence on the day Commence- upon which the assent of Her Majesty to this Act is signified. ment.

(2) Subject to subsection one of this section this Act shall commence upon such date or dates as may be appointed and notified pursuant to subsection three of this section.

20 (3) The Governor may, from time to time, appoint and notify by proclamation published in the Gazette the date upon which any Part or provision of this Act specified in the proclamation shall commence and may appoint different dates for

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for different Parts or provisions (whether contained in the same Part or section or in different Parts or sections) and the Part or provision so specified shall commence accordingly.

3. This Act is divided into Parts as follows :—

Division
into Parts.

- 5 PART I.—PRELIMINARY—ss. 1-3.
- PART II.—HEARING AND DETERMINATION OF CIVIL ACTIONS—ss. 4-7.
- PART III.—AMENDMENT OF DOCTRINE OF CONTRIBUTORY NEGLIGENCE—ss. 8-11.
- 10 PART IV.—PAYMENT INTO COURT—ss. 12-15.
- PART V.—DECLARATORY ORDERS—ss. 16, 17.
- PART VI.—POWER TO ENTER SUBSTITUTED VERDICT—s. 18.
- 15 PART VII.—INTEREST ON VERDICT AND ON COSTS—ss. 19, 20.
- PART VIII.—AMENDMENT OF DISTRICT COURTS ACT, 1912-1965—s. 21.
- PART IX.—AMENDMENT OF SMALL DEBTS RECOVERY ACT, 1912-1961—s. 22.
- 20 PART X.—APPEALS FROM JUSTICES—s. 23.
- PART XI.—AMENDMENT OF VARIOUS ACTS—ss. 24-29.

PART II.

HEARING AND DETERMINATION OF CIVIL ACTIONS.

- 25 4. (1) This Part shall apply to any action in the Application
Supreme Court or in a District Court in which issues of fact of Part.
are to be tried or damages or sums of money recoverable
are to be assessed where—

(a) the action is for damages—

- 30 (i) in respect of the death of or bodily injury
to any person caused by or arising out of
the use of a motor vehicle; or

(ii)

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- (ii) in respect of damage to property caused by or arising out of the use of a motor vehicle; or
- 5 (iii) in respect of any other matter in which the liability incurred was caused by or arose out of the use of a motor vehicle;
- (b) contribution is claimed under Part III of the Law Reform (Miscellaneous Provisions) Act, 1946, in respect of damages of the nature referred to in
- 10 paragraph (a) of this subsection.

(2) This Part shall be read and construed with the Motor Vehicles (Third Party Insurance) Act, 1942-1963.

5. (1) In any action to which this Part applies the court or a judge may on the application of any party made
- 15 not later than such time before the trial as may be limited by rules of court, upon being satisfied that circumstances exist which render it desirable to do so and shall, where both parties so apply, order that the action be tried with a jury; but, save as aforesaid, any action to which this Part applies
- 20 shall notwithstanding section twenty-nine of the Jury Act, 1912-1965, or section ninety of the District Courts Act, 1912-1965, be tried by a judge without a jury :

Amendment
of procedure
as to trials
by jury.
23 & 24
Geo. V.
c. 36.

Provided that the provisions of this section shall be without prejudice to the power of the court or a judge to order, in

25 accordance with rules of court, that different questions of fact arising in any action be tried by different modes of trial, and where any such order is made the provisions of this section shall have effect accordingly.

- (2) Where an order has been made under subsection
- 30 one of this section for the trial of an action with a jury any party to that action may apply under section thirty of the Jury Act, 1912-1965, for an order that the trial be had by a jury consisting of twelve persons.

(3)

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(3) Where any action in the Supreme Court is, by force of this section, to be tried by a judge without a jury the following provisions shall have effect :—

- 5 (a) The verdict or finding of the judge shall be of the like force and effect as the verdict or finding of a jury.
- 10 (b) Nothing in this subsection shall authorise judgment to be signed on the verdict or finding, but judgment may be directed to be entered as provided in this section, and the entry shall have the like force and effect in all respects as the signing of judgment.
- (c) The judge may, either at or after the trial, direct that judgment be entered for any or either party.
- 15 (d) The judge may adjourn the case for further consideration or may leave any party to move the Court of Appeal for judgment, or may refer the case to the Court of Appeal for its determination.
- 20 The Court of Appeal shall have jurisdiction to direct judgment to be entered for any or either party.
- (e) Any party may appeal to the Court of Appeal against any judgment so directed by the judge to be entered.
- 25 (f) The appeal shall be by way of rehearing and on the appeal the Court of Appeal shall—
- (i) have all the powers and duties of the judge as to amendment or otherwise, including the power to make findings of fact and to assess damages or compensation;
- 30 (ii) have full discretionary power to receive further evidence upon questions of fact, such evidence to be taken either by oral evidence in court, by affidavit, or by deposition taken before a commissioner or examiner, and to be admitted on special grounds only and not without special leave of the Court of Appeal.

(g)

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- 5 (g) The Court of Appeal may direct the appeal to stand over for further consideration, and direct such issues or questions to be tried or determined or the amount of any damages or compensation to be assessed by a judge either with or without a jury as it may think fit.
- 10 (h) The Court of Appeal may on the appeal give any judgment and make any order which ought to have been given or made in the first instance, and may make such further or other order as the case requires, and in particular may make—
- 15 (a) any order which it might make under section seven of the Supreme Court Procedure Act, 1900-1965;
- (b) such order as to the whole or any part of the costs of the appeal or of the cause or matter as may be just.
- 20 (i) The powers conferred by this section may be exercised by the Court of Appeal notwithstanding that the notice of appeal is that part only of the judgment may be reversed or varied, and such powers may be exercised in favour of all or any of the respondents or parties, although such respondents or parties have not appealed from or
- 25 complained of the judgment.
- 30 (j) Where the judge leaves any party to move the Court of Appeal for judgment, or refers the case to the Court of Appeal for its determination, the powers conferred on the Court of Appeal by paragraphs (f) and (g) of this subsection shall extend to the motion or reference.
- 35 (k) Every application for a new trial or to set aside a verdict finding or judgment, or to have a nonsuit or verdict entered, in any case where any action issue or question has been tried before a judge without a jury, shall be made by appeal to the Court of Appeal and not otherwise.

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6. (1) Where an action to which this Part applies was Transitional provisions.
instituted before the commencement of this Part in the
Supreme Court or in a District Court then—

- 5 (a) if such action is listed in the daily causes list for
hearing within one month after such commence-
ment such action may be continued and completed
as if this Act had not been enacted;
- 10 (b) if such action is not so listed for hearing within
one month after such commencement then notwith-
standing anything in any Act or in any rule of court
relating to the mode of trial of actions, or any steps
taken by the parties, the provisions of section five
of this Act shall apply to the hearing and deter-
mination of such action.

15 (2) Where an action to which this Part applies is
instituted after the commencement of this Part, in the Supreme
Court or in a District Court, then, notwithstanding anything
in any Act or in any rule of court relating to the mode of
trial of actions, the provisions of section five of this Act shall
20 apply to the hearing and determination of such action.

7. (1) Where, in any action to which this Part applies, a Third party
third party notice has been served under the Law Reform proceedings
(Miscellaneous Provisions) Act, 1946, the provisions of and contri-
sections five and six of this Act shall extend to the hearing bution.
25 and determination of issues in the third party proceedings.

(2) Where, in any action to which this Part applies,
proceedings are instituted for contribution under the Law
Reform (Miscellaneous Provisions) Act, 1946, the provisions
of sections five and six of this Act shall extend to the hearing
30 and determination of issues in those proceedings.

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PART III.

AMENDMENT OF DOCTRINE OF CONTRIBUTORY NEGLIGENCE.

8. Nothing in this Part shall affect the operation of the Saving Statutory Duties (Contributory Negligence) Act, 1945.

5 9. This Part shall not apply to any case in which the acts or omissions giving rise to the claim occurred before the commencement of this Part. Application of Part.

10. In this Part, unless the context or subject matter otherwise indicates or requires— Definitions.

10 "Court" means in relation to any claim the court by or before whom the claim falls to be determined.

"Damage" includes loss of life and personal injury.

15 "Fault" means negligence, breach of statutory duty or other act or omission which gives rise to a liability in tort or would, apart from this Part, give rise to the defence of contributory negligence.

11. (1) Where any person suffers damage as the result partly of his own fault and partly of the fault of any other person or persons, a claim in respect of that damage shall not be defeated by reason of the fault of the person suffering the damage, but the damages recoverable in respect thereof shall be reduced to such extent as the court thinks just and equitable having regard to the claimant's share in the responsibility for the damage : Apportionment of liability in case of contributory negligence. 8 & 9 Geo. VI c. 28, s. 1.

25 Provided that—

(a) this subsection shall not operate to defeat any defence arising under a contract;

30 (b) where any contract or enactment providing for the limitation of liability is applicable to the claim, the amount of damages recoverable by the claimant by virtue of this subsection shall not exceed the maximum limit so applicable.

(2) Where damages are recoverable by any person by virtue of the foregoing subsection subject to such reduction as is therein mentioned, the court shall find and record the total damages which would have been recoverable if the claimant had not been at fault.

(3)

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(3) Section five of the Law Reform (Miscellaneous Provisions) Act, 1946, shall apply in any case where two or more persons are liable or would, if they had all been sued, be liable by virtue of subsection one of this section in respect
5 of the damage suffered by any person.

(4) Where any person dies as the result partly of his own fault and partly of the fault of any other person or persons, an action for damages for the benefit of dependants under the Compensation to Relatives Act, 1897-1953, shall
10 not be defeated by the fault of the deceased but if the circumstances are such that if an action were brought for the benefit of the estate of the deceased under the Law Reform (Miscellaneous Provisions) Act, 1944, the damages recoverable would be reduced under subsection one of this section, any
15 damages recoverable in an action brought for the benefit of the dependants of that person under the Compensation to Relatives Act, 1897-1953, shall be reduced to a proportionate extent.

