

**DISTRICT COURT (AMENDMENT) BILL, 1977**

1. This Act may be cited as the District Court (Amendment) Act, 1977.

2. The District Court Act, 1973, is amended in the manner set forth in Schedule 1.

No. , 1977.



**A BILL FOR**

An Act to amend the District Court Act, 1973, in relation to procedural and other matters.

[Mr F. J. WALKER—26 October, 1977.]



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*District Court (Amendment).*

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**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 :—

5 **1.** This Act may be cited as the "District Court Short title. (Amendment) Act, 1977".

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

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SCHEDULE 1.

Sec. 2.

10 AMENDMENTS TO THE DISTRICT COURT ACT, 1973.

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

(2) (a) Section 51 (1)—

Omit the subsection, insert instead :—

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

SCHEDULE

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District Court (Amendment).

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SCHEDULE 1—continued.

AMENDMENTS TO THE DISTRICT COURT ACT, 1973  
—continued.

(b) Section 51 (2)—

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

(c) Section 51 (2)—

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

(3) (a) Section 68 (1) (a) (iv)—

Omit “or”.

(b) Section 68 (1) (a) (vi)—

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

or

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

(c) Section 68 (2) (b1)—

20 After section 68 (2) (b), insert :—

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

SCHEDULE

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*District Court (Amendment).*

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SCHEDULE 1—*continued.*

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

(4) Section 83A—

5 After section 83, insert :—

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

15 (2) Subsection (1) does not—

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

(5) Section 88 (10)—

After section 88 (9), insert :—

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

SCHEDULE

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*District Court (Amendment).*

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SCHEDULE 1—*continued.*

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

(6) (a) Section 115 (1) (a)—

5 Omit the paragraph, insert instead :—

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

(b) Section 115 (3)—

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

(c) Section 115 (3) (b)—

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

(7) Sections 117, 117A—

Omit section 117, insert instead :—

25 117. (1) A reference in this section to the issue <sup>Summons to</sup> of a summons in respect of a claimant is a reference <sup>claimant.</sup> to the issue of a summons calling on the claimant to state the nature and particulars of his claim in