(5) Where, in any case to which subsection one of
20 this section applies, one of the persons at fault avoids liability to any other such person or his personal representative by pleading the Statute of Limitations, or any other enactment limiting the time within which proceedings may be taken, he shall not be entitled to recover any damages or contributions
25 from that other person or representative by virtue of the said subsection.

(6) Where any case to which subsection one of this section applies is tried—

- 30 (a) by a judge sitting without a jury the judge shall make the apportionment under subsection one of this section; or
- (b) by a judge sitting with a jury, the jury shall determine the total damages which would have been recoverable if the claimant had not been at fault and the extent to which those damages are to be
35 reduced.

PART

Law Reform (Miscellaneous Provisions).

PART IV.

PAYMENT INTO COURT.

12. The Motor Vehicles (Third Party Insurance) Act, 1942-1963, is amended by omitting section 38A.

Amendment
of Act No.
15, 1942.
Sec. 38A.
(Payment
into court
excluded in
certain
cases.)

5 13. The Common Law Procedure Act, 1899-1962, is amended—

Amendment
of Act No.
21, 1899.

(a) by inserting in subsection one of section eighty after the words "pay into Court" the words "or deposit in the Court a bond or undertaking in the prescribed form securing payment of";

Sec. 80.
(Payment
into
Court.)

(b) (i) by inserting in subsection one of section eighty-two after the words "order to pay" the words "or to deposit a bond or undertaking securing payment of";

Sec. 82.
(No order
to pay
money into
Court.)

(ii) by inserting in the same subsection after the words "paid to" the words "or the bond or undertaking deposited with";

(c) by inserting next after section eighty-two the following new section :—

New sec.
82A.

82A. (1) Money may be paid into Court or a bond or undertaking securing the payment of money into Court may be deposited, with an appropriate plea at any time before the date of hearing.

Payment
into Court
at any time
before
hearing.

(2) This section applies whether the money is paid in or secured under the provisions of this Act or pursuant to rules of Court, and applies whether or not the payment or deposit is made with or without denial of liability.

(d) (i) by inserting in section eighty-three after the word "payment" the words "or of deposit of a bond or undertaking securing payment";

(ii) by inserting in paragraph (a) of the same section after the words "so paid into Court" the words "or so secured";

(iii)

Sec. 83.
(Proceed-
ings by
plaintiff
after pay-
ment into
Court.)

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- (iii) by inserting in the same paragraph after the words "paid in" the words "or secured";
- (iv) by inserting in paragraph (b) of the same section after the words "sum paid into Court" the words "or secured";
- (e) by inserting next after section eighty-three the following new section :—

New sec.
83A.

83A. (1) The bond or undertaking referred to in sections eighty, eighty-two, 82A and eighty-three of this Act shall be a bond or undertaking given by an insurance company which is a licensed insurer under the Workers' Compensation Act, 1926-1965, or an authorised insurer under the Motor Vehicles (Third Party Insurance) Act, 1942-1963.

Bond.

(2) (a) Where the plaintiff accepts the sum secured by any such bond or undertaking the person giving the bond or undertaking shall, within seven days after notice of acceptance pay the sum secured to the proper officer of the Court.

(b) If he fails to do so he shall not be entitled to any advantage by reason of his deposit in the court of the undertaking, and the plaintiff may either withdraw his acceptance or apply to the court for an order directing payment to him of the amount stated in the bond.

cf. Rules of
Sup. Court.
(Vict.)
Ord. 22
R. 1 (5).

In any case where the deposit was made by one or more defendants in proceedings under Part III of the Law Reform (Miscellaneous Provisions) Act, 1946, the Court may make such order subject to such conditions as it may think just.

(c) Any order for the payment of money made under the authority of paragraph (b) of this subsection shall have the effect of a judgment at law and the plaintiff may have execution thereon for the money payable, and shall be entitled to all the remedies given to judgment creditors by the Judgment Creditors' Remedies Act, 1901-1957.

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14. The District Courts Act, 1912-1965, is amended—

(a) (i) by omitting from subsection one of section seventy-two the words "within the prescribed time" and by inserting in lieu thereof the words "at any time before the date of hearing";

Amendment
of Act No.
23, 1912.
Sec. 72.
(Payment
into court of
money by
defendant.)

(ii) by inserting in subsection one of the same section after the word "court" the words "or deposit with the court a bond or undertaking in the prescribed form securing payment of";

(iii) by inserting in subsection two of the same section after the word "payment" the words "or deposit";

(iv) by inserting in subsection three of the same section after the word "payment" the words "or deposit";

(v) by inserting in subsection four of the same section after the words "paid in" the words "or secured";

(vi) by inserting in subsection five of the same section after the words "paid into court" the words "or secured";

(vii) by inserting in the same subsection after the words "payment into court" the words "or, as the case may be, the deposit of such bond or undertaking";

(b) by inserting next after section seventy-two the following new section : —

New sec.
72A.

72A. (1) The bond or undertaking referred to in section seventy-two of this Act shall be a bond given by an insurance company which is a licensed insurer under the Workers' Compensation Act, 1926-1965, or an authorised insurer under the Motor Vehicles (Third Party Insurance) Act, 1942-1963.

Bond.

(2) (a) Where the plaintiff elects to accept the sum secured by any such bond or undertaking the person giving the bond or undertaking shall,

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shall, within seven days after notice of acceptance pay the sum secured to the proper officer of the court.

5 (b) If he fails to do so he shall not be entitled to any advantage by reason of his deposit in the court of the undertaking, and the plaintiff may either withdraw his acceptance or apply to the court for an order directing payment to him of the amount stated in the bond. cf. Rules of Sup. Court. (Vict.) Ord. 22 R. 1 (5).

10 In any case where the deposit was made by one or more defendants in proceedings under Part III of the Law Reform (Miscellaneous Provisions) Act, 1946, the court may make such order subject to such conditions as it may think just.

15 (c) Any order for the payment of money made under the authority of paragraph (b) of this subsection shall have the effect of a judgment at law and the plaintiff may have execution thereon for the money payable, and shall be entitled to all the remedies given to judgment creditors by
20 the Judgment Creditors' Remedies Act, 1901-1957.

15. The rules of court of the Supreme Court or of a District Court in force at the commencement of this Part with respect to the payment of moneys into court whether with or
25 without denial of liability, shall extend, mutatis mutandis, to the deposit of a bond or undertaking securing payment into court of moneys, but may be amended or replaced by rules made after the commencement of this Part. Existing rules of court extended.

PART V.

30 **DECLARATORY ORDERS.**

16. The Equity Act, 1901-1965, is amended—

(a) by inserting at the end of the last definition in section three the words "and also includes the jurisdiction conferred by section ten of this Act"; Amendment of Act No. 24, 1901. Sec. 3. (Interpretation.)

(b)

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- (b) by inserting in subsection one of section four after the word "including" the words "the jurisdiction conferred by section ten of this Act and including also"; Sec. 4.
(Appointment and powers of the Chief Judge in Equity.)
- 5 (c) by inserting in section eight after the word "relief" the words "or for purposes relevant to the exercise of the jurisdiction conferred by section ten of this Act"; Sec. 8.
(Power to decide legal titles, &c.)
- 10 (d) by omitting section ten and by inserting in lieu thereof the following new section : — Subst. sec. 10.
- 15 10. (1) In addition to the jurisdiction which is otherwise vested in it, the Court shall have jurisdiction to make binding declarations of right whether or not any consequential relief is or could be claimed, and whether or not the suit in which the declaration is sought is a suit for equitable relief or a suit which relates to equitable rights or titles. Declarations of right.
- No suit shall be open to objection on the ground that a merely declaratory decree is sought thereby.
- 20 (2) Without limiting the generality of the jurisdiction conferred by subsection one of this section, the Court may by decree or order declare—
- 25 (a) the nature, quality and extent of the estates, interests, powers, rights, liabilities or duties of any persons in respect of any real or personal property or arising under any disposition of any real or personal property including any sale, conveyance, transfer, assignment, mortgage, charge, encumbrance,
- 30 debenture, pledge, lease, bailment, or hiring or arising under any agreement or option for or relating to any such disposition as aforesaid;
- 35 (b) the interests, powers, rights and liabilities or duties of any persons arising under—
- (i) any partnership or partnership agreement;
- (ii)

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- (ii) the memorandum or articles of association or other constitution of any company or other corporation;
- 5 (iii) the rules, by-laws or other constitution of any unincorporated association;
- (iv) any agreement relating to any patent, trade mark, trade name, copyright or industrial design;
- 10 (v) any agreement for or relating to any guarantee or indemnity;
- (vi) generally any contract or agreement whether of the same or a different class;
- 15 (vii) any Act or any ordinance, rule, regulation or other instrument having effect under any Act or by reason of any executive, ministerial or administrative act done or purporting to be done in pursuance of any Act or of any such ordinance, rule, regulation or other instrument.
- (e) (i) by inserting in paragraph (c) of section thirty Sec. 30.
after the word "served" the words "or the (Service out of the jurisdiction.)
declaration of right sought";
- 25 (ii) by inserting in the same section next after paragraph (e) the following new paragraphs :—
- (e1) the suit or proceeding is for a declaration of right affecting any person domiciled or any property situated within the jurisdiction; or
- 30 (e2) the suit or proceeding is for a declaration as to the interests, powers, rights and liabilities or duties of any persons or class of persons of whom the person to be served is one, arising under any Act or any ordinance, rule, regulation or other instrument having effect under
- 35

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5 under any Act or by reason of any executive, ministerial or administrative act done or purporting to be done in pursuance of any Act or of any such ordinance, rule, regulation or other instrument ; or.

17. The Commercial Causes Act, 1903-1965, is amended by inserting next after section seven the following new section :—

Amendment
of Act No.
19, 1903.
New sec. 7A.

10 7A. The Judge by or before whom any commercial cause is tried may in addition to or in substitution for any verdict or judgment for debt or damages or for the return of goods make such binding declaration of right with respect to the subject matter of the cause as
15 to him may seem appropriate.

Power to
make
declaratory
order.

PART VI.

POWER TO ENTER SUBSTITUTED VERDICT.

18. The Common Law Procedure Act, 1899-1962, is further amended by inserting next after section one hundred and sixty the following new section :—

Amendment
of Act No.
21, 1899.
New sec.
160A.

160A. (1) This section applies to an application to the Court of Appeal for a new trial or to set aside a verdict finding or judgment after trial with a jury.

Substituted
verdict.

25 (2) For the purposes of this section the Court of Appeal shall have full power and jurisdiction to make findings of fact and to assess damages or compensation.

30 (3) The powers conferred by this section shall be exercisable only where on such application the Court of Appeal would, but for this section, have set aside the verdict finding or judgment and ordered a new trial on the issue of damages.

(4)

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(4) The Court of Appeal shall not exercise the powers conferred by this section unless it is satisfied—

- 5 (a) that it is fully able to assess the damages on a perusal of the evidence contained in the documents before it, or on admitted facts, without seeing or hearing the plaintiff or defendant or other witnesses; and
- 10 (b) that one of the following circumstances exists namely : —
 - (i) it is desirable that the power be exercised to avoid a multiplicity of trials; or
 - 15 (ii) as a result of an error of law on the part of the trial judge or a manifest error on the part of the jury, some item or items of damages has or have been wrongly included in or excluded from the assessment; or
 - 20 (iii) the parties consent.

(5) The powers conferred by this section may also be exercised in appeals from any District Court whether the court giving the decision appealed from was constituted by a judge and jury or a judge sitting alone.

25

PART VII.

INTEREST ON VERDICT AND ON COSTS.

19. The Common Law Procedure Act, 1899-1962, is further amended by inserting next after section one hundred and forty-three the following new section : —

Amendment
of Act No.
21, 1899.
New sec.
143A.

30 143A. Notwithstanding anything in sections one hundred and forty-two and one hundred and forty-three—

Interest on
verdict and
costs.

- 35 (a) interest shall not be payable on the amount of the verdict if such amount is paid to or at the direction of the plaintiff within twenty-one days after the date of verdict;

(b)

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- (b) interest shall not be payable on costs payable to the plaintiff if the amount of such costs is paid within twenty-one days after assessment or after taxation.

5 20. The District Courts Act, 1912-1965, is amended by Amendment of Act No. 23, 1912.

New sec. 101B.

101B. Notwithstanding anything in section 101A of this Act—

Interest on verdict and costs.

- 10 (a) interest shall not be payable on any judgment debt if the amount of such judgment debt is paid to or at the direction of the plaintiff within twenty-one days after the judgment or verdict was given or, as the case may be, the judgment was entered;
- 15 (b) interest shall not be payable on costs payable to the plaintiff if the amount of such costs is paid within twenty-one days after assessment or after taxation.

PART VIII.

20 AMENDMENT OF DISTRICT COURTS ACT, 1912-1965.

21. The District Courts Act, 1912-1965, is further Amendment of Act No. 23, 1912.

- (a) by omitting section sixty-five and by inserting in lieu thereof the following section :—

Subst. sec. 65.

25 65. A default summons shall be served in the same manner as is provided by or under section sixty-three of this Act for the service of an ordinary summons.

Service of default summons.

- 30 (b) (i) by omitting from section sixty-seven the word "personal" where firstly occurring;

Sec. 67.

(ii) (Judgment in default of defence.)

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- (ii) by omitting from the same section the words
“or where service has not been personal,
within the prescribed number of days after
leave to proceed as aforesaid”;
- 5 (iii) by omitting from the same section the words
“three months” and by inserting in lieu
thereof the words “twelve months”;
- (iv) by omitting from the same section the words
“personal service or of an order of leave to
10 proceed” and by inserting in lieu thereof the
word “service”;
- (c) by omitting from subsection one of section eighty- Sec. 82.
two the words “upon an affidavit by such party, or (Discovery
his attorney, of his belief that any document to the of
15 production of which he is entitled for the purpose documents.)
of discovery or otherwise, is in the possession or
power of the opposite party”;
- (d) by omitting from subsection two of section eighty- Sec. 86.
six the words “The judge at any time during the (Case
20 sitting of the court at which an action has been struck out.)
so struck out may” and by inserting in lieu thereof
the words “Where an action has been so struck out
the judge may, upon application made in that
behalf”;
- 25 (e) by inserting at the end of section ninety-two the Sec. 92.
following new subsection : — (Number
of jurors.)
(2) To remove doubts it is hereby declared that
section 30A of the Jury Act, 1912-1965, applies to
and in respect of any cause or issue for trial by
30 jury in any District Court.
- (f) by inserting next after section ninety-five the New
following new section : — sec. 95A.
95A. Where at a trial by jury of any cause or Amount of
35 issue in a District Court the jury returns a verdict verdict
for an amount in excess of three thousand pounds exceeding
the judge may reduce the amount of the verdict to three
thousand pounds, and, in any case where the thousand
jury pounds.

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jury had made an apportionment of the verdict returned by it the judge may make a corresponding apportionment of the amount of the verdict as so reduced.

- 5 (g) by omitting from subsection three of section one hundred and twenty-seven the words "supported by an affidavit showing" and by inserting in lieu thereof the words "shown by affidavit or otherwise". Sec. 127. (Interpretation.)

PART IX.**10 AMENDMENT OF SMALL DEBTS RECOVERY ACT, 1912-1961.**

22. The Small Debts Recovery Act, 1912-1961, is amended— Amendment of Act No. 33, 1912.

- (a) by omitting section twenty-six and by inserting in lieu thereof the following section : — Subst. sec. 26.

15 26. A default summons or duplicate thereof shall be served in the same manner as is provided by or under section nineteen of this Act for the service of an ordinary summons. Service of default summons.

- 20 (b) (i) by omitting from section twenty-eight the word "personal" where firstly occurring; Sec. 28. (Judgment in default of defence.)

(ii) by omitting from the same section the words "or where service has not been personal within fourteen days after leave to proceed as afore-said";

- 25 (iii) by omitting from the same section the words "three months" and by inserting in lieu thereof the words "twelve months";

(iv) by omitting from the same section the words "personal service, or of an order of leave to proceed" and by inserting in lieu thereof the word "service";

- 30 (c) by inserting next after section thirty-five the following new section : — New sec. 35A.

35 35A. (1) In any action in which a default summons has been issued the defendant may sign a statement confessing the amount of the debt or demand Confession of debt subject to conditions.

Law Reform (Miscellaneous Provisions).

5 demand for which the plaint has been issued, conditionally upon the granting of an application accompanying such statement of confession that if and when judgment is entered consequent upon such statement of confession a direction be given that the amount of the judgment be paid at such times and by such instalments as are offered in such application.

10 (2) Any such statement and application shall be signed in the presence of the registrar of the court in which the plaint was issued or of an attorney or a justice of the peace.

(3) (a) Every such application shall be supported by an affidavit in the prescribed form.

15 (b) Proof shall be furnished by affidavit of the signature of the person signing such statement of confession.

20 (4) The registrar shall receive such statement of confession and application, and shall, as soon as convenient thereafter send notice of the same to the plaintiff.

25 (5) (a) If within five days of notice of the statement of confession and of the application having been sent to him by the registrar the plaintiff does not inform the registrar that he opposes the application the registrar shall enter judgment for the amount of the debt or demand for which the plaint was issued and shall give a direction for payment at such times and by such instalments as were offered in the application.

30 (b) If within five days of such notice having been given the plaintiff informs the registrar that he opposes the application the registrar shall inform the defendant accordingly, and in such event the statement of confession shall not be available in evidence and the time for filing notice of grounds of defence shall commence to run as from the time the defendant is so informed.

(6)

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(6) Where action is taken under this section the provisions of sections thirty-four and thirty-five of this Act shall not apply.

5 (7) The giving of a direction under this section shall not affect the right of the judgment debtor to make an application under section forty-two of this Act, and, in the event of any such application being made, that section shall have effect in all respects as if no action had been taken under this section.

10 (d) by inserting in subsection one of section forty-three after the words "entered up" the words "or of his solicitor or agent shown on the record".

Sec. 43.
(Execution of process.)

PART X.

15 APPEALS FROM JUSTICES.

23. The Justices Act, 1902-1958, is amended—

- (a) (i) by inserting in subsection one of section one hundred and four after the words "apply to" the words "a Judge of";
- 20 (ii) by omitting from subsection two of the same section the word "Court" and by inserting in lieu thereof the word "Judge";
- (b) by omitting subsection three of section one hundred and six.
- 25 (c) by omitting subsection one of section one hundred and seven and by inserting in lieu thereof the following subsection :—
- (1) The authority and jurisdiction vested in the Supreme Court by section one hundred and six of this Act may be exercised by a Judge of the said Court sitting in Chambers.

Amendment of Act No. 27, 1902.

Sec. 104.
(When case refused Supreme Court may direct case to be stated.)

Sec. 106.
(Powers of Court in dealing with cases so stated.)

Sec. 107.
(Powers of Court may be exercised by Judge in Chambers.)

(d)

Law Reform (Miscellaneous Provisions).

- (d) by inserting next after section one hundred and seven the following new section :— New sec. 107A.
- 5 107A. (1) Any person aggrieved by any decision or determination of a Judge made pursuant to sections one hundred and six and one hundred and seven of this Act may appeal therefrom to the Court of Appeal by leave of the Court of Appeal. Appeal to Court of Appeal.
- 10 (2) Any such appeal shall be in accordance with rules of court of the Court of Appeal made under section 21K of the Supreme Court and Circuit Courts Act, 1900-1965.
- 15 (e) by inserting in section one hundred and eight after the words "Supreme Court" the words "or by the Court of Appeal on appeal thereto"; Sec. 108. (After decision of Court Justices to enforce conviction or order.)
- (f) by omitting from section one hundred and nine the words "said Court" and by inserting in lieu thereof the words "Supreme Court or of the Court of Appeal on appeal thereto"; Sec. 109. (Certiorari not requisite when case stated.)
- 20 (g) by omitting subsections four and five of section one hundred and twelve and by inserting in lieu thereof the following subsection :— Sec. 112. (Any person aggrieved by conviction or order may apply for prohibition.)
- 25 (4) Any application under this section may be heard and determined by a Judge of the Supreme Court in Chambers.
- (h) by omitting section one hundred and fourteen and by inserting in lieu thereof the following section :— Subst. sec. 114.
- 30 114. Any rule or order granted or made under section one hundred and twelve of this Act shall be made returnable before a Judge of the Supreme Court in Chambers. Before whom rule to be returnable.
- (i) by omitting from section one hundred and fifteen the words "Court or" wherever occurring; Sec. 115. (Powers of Court or Judge.)
- (j)

Law Reform (Miscellaneous Provisions).

- (j) (i) by omitting subsection one of section one hundred and sixteen and by inserting in lieu thereof the following subsection : — Sec. 116. (Certain rules and writs made by Judge may be reviewed by Court.)
- 5 (1) (a) Any person aggrieved by any decision or determination of a Judge made pursuant to sections one hundred and fourteen and one hundred and fifteen of this Act may appeal therefrom to the Court of Appeal by leave of the Court of Appeal.
- 10 (b) Any such appeal shall be in accordance with rules of court of the Court of Appeal made under section 21K of the Supreme Court and Circuit Courts Act, 1900-1965.
- 15 (ii) by omitting from subsection two of the same section the word "Court" and by inserting in lieu thereof the words "Court of Appeal";
- 20 (k) by omitting from section one hundred and seven- Sec. 117. (Costs.) teen the words "Court or Judge" and by inserting in lieu thereof the words "Judge or of the Court of Appeal in respect of any matter coming before it on appeal or reference".

PART XI.

AMENDMENT OF VARIOUS ACTS.

- 25 24. The Supreme Court and Circuit Courts Act, 1900-1965, is amended by omitting section twenty and by inserting in lieu thereof the following section : — Amendment of Act No. 35, 1900. Subst. sec. 20.
- 30 20. (1) Applications for a rule or order nisi for prohibition, mandamus or certiorari or for an order for the issue of a writ of habeas corpus may be heard and disposed of by a Judge, whether during term or in vacation. Exercise of powers by single Judge or Judge of Appeal in certain cases.

(2)

Law Reform (Miscellaneous Provisions).

(2) Applications to the Court of Appeal to make absolute a rule or order nisi for prohibition, mandamus or certiorari or to make absolute an order for the issue of a writ of habeas corpus may, in vacation, be heard and disposed of by a Judge of Appeal.

(3) Any person aggrieved by any decision of a Judge under subsection one of this section or of a Judge of Appeal under subsection two of this section may appeal therefrom to the Court of Appeal. Any such appeal shall be in accordance with rules of court of the Court of Appeal made under section 21K of this Act.

25. The Common Law Procedure Act, 1899-1962, is further amended by omitting section two hundred and sixty-five and by inserting in lieu thereof the following section : —

Amendment
of Act No.
21, 1899.
Subst. sec.
265.

265. All costs of any action not herein or otherwise provided for shall be paid by or apportioned between the parties in such manner as the court or judge thinks fit and in default of any special direction shall abide the event of the action or the finding or judgment on any issue, and such costs shall be recoverable accordingly.

Costs in
discretion
of judge.
(cf. Act No.
23, 1912,
sec. 129.)

26. The Workers' Compensation Act, 1926-1965, is amended by omitting section 64A.

Amendment
of Act No.
15, 1926.
Sec. 64A.
(In actions
for damages
no reference
to be made
to com-
pensation.)

27. The Supreme Court Procedure Act, 1900-1965, is further amended by omitting subsection five of section five.

Amendment
of Act No.
49, 1900.
Sec. 5.
(Finding of
judge to be
finding of
jury.)

Law Reform (Miscellaneous Provisions).

28. The Jury Act, 1912-1965, is further amended by Amendment of Act No. 31, 1912. omitting from section thirty the words "either the plaintiff or the defendant in any" and by inserting in lieu thereof the words "any party to an". Sec. 30. (Juries of twelve.)

5 29. The Motor Traffic Act, 1909, as amended by subsequent Acts, is amended by inserting next after section 18B Amendment of Act No. 5, 1909. the following new section :—

18c. (1) Where—

10 (a) the matter of an information for an offence referred to in subsection one of section 18B of this Act has been substantiated by the oath of the informant; Ex parte procedure for offences referred to in section 18B.

15 (b) a summons for the appearance of the defendant has been served on him in the manner provided by the Justices Act, 1902, as amended by subsequent Acts; and

20 (c) the defendant does not appear at the time and place fixed for the hearing of the information, the court before which the information comes for hearing may if it is satisfied that—

(d) the facts as alleged in the summons constitute such an offence; and

25 (e) the circumstances of the offence are reasonably described in the summons, make an order imposing on the defendant a penalty to be paid within such time as may be specified in the order, and may, if it thinks fit, make an order under section eighty-one of the Justices Act, 1902, as amended by subsequent Acts, for the payment by the defendant of costs. 30

35 (2) The provisions of section 556A of the Crimes Act, 1900, as amended by subsequent Acts, apply to any proceedings under subsection one of this section as if the defendant had been charged before the court with the offence referred to in the information.

(3)

Law Reform (Miscellaneous Provisions).

(3) A penalty imposed by an order under subsection one of this section shall not exceed the amount of the penalty specified in the Act or regulation creating the offence in respect of which the penalty is so imposed.

5 (4) In determining the amount of the penalty to be imposed by an order under subsection one of this section, the court may take into account any report made to it by or on behalf of the informant with respect to the character or antecedents of the defendant and to the circumstances of the offence and any information that the
10 defendant causes to be brought to the notice of the court.

(5) An order under subsection one of this section shall, for the purposes of section eighty-two and Part V of the Justices Act, 1902, as amended by subsequent Acts, be deemed to be an order under that Act,
15 as so amended.

(6) Section seventy-five of the Justices Act, 1902, as amended by subsequent Acts, does not apply in any case where an information is dealt with under
20 subsection one of this section.

(7) A reference in subsection one of this section to the time and place fixed for the hearing of an information shall, where the hearing of the information has been adjourned and notice of the time and place to which the hearing has been adjourned has been given
25 to the defendant or sent to him at his last known place of abode or business, include a reference to the time and place specified in that notice.

(8) Section fifteen of the Justices Act, 1902, as amended by subsequent Acts, shall be construed as if
30 this section formed part of that Act, as so amended.

(9) The jurisdiction of a court under this section shall not be exercised except by a stipendiary magistrate.

(10)

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(10) The provisions of this section are supplemental to and not in derogation of the provisions of any Act in relation to proceedings that may be taken in respect of offences referred to in subsection one of section 18B of this Act.

SCHEDULE.

Sec. 1.

Reference to Act.	Short title.	Citation.
10 No. 21, 1899. No. 35, 1900.	Common Law Procedure Act, 1899. Supreme Court and Circuit Courts Act, 1900	Common Law Procedure Act, 1899-1965. Supreme Court and Circuit Courts Act, 1900-1965.
15 No. 49, 1900. No. 24, 1901. No. 27, 1902.	Supreme Court Procedure Act, 1900. Equity Act, 1901 .. Justices Act, 1902 ..	Supreme Court Procedure Act, 1900-1965. Equity Act, 1901-1965. Justices Act, 1902-1965.
20 No. 19, 1903. No. 5, 1909	Commercial Causes Act, 1903. Motor Traffic Act, 1909..	Commercial Causes Act, 1903-1965. Motor Traffic Act, 1909-1965.
25 No. 23, 1912. No. 31, 1912. No. 33, 1912.	District Courts Act, 1912 Jury Act, 1912 Small Debts Recovery Act, 1912.	District Courts Act, 1912-1965. Jury Act, 1912-1965. Small Debts Recovery Act, 1912-1965.
30 No. 15, 1926 No. 15, 1942.	Workers' Compensation Act, 1926. Motor Vehicles (Third Party Insurance) Act, 1942.	Workers' Compensation Act, 1926-1965. Motor Vehicles (Third Party Insurance) Act, 1942-1965.
35		

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1965
[2s. 6d. (25c)]

LAW REFORM (MISCELLANEOUS PROVISIONS) BILL, 1965.

EXPLANATORY NOTE.

THE objects of this Bill are—

- (a) to provide that actions for damages in respect of motor vehicle accidents (including both claims in respect of death or bodily injury and claims for property damage), and derivative or subsidiary claims shall be tried by a judge sitting without a jury unless an order for trial with a jury is made either for cause shown or on the application of both parties to the action;
- (b) to extend the existing procedures to cover such actions;
- (c) to amend the common law doctrine of contributory negligence;
- (d) to repeal the existing restriction on payment into court in running down cases, and to make further and more general provision for and with respect to the payment or provision of security for payment of moneys into court;
- (e) to empower the Supreme Court in its equitable jurisdiction to make general declarations of right, and in its Commercial Causes jurisdiction to make declarations of right in addition to or in substitution for verdicts or judgments;
- (f) to empower the Court of Appeal in special circumstances or with the consent of all parties to substitute its assessment for the verdict of a jury where otherwise it would have ordered a new trial limited to damages;
- (g) to extend the scope of the existing procedure for dealing ex parte with minor traffic offences;
- (h) to remove anomalies in respect of appeals from Justices and in respect of the exercise of the powers of the Court of Appeal during vacation;
- (i) to make amendments of a procedural or administrative character to various Acts.

PROOF

No. , 1965.

A BILL

To make provision for and with respect to the mode of trial of certain classes of civil actions; to amend the common law doctrine of contributory negligence; to make further provision for and with respect to the payment or the provision of security for payment of moneys into court in civil actions; to confer on the Supreme Court a special jurisdiction exercisable as an extension of its equitable jurisdiction, to make general declarations of right; to enable the Supreme Court in its Commercial Causes jurisdiction to make declarations of right in addition to or in substitution for verdicts and judgments; to enable the Court of Appeal, in special circumstances, to substitute its assessment for the verdict of a jury; to extend the procedure relating

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relating to minor traffic offences; to make amendments of a procedural or administrative nature to various Acts; for these and other purposes to amend the Common Law Procedure Act, 1899–1962, the District Courts Act, 1912–1965, the Equity Act, 1901–1965, the Motor Traffic Act, 1909, and certain other Acts in certain respects; and for purposes connected therewith.

[Mr. McCaw;—30 November, 1965.]

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 :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Law Reform Short title and citation. (Miscellaneous Provisions) Act, 1965".

10 (2) The Acts, as amended by subsequent Acts and by this Act, specified in the first and second columns of the Schedule to this Act may be cited as respectively specified in the third column of that Schedule.

2. (1) This Part of this Act shall commence on the day Commence-ment. upon which the assent of Her Majesty to this Act is signified.

(2) Subject to subsection one of this section this Act shall commence upon such date or dates as may be appointed and notified pursuant to subsection three of this section.

20 (3) The Governor may, from time to time, appoint and notify by proclamation published in the Gazette the date upon which any Part or provision of this Act specified in the proclamation shall commence and may appoint different dates for

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for different Parts or provisions (whether contained in the same Part or section or in different Parts or sections) and the Part or provision so specified shall commence accordingly.

3. This Act is divided into Parts as follows :—

Division
into Parts.

- 5 PART I.—PRELIMINARY—ss. 1-3.
- PART II.—HEARING AND DETERMINATION OF CIVIL ACTIONS—ss. 4-7.
- PART III.—AMENDMENT OF DOCTRINE OF CONTRIBUTORY NEGLIGENCE—ss. 8-11.
- 10 PART IV.—PAYMENT INTO COURT—ss. 12-15.
- PART V.—DECLARATORY ORDERS—ss. 16, 17.
- PART VI.—POWER TO ENTER SUBSTITUTED VERDICT—s. 18.
- 15 PART VII.—INTEREST ON VERDICT AND ON COSTS—ss. 19, 20.
- PART VIII.—AMENDMENT OF DISTRICT COURTS ACT, 1912-1965—s. 21.
- PART IX.—AMENDMENT OF SMALL DEBTS RECOVERY ACT, 1912-1961—s. 22.
- 20 PART X.—APPEALS FROM JUSTICES—s. 23.
- PART XI.—AMENDMENT OF VARIOUS ACTS—ss. 24-29.

PART II.

HEARING AND DETERMINATION OF CIVIL ACTIONS.

- 25 4. (1) This Part shall apply to any action in the Application
Supreme Court or in a District Court in which issues of fact of Part.
are to be tried or damages or sums of money recoverable
are to be assessed where—

(a) the action is for damages—

- 30 (i) in respect of the death of or bodily injury
to any person caused by or arising out of
the use of a motor vehicle; or

(ii)

Law Reform (Miscellaneous Provisions).

- (ii) in respect of damage to property caused by or arising out of the use of a motor vehicle; or
- (iii) in respect of any other matter in which the liability incurred was caused by or arose out of the use of a motor vehicle;

- (b) contribution is claimed under Part III of the Law Reform (Miscellaneous Provisions) Act, 1946, in respect of damages of the nature referred to in paragraph (a) of this subsection.

(2) This Part shall be read and construed with the Motor Vehicles (Third Party Insurance) Act, 1942-1963.

5. (1) In any action to which this Part applies the court or a judge may on the application of any party made not later than such time before the trial as may be limited by rules of court, upon being satisfied that circumstances exist which render it desirable to do so and shall, where both parties so apply, order that the action be tried with a jury; but, save as aforesaid, any action to which this Part applies shall notwithstanding section twenty-nine of the Jury Act, 1912-1965, or section ninety of the District Courts Act, 1912-1965, be tried by a judge without a jury :

Amendment
of procedure
as to trials
by jury.
23 & 24
Geo. V.
c. 36.

Provided that the provisions of this section shall be without prejudice to the power of the court or a judge to order, in accordance with rules of court, that different questions of fact arising in any action be tried by different modes of trial, and where any such order is made the provisions of this section shall have effect accordingly.

(2) Where an order has been made under subsection one of this section for the trial of an action with a jury any party to that action may apply under section thirty of the Jury Act, 1912-1965, for an order that the trial be had by a jury consisting of twelve persons.

(3)

Law Reform (Miscellaneous Provisions).

(3) Where any action in the Supreme Court is, by force of this section, to be tried by a judge without a jury the following provisions shall have effect :—

- 5 (a) The verdict or finding of the judge shall be of the like force and effect as the verdict or finding of a jury.
- (b) Nothing in this subsection shall authorise judgment to be signed on the verdict or finding, but judgment may be directed to be entered as provided in this section, and the entry shall have the like force and effect in all respects as the signing of judgment.
- 10 (c) The judge may, either at or after the trial, direct that judgment be entered for any or either party.
- 15 (d) The judge may adjourn the case for further consideration or may leave any party to move the Court of Appeal for judgment, or may refer the case to the Court of Appeal for its determination.

The Court of Appeal shall have jurisdiction to direct judgment to be entered for any or either party.

- 20 (e) Any party may appeal to the Court of Appeal against any judgment so directed by the judge to be entered.
- 25 (f) The appeal shall be by way of rehearing and on the appeal the Court of Appeal shall—
 - (i) have all the powers and duties of the judge as to amendment or otherwise, including the power to make findings of fact and to assess damages or compensation;
 - 30 (ii) have full discretionary power to receive further evidence upon questions of fact, such evidence to be taken either by oral evidence in court, by affidavit, or by deposition taken before a commissioner or examiner, and to be admitted on special grounds only and not without special leave of the Court of Appeal.
 - 35

(g)

Law Reform (Miscellaneous Provisions).

- 5 (g) The Court of Appeal may direct the appeal to stand over for further consideration, and direct such issues or questions to be tried or determined or the amount of any damages or compensation to be assessed by a judge either with or without a jury as it may think fit.
- 10 (h) The Court of Appeal may on the appeal give any judgment and make any order which ought to have been given or made in the first instance, and may make such further or other order as the case requires, and in particular may make—
- 15 (a) any order which it might make under section seven of the Supreme Court Procedure Act, 1900-1965;
- (b) such order as to the whole or any part of the costs of the appeal or of the cause or matter as may be just.
- 20 (i) The powers conferred by this section may be exercised by the Court of Appeal notwithstanding that the notice of appeal is that part only of the judgment may be reversed or varied, and such powers may be exercised in favour of all or any of the respondents or parties, although such respondents or parties have not appealed from or
- 25 complained of the judgment.
- 30 (j) Where the judge leaves any party to move the Court of Appeal for judgment, or refers the case to the Court of Appeal for its determination, the powers conferred on the Court of Appeal by paragraphs (f) and (g) of this subsection shall extend to the motion or reference.
- 35 (k) Every application for a new trial or to set aside a verdict finding or judgment, or to have a nonsuit or verdict entered, in any case where any action issue or question has been tried before a judge without a jury, shall be made by appeal to the Court of Appeal and not otherwise.

Law Reform (Miscellaneous Provisions).

6. (1) Where an action to which this Part applies was Transitional
instituted before the commencement of this Part in the provisions.
Supreme Court or in a District Court then—

- 5 (a) if such action is listed in the daily causes list for
hearing within one month after such commence-
ment such action may be continued and completed
as if this Act had not been enacted;
- 10 (b) if such action is not so listed for hearing within
one month after such commencement then notwith-
standing anything in any Act or in any rule of court
relating to the mode of trial of actions, or any steps
taken by the parties, the provisions of section five
of this Act shall apply to the hearing and deter-
mination of such action.

15 (2) Where an action to which this Part applies is
instituted after the commencement of this Part, in the Supreme
Court or in a District Court, then, notwithstanding anything
in any Act or in any rule of court relating to the mode of
trial of actions, the provisions of section five of this Act shall
20 apply to the hearing and determination of such action.

7. (1) Where, in any action to which this Part applies, a Third party
third party notice has been served under the Law Reform proceedings
(Miscellaneous Provisions) Act, 1946, the provisions of and contri-
bution.
sections five and six of this Act shall extend to the hearing
25 and determination of issues in the third party proceedings.

(2) Where, in any action to which this Part applies,
proceedings are instituted for contribution under the Law
Reform (Miscellaneous Provisions) Act, 1946, the provisions
of sections five and six of this Act shall extend to the hearing
30 and determination of issues in those proceedings.

PART

Law Reform (Miscellaneous Provisions).

PART III.

AMENDMENT OF DOCTRINE OF CONTRIBUTORY NEGLIGENCE.

8. Nothing in this Part shall affect the operation of the Saving. Statutory Duties (Contributory Negligence) Act, 1945.

9. This Part shall not apply to any case in which the acts Application or omissions giving rise to the claim occurred before the of Part. commencement of this Part.

10. In this Part, unless the context or subject matter other- Definitions. wise indicates or requires—

10 “Court” means in relation to any claim the court by or before whom the claim falls to be determined.

“Damage” includes loss of life and personal injury.

15 “Fault” means negligence, breach of statutory duty or other act or omission which gives rise to a liability in tort or would, apart from this Part, give rise to the defence of contributory negligence.

11. (1) Where any person suffers damage as the result partly of his own fault and partly of the fault of any other person or persons, a claim in respect of that damage shall not be defeated by reason of the fault of the person suffering the damage, but the damages recoverable in respect thereof shall be reduced to such extent as the court thinks just and equitable having regard to the claimant’s share in the responsibility for the damage :
Apportion-
ment of
liability
in case of
contributory
negligence.
8 & 9
Geo. VI
c. 28. s. 1.

25 Provided that—

(a) this subsection shall not operate to defeat any defence arising under a contract;

30 (b) where any contract or enactment providing for the limitation of liability is applicable to the claim, the amount of damages recoverable by the claimant by virtue of this subsection shall not exceed the maximum limit so applicable.

(2) Where damages are recoverable by any person by virtue of the foregoing subsection subject to such reduction as is therein mentioned, the court shall find and record the total damages which would have been recoverable if the claimant had not been at fault.

(3)

Law Reform (Miscellaneous Provisions).

(3) Section five of the Law Reform (Miscellaneous Provisions) Act, 1946, shall apply in any case where two or more persons are liable or would, if they had all been sued, be liable by virtue of subsection one of this section in respect
5 of the damage suffered by any person.

(4) Where any person dies as the result partly of his own fault and partly of the fault of any other person or persons, an action for damages for the benefit of dependants under the Compensation to Relatives Act, 1897-1953, shall
10 not be defeated by the fault of the deceased but if the circumstances are such that if an action were brought for the benefit of the estate of the deceased under the Law Reform (Miscellaneous Provisions) Act, 1944, the damages recoverable would be reduced under subsection one of this section, any
15 damages recoverable in an action brought for the benefit of the dependants of that person under the Compensation to Relatives Act, 1897-1953, shall be reduced to a proportionate extent.

(5) Where, in any case to which subsection one of
20 this section applies, one of the persons at fault avoids liability to any other such person or his personal representative by pleading the Statute of Limitations, or any other enactment limiting the time within which proceedings may be taken, he shall not be entitled to recover any damages or contributions
25 from that other person or representative by virtue of the said subsection.

(6) Where any case to which subsection one of this section applies is tried—

- 30 (a) by a judge sitting without a jury the judge shall make the apportionment under subsection one of this section; or
- (b) by a judge sitting with a jury, the jury shall determine the total damages which would have been recoverable if the claimant had not been at fault
35 and the extent to which those damages are to be reduced.

PART

Law Reform (Miscellaneous Provisions).

PART IV.

PAYMENT INTO COURT.

12. The Motor Vehicles (Third Party Insurance) Act, 1942-1963, is amended by omitting section 38A.

Amendment
of Act No.
15, 1942.
Sec. 38A.
(Payment
into court
excluded in
certain
cases.)

13. The Common Law Procedure Act, 1899-1962, is amended—

Amendment
of Act No.
21, 1899.

- (a) by inserting in subsection one of section eighty after the words "pay into Court" the words "or deposit in the Court a bond or undertaking in the prescribed form securing payment of";
- (b) (i) by inserting in subsection one of section eighty-two after the words "order to pay" the words "or to deposit a bond or undertaking securing payment of";
- (ii) by inserting in the same subsection after the words "paid to" the words "or the bond or undertaking deposited with";
- (c) by inserting next after section eighty-two the following new section :—
- 82A. (1) Money may be paid into Court or a bond or undertaking securing the payment of money into Court may be deposited, with an appropriate plea at any time before the date of hearing.
- (2) This section applies whether the money is paid in or secured under the provisions of this Act or pursuant to rules of Court, and applies whether or not the payment or deposit is made with or without denial of liability.
- (d) (i) by inserting in section eighty-three after the word "payment" the words "or of deposit of a bond or undertaking securing payment";
- (ii) by inserting in paragraph (a) of the same section after the words "so paid into Court" the words "or so secured";
- (iii)

Sec. 80.
(Payment
into
Court.)

Sec. 82.
(No order
to pay
money into
Court.)

New sec.
82A.

Payment
into Court
at any time
before
hearing.

Sec. 83.
(Proceed-
ings by
plaintiff
after pay-
ment into
Court.)

Law Reform (Miscellaneous Provisions).

- (iii) by inserting in the same paragraph after the words "paid in" the words "or secured";
- (iv) by inserting in paragraph (b) of the same section after the words "sum paid into Court" the words "or secured";
- (e) by inserting next after section eighty-three the following new section :—

New sec.
83A.

83A. (1) The bond or undertaking referred to in sections eighty, eighty-two, 82A and eighty-three of this Act shall be a bond or undertaking given by an insurance company which is a licensed insurer under the Workers' Compensation Act, 1926-1965, or an authorised insurer under the Motor Vehicles (Third Party Insurance) Act, 1942-1963.

Bond.

(2) (a) Where the plaintiff accepts the sum secured by any such bond or undertaking the person giving the bond or undertaking shall, within seven days after notice of acceptance pay the sum secured to the proper officer of the Court.

(b) If he fails to do so he shall not be entitled to any advantage by reason of his deposit in the court of the undertaking, and the plaintiff may either withdraw his acceptance or apply to the court for an order directing payment to him of the amount stated in the bond.

cf. Rules of
Sup. Court.
(Vict.)
Ord. 22
R. 1 (5).

In any case where the deposit was made by one or more defendants in proceedings under Part III of the Law Reform (Miscellaneous Provisions) Act, 1946, the Court may make such order subject to such conditions as it may think just.

(c) Any order for the payment of money made under the authority of paragraph (b) of this subsection shall have the effect of a judgment at law and the plaintiff may have execution thereon for the money payable, and shall be entitled to all the remedies given to judgment creditors by the Judgment Creditors' Remedies Act, 1901-1957.

Law Reform (Miscellaneous Provisions).

14. The District Courts Act, 1912-1965, is amended—

Amendment
of Act No.
23, 1912.

(a) (i) by omitting from subsection one of section seventy-two the words "within the prescribed time" and by inserting in lieu thereof the words "at any time before the date of hearing";

Sec. 72.
(Payment
into court of
money by
defendant.)

(ii) by inserting in subsection one of the same section after the word "court" the words "or deposit with the court a bond or undertaking in the prescribed form securing payment of";

(iii) by inserting in subsection two of the same section after the word "payment" the words "or deposit";

(iv) by inserting in subsection three of the same section after the word "payment" the words "or deposit";

(v) by inserting in subsection four of the same section after the words "paid in" the words "or secured";

(vi) by inserting in subsection five of the same section after the words "paid into court" the words "or secured";

(vii) by inserting in the same subsection after the words "payment into court" the words "or, as the case may be, the deposit of such bond or undertaking";

(b) by inserting next after section seventy-two the following new section : —

New sec.
72A.

72A. (1) The bond or undertaking referred to in section seventy-two of this Act shall be a bond given by an insurance company which is a licensed insurer under the Workers' Compensation Act, 1926-1965, or an authorised insurer under the Motor Vehicles (Third Party Insurance) Act, 1942-1963.

Bond.

(2) (a) Where the plaintiff elects to accept the sum secured by any such bond or undertaking the person giving the bond or undertaking shall,

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shall, within seven days after notice of acceptance pay the sum secured to the proper officer of the court.

5 (b) If he fails to do so he shall not be entitled to any advantage by reason of his deposit in the court of the undertaking, and the plaintiff may either withdraw his acceptance or apply to the court for an order directing payment to him of the amount stated in the bond. cf. Rules of Sup. Court. (Vict.) Ord. 22 R. 1 (5)

10 In any case where the deposit was made by one or more defendants in proceedings under Part III of the Law Reform (Miscellaneous Provisions) Act, 1946, the court may make such order subject to such conditions as it may think just.

15 (c) Any order for the payment of money made under the authority of paragraph (b) of this subsection shall have the effect of a judgment at law and the plaintiff may have execution thereon for the money payable, and shall be entitled
20 to all the remedies given to judgment creditors by the Judgment Creditors' Remedies Act, 1901-1957.

15. The rules of court of the Supreme Court or of a District Court in force at the commencement of this Part with respect to the payment of moneys into court whether with or
25 without denial of liability, shall extend, mutatis mutandis, to the deposit of a bond or undertaking securing payment into court of moneys, but may be amended or replaced by rules made after the commencement of this Part. Existing rules of court extended.

PART V.

30 **DECLARATORY ORDERS.**

16. The Equity Act, 1901-1965, is amended—

(a) by inserting at the end of the last definition in section three the words "and also includes the jurisdiction conferred by section ten of this Act";

Amendment of Act No. 24, 1901.

Sec. 3. (Interpretation.)

(b)

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- (b) by inserting in subsection one of section four after the word "including" the words "the jurisdiction conferred by section ten of this Act and including also"; Sec. 4. (Appointment and powers of the Chief Judge in Equity.)
- 5 (c) by inserting in section eight after the word "relief" the words "or for purposes relevant to the exercise of the jurisdiction conferred by section ten of this Act"; Sec. 8. (Power to decide legal titles, &c.)
- 10 (d) by omitting section ten and by inserting in lieu thereof the following new section : — Subst. sec. 10.
- 15 10. (1) In addition to the jurisdiction which is otherwise vested in it, the Court shall have jurisdiction to make binding declarations of right whether or not any consequential relief is or could be claimed, and whether or not the suit in which the declaration is sought is a suit for equitable relief or a suit which relates to equitable rights or titles. Declarations of right.
- 20 No suit shall be open to objection on the ground that a merely declaratory decree is sought thereby.
- 25 (2) Without limiting the generality of the jurisdiction conferred by subsection one of this section, the Court may by decree or order declare—
- 30 (a) the nature, quality and extent of the estates, interests, powers, rights, liabilities or duties of any persons in respect of any real or personal property or arising under any disposition of any real or personal property including any sale, conveyance, transfer, assignment, mortgage, charge, encumbrance, debenture, pledge, lease, bailment, or hiring or arising under any agreement or option for or relating to any such disposition as aforesaid;
- 35 (b) the interests, powers, rights and liabilities or duties of any persons arising under—
- (i) any partnership or partnership agreement;
- (ii)

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- 5 (ii) the memorandum or articles of association or other constitution of any company or other corporation;
- (iii) the rules, by-laws or other constitution of any unincorporated association;
- 10 (iv) any agreement relating to any patent, trade mark, trade name, copyright or industrial design;
- (v) any agreement for or relating to any guarantee or indemnity;
- (vi) generally any contract or agreement whether of the same or a different class;
- 15 (vii) any Act or any ordinance, rule, regulation or other instrument having effect under any Act or by reason of any executive, ministerial or administrative act done or purporting to be done in pursuance of any Act or of any such ordinance, rule, regulation or other instrument.
- 20 (e) (i) by inserting in paragraph (c) of section thirty Sec. 30. after the word "served" the words "or the declaration of right sought"; (Service out of the jurisdiction.)
- 25 (ii) by inserting in the same section next after paragraph (e) the following new paragraphs :—
- 30 (e1) the suit or proceeding is for a declaration of right affecting any person domiciled or any property situated within the jurisdiction; or
- 35 (e2) the suit or proceeding is for a declaration as to the interests, powers, rights and liabilities or duties of any persons or class of persons of whom the person to be served is one, arising under any Act or any ordinance, rule, regulation or other instrument having effect under

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5 under any Act or by reason of any executive, ministerial or administrative act done or purporting to be done in pursuance of any Act or of any such ordinance, rule, regulation or other instrument; or.

17. The Commercial Causes Act, 1903-1965, is amended by inserting next after section seven the following new section :—

Amendment of Act No. 19, 1903.
New sec. 7A.

10 7A. The Judge by or before whom any commercial cause is tried may in addition to or in substitution for any verdict or judgment for debt or damages or for the return of goods make such binding declaration of right with respect to the subject matter of the cause as
15 to him may seem appropriate.

Power to make declaratory order.

PART VI.

POWER TO ENTER SUBSTITUTED VERDICT.

18. The Common Law Procedure Act, 1899-1962, is further amended by inserting next after section one hundred and sixty the following new section :—

Amendment of Act No. 21, 1899.
New sec. 160A.

160A. (1) This section applies to an application to the Court of Appeal for a new trial or to set aside a verdict finding or judgment after trial with a jury.

Substituted verdict.

25 (2) For the purposes of this section the Court of Appeal shall have full power and jurisdiction to make findings of fact and to assess damages or compensation.

30 (3) The powers conferred by this section shall be exercisable only where on such application the Court of Appeal would, but for this section, have set aside the verdict finding or judgment and ordered a new trial on the issue of damages.

(4)

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(4) The Court of Appeal shall not exercise the powers conferred by this section unless it is satisfied—

5 (a) that it is fully able to assess the damages on a perusal of the evidence contained in the documents before it, or on admitted facts, without seeing or hearing the plaintiff or defendant or other witnesses; and

10 (b) that one of the following circumstances exists namely :—

(i) it is desirable that the power be exercised to avoid a multiplicity of trials; or

15 (ii) as a result of an error of law on the part of the trial judge or a manifest error on the part of the jury, some item or items of damages has or have been wrongly included in or excluded from the assessment; or

20 (iii) the parties consent.

(5) The powers conferred by this section may also be exercised in appeals from any District Court whether the court giving the decision appealed from was constituted by a judge and jury or a judge sitting alone.

25

PART VII.

INTEREST ON VERDICT AND ON COSTS.

19. The Common Law Procedure Act, 1899-1962, is further amended by inserting next after section one hundred and forty-three the following new section :—

Amendment
of Act No.
21, 1899.

New sec.
143A.

30 **143A.** Notwithstanding anything in sections one hundred and forty-two and one hundred and forty-three—

Interest on
verdict and
costs.

35 (a) interest shall not be payable on the amount of the verdict if such amount is paid to or at the direction of the plaintiff within twenty-one days after the date of verdict;

(b)

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(b) interest shall not be payable on costs payable to the plaintiff if the amount of such costs is paid within twenty-one days after assessment or after taxation.

5 20. The District Courts Act, 1912-1965, is amended by inserting next after section 101A the following new section : —

Amendment
of Act No.
23, 1912.

New sec.
101B.

101B. Notwithstanding anything in section 101A of this Act—

Interest on
verdict and
costs.

10 (a) interest shall not be payable on any judgment debt if the amount of such judgment debt is paid to or at the direction of the plaintiff within twenty-one days after the judgment or verdict was given or, as the case may be, the judgment was entered;

15 (b) interest shall not be payable on costs payable to the plaintiff if the amount of such costs is paid within twenty-one days after assessment or after taxation.

PART VIII.

20 AMENDMENT OF DISTRICT COURTS ACT, 1912-1965.

21. The District Courts Act, 1912-1965, is further amended—

Amendment
of Act No.
23, 1912.

(a) by omitting section sixty-five and by inserting in lieu thereof the following section : —

Subst.
sec. 65.

25 65. A default summons shall be served in the same manner as is provided by or under section sixty-three of this Act for the service of an ordinary summons.

Service of
default
summons.

30 (b) (i) by omitting from section sixty-seven the word “personal” where firstly occurring;

Sec. 67.

(ii) (Judgment
in default
of defence.)

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- (ii) by omitting from the same section the words
“or where service has not been personal,
within the prescribed number of days after
leave to proceed as aforesaid”;
- 5 (iii) by omitting from the same section the words
“three months” and by inserting in lieu
thereof the words “twelve months”;
- (iv) by omitting from the same section the words
“personal service or of an order of leave to
10 proceed” and by inserting in lieu thereof the
word “service”;
- (c) by omitting from subsection one of section eighty- Sec. 82.
two the words “upon an affidavit by such party, or (Discovery
his attorney, of his belief that any document to the of
15 production of which he is entitled for the purpose documents.)
of discovery or otherwise, is in the possession or
power of the opposite party”;
- (d) by omitting from subsection two of section eighty- Sec. 86.
six the words “The judge at any time during the (Case
20 sitting of the court at which an action has been struck out.)
so struck out may” and by inserting in lieu thereof
the words “Where an action has been so struck out
the judge may, upon application made in that
behalf”;
- 25 (e) by inserting at the end of section ninety-two the Sec. 92.
following new subsection :— (Number
of jurors.)
(2) To remove doubts it is hereby declared that
section 30A of the Jury Act, 1912-1965, applies to
and in respect of any cause or issue for trial by
30 jury in any District Court.
- (f) by inserting next after section ninety-five the New
following new section :— sec. 95A.
95A. Where at a trial by jury of any cause or Amount of
35 issue in a District Court the jury returns a verdict verdict
for an amount in excess of three thousand pounds exceeding
the judge may reduce the amount of the verdict three
thousand pounds, and, in any case where the thousand
jury pounds.

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jury had made an apportionment of the verdict returned by it the judge may make a corresponding apportionment of the amount of the verdict as so reduced.

- 5 (g) by omitting from subsection three of section one hundred and twenty-seven the words "supported by an affidavit showing" and by inserting in lieu thereof the words "shown by affidavit or otherwise". Sec. 127. (Interpretation.)

PART IX.

10 AMENDMENT OF SMALL DEBTS RECOVERY ACT, 1912-1961.

22. The Small Debts Recovery Act, 1912-1961, is amended— Amendment of Act No. 33, 1912. Subst. sec. 26.

- (a) by omitting section twenty-six and by inserting in lieu thereof the following section :—

15 26. A default summons or duplicate thereof shall be served in the same manner as is provided by or under section nineteen of this Act for the service of an ordinary summons. Service of default summons.

- 20 (b) (i) by omitting from section twenty-eight the word "personal" where firstly occurring; Sec. 28. (Judgment in default of defence.)

(ii) by omitting from the same section the words "or where service has not been personal within fourteen days after leave to proceed as aforesaid";

- 25 (iii) by omitting from the same section the words "three months" and by inserting in lieu thereof the words "twelve months";

(iv) by omitting from the same section the words "personal service, or of an order of leave to proceed" and by inserting in lieu thereof the word "service";

- 30 (c) by inserting next after section thirty-five the following new section :— New sec. 35A.

35 35A. (1) In any action in which a default summons has been issued the defendant may sign a statement confessing the amount of the debt or demand Confession of debt subject to conditions.

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demand for which the plaint has been issued, conditionally upon the granting of an application accompanying such statement of confession that if and when judgment is entered consequent upon such statement of confession a direction be given that the amount of the judgment be paid at such times and by such instalments as are offered in such application.

(2) Any such statement and application shall be signed in the presence of the registrar of the court in which the plaint was issued or of an attorney or a justice of the peace.

(3) (a) Every such application shall be supported by an affidavit in the prescribed form.

(b) Proof shall be furnished by affidavit of the signature of the person signing such statement of confession.

(4) The registrar shall receive such statement of confession and application, and shall, as soon as convenient thereafter send notice of the same to the plaintiff.

(5) (a) If within five days of notice of the statement of confession and of the application having been sent to him by the registrar the plaintiff does not inform the registrar that he opposes the application the registrar shall enter judgment for the amount of the debt or demand for which the plaint was issued and shall give a direction for payment at such times and by such instalments as were offered in the application.

(b) If within five days of such notice having been given the plaintiff informs the registrar that he opposes the application the registrar shall inform the defendant accordingly, and in such event the statement of confession shall not be available in evidence and the time for filing notice of grounds of defence shall commence to run as from the time the defendant is so informed.

(6)

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(6) Where action is taken under this section the provisions of sections thirty-four and thirty-five of this Act shall not apply.

(7) The giving of a direction under this section shall not affect the right of the judgment debtor to make an application under section forty-two of this Act, and, in the event of any such application being made, that section shall have effect in all respects as if no action had been taken under this section.

- (d) by inserting in subsection one of section forty-three after the words "entered up" the words "or of his solicitor or agent shown on the record".
- Sec. 43.
(Execution of process.)

PART X.

APPEALS FROM JUSTICES.

23. The Justices Act, 1902-1958, is amended—

- (a) (i) by inserting in subsection one of section one hundred and four after the words "apply to" the words "a Judge of";
- (ii) by omitting from subsection two of the same section the word "Court" and by inserting in lieu thereof the word "Judge";
- (b) by omitting subsection three of section one hundred and six.
- (c) by omitting subsection one of section one hundred and seven and by inserting in lieu thereof the following subsection :—
- (1) The authority and jurisdiction vested in the Supreme Court by section one hundred and six of this Act may be exercised by a Judge of the said Court sitting in Chambers.
- (d)
- Amendment of Act No. 27, 1902.
- Sec. 104.
(When case refused Supreme Court may direct case to be stated.)
- Sec. 106.
(Powers of Court in dealing with cases so stated.)
- Sec. 107.
(Powers of Court may be exercised by Judge in Chambers.)

Law Reform (Miscellaneous Provisions).

- (d) by inserting next after section one hundred and seven the following new section :— New sec. 107A.

5 107A. (1) Any person aggrieved by any decision or determination of a Judge made pursuant to sections one hundred and six and one hundred and seven of this Act may appeal therefrom to the Court of Appeal by leave of the Court of Appeal. Appeal to Court of Appeal.

10 (2) Any such appeal shall be in accordance with rules of court of the Court of Appeal made under section 21K of the Supreme Court and Circuit Courts Act, 1900-1965.

- 15 (e) by inserting in section one hundred and eight after the words "Supreme Court" the words "or by the Court of Appeal on appeal thereto"; Sec. 108. (After decision of Court Justices to enforce conviction or order.)

 (f) by omitting from section one hundred and nine the words "said Court" and by inserting in lieu thereof the words "Supreme Court or of the Court of Appeal on appeal thereto"; Sec. 109. (Certiorari not requisite when case stated.)

- 20 (g) by omitting subsections four and five of section one hundred and twelve and by inserting in lieu thereof the following subsection :— Sec. 112. (Any person aggrieved by conviction or order may apply for prohibition.)

25 (4) Any application under this section may be heard and determined by a Judge of the Supreme Court in Chambers.

- (h) by omitting section one hundred and fourteen and by inserting in lieu thereof the following section :— Subst. sec. 114.

30 114. Any rule or order granted or made under section one hundred and twelve of this Act shall be made returnable before a Judge of the Supreme Court in Chambers. Before whom rule to be returnable.

- (i) by omitting from section one hundred and fifteen the words "Court or" wherever occurring; Sec. 115. (Powers of Court or Judge.)

(j)

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- (j) (i) by omitting subsection one of section one hundred and sixteen and by inserting in lieu thereof the following subsection :—
- (1) (a) Any person aggrieved by any decision or determination of a Judge made pursuant to sections one hundred and fourteen and one hundred and fifteen of this Act may appeal therefrom to the Court of Appeal by leave of the Court of Appeal.
- (b) Any such appeal shall be in accordance with rules of court of the Court of Appeal made under section 21K of the Supreme Court and Circuit Courts Act, 1900-1965.
- (ii) by omitting from subsection two of the same section the word "Court" and by inserting in lieu thereof the words "Court of Appeal";
- (k) by omitting from section one hundred and seven-teen the words "Court or Judge" and by inserting in lieu thereof the words "Judge or of the Court of Appeal in respect of any matter coming before it on appeal or reference".

Sec. 116.
(Certain
rules and
writs
made by
Judge may
be reviewed
by Court.)

Sec. 117.
(Costs.)

PART XI.

AMENDMENT OF VARIOUS ACTS.

24. The Supreme Court and Circuit Courts Act, 1900-1965, is amended by omitting section twenty and by inserting in lieu thereof the following section :—
20. (1) Applications for a rule or order nisi for prohibition, mandamus or certiorari or for an order for the issue of a writ of habeas corpus may be heard and disposed of by a Judge, whether during term or in vacation.

Amendment
of Act No.
35, 1900.
Subst. sec.
20.

Exercise of
powers by
single Judge
or Judge
of Appeal
in certain
cases.

(2)

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(2) Applications to the Court of Appeal to make absolute a rule or order nisi for prohibition, mandamus or certiorari or to make absolute an order for the issue of a writ of habeas corpus may, in vacation, be heard and disposed of by a Judge of Appeal.

(3) Any person aggrieved by any decision of a Judge under subsection one of this section or of a Judge of Appeal under subsection two of this section may appeal therefrom to the Court of Appeal. Any such appeal shall be in accordance with rules of court of the Court of Appeal made under section 21K of this Act.

25. The Common Law Procedure Act, 1899-1962, is further amended by omitting section two hundred and sixty-five and by inserting in lieu thereof the following section : —

265. All costs of any action not herein or otherwise provided for shall be paid by or apportioned between the parties in such manner as the court or judge thinks fit and in default of any special direction shall abide the event of the action or the finding or judgment on any issue, and such costs shall be recoverable accordingly.

26. The Workers' Compensation Act, 1926-1965, is amended by omitting section 64A.

Amendment of Act No. 15, 1926.
Sec. 64A.
(In actions for damages no reference to be made to compensation.)

27. The Supreme Court Procedure Act, 1900-1965, is further amended by omitting subsection five of section five.

Amendment of Act No. 49, 1900.
Sec. 5.
(Finding of judge to be finding of jury.)

Law Reform (Miscellaneous Provisions).

28. The Jury Act, 1912-1965, is further amended by omitting from section thirty the words "either the plaintiff or the defendant in any" and by inserting in lieu thereof the words "any party to an".

Amendment
of Act No.
31, 1912.
Sec. 30.
(Juries of
twelve.)

29. The Motor Traffic Act, 1909, as amended by subsequent Acts, is amended by inserting next after section 18B the following new section :—

Amendment
of Act No.
5, 1909.

18c. (1) Where—

Ex parte
procedure
for offences
referred to
in section
18B.

(a) the matter of an information for an offence referred to in subsection one of section 18B of this Act has been substantiated by the oath of the informant;

(b) a summons for the appearance of the defendant has been served on him in the manner provided by the Justices Act, 1902, as amended by subsequent Acts; and

(c) the defendant does not appear at the time and place fixed for the hearing of the information, the court before which the information comes for hearing may if it is satisfied that—

(d) the facts as alleged in the summons constitute such an offence; and

(e) the circumstances of the offence are reasonably described in the summons,

make an order imposing on the defendant a penalty to be paid within such time as may be specified in the order, and may, if it thinks fit, make an order under section eighty-one of the Justices Act, 1902, as amended by subsequent Acts, for the payment by the defendant of costs.

(2) The provisions of section 556A of the Crimes Act, 1900, as amended by subsequent Acts, apply to any proceedings under subsection one of this section as if the defendant had been charged before the court with the offence referred to in the information.

(3)

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(3) A penalty imposed by an order under subsection one of this section shall not exceed the amount of the penalty specified in the Act or regulation creating the offence in respect of which the penalty is so imposed.

5 (4) In determining the amount of the penalty to be imposed by an order under subsection one of this section, the court may take into account any report made to it by or on behalf of the informant with respect to the character or antecedents of the defendant and to the circumstances of the offence and any information that the
10 defendant causes to be brought to the notice of the court.

 (5) An order under subsection one of this section shall, for the purposes of section eighty-two and Part V of the Justices Act, 1902, as amended by subsequent Acts, be deemed to be an order under that Act,
15 as so amended.

 (6) Section seventy-five of the Justices Act, 1902, as amended by subsequent Acts, does not apply in any case where an information is dealt with under
20 subsection one of this section.

 (7) A reference in subsection one of this section to the time and place fixed for the hearing of an information shall, where the hearing of the information has been adjourned and notice of the time and place to which the hearing has been adjourned has been given
25 to the defendant or sent to him at his last known place of abode or business, include a reference to the time and place specified in that notice.

 (8) Section fifteen of the Justices Act, 1902, as amended by subsequent Acts, shall be construed as if
30 this section formed part of that Act, as so amended.

 (9) The jurisdiction of a court under this section shall not be exercised except by a stipendiary magistrate.

(10)

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(10) The provisions of this section are supplemental to and not in derogation of the provisions of any Act in relation to proceedings that may be taken in respect of offences referred to in subsection one of section 18B of this Act.

SCHEDULE.

Sec. 1.

Reference to Act.	Short title.	Citation.
10 No. 21, 1899. No. 35, 1900.	Common Law Procedure Act, 1899. Supreme Court and Circuit Courts Act, 1900	Common Law Procedure Act, 1899-1965. Supreme Court and Circuit Courts Act, 1900-1965.
15 No. 49, 1900. No. 24, 1901. No. 27, 1902.	Supreme Court Procedure Act, 1900. Equity Act, 1901 .. Justices Act, 1902 ..	Supreme Court Procedure Act, 1900-1965. Equity Act, 1901-1965. Justices Act, 1902-1965.
20 No. 19, 1903. No. 5, 1909	Commercial Causes Act, 1903. Motor Traffic Act, 1909 ..	Commercial Causes Act, 1903-1965. Motor Traffic Act, 1909-1965.
25 No. 23, 1912. No. 31, 1912.	District Courts Act, 1912 Jury Act, 1912	District Courts Act, 1912-1965. Jury Act, 1912-1965.
No. 33, 1912.	Small Debts Recovery Act, 1912.	Small Debts Recovery Act, 1912-1965.
30 No. 15, 1926 No. 15, 1942.	Workers' Compensation Act, 1926. Motor Vehicles (Third Party Insurance) Act, 1942.	Workers' Compensation Act, 1926-1965. Motor Vehicles (Third Party Insurance) Act, 1942-1965.
35		

BY AUTHORITY:

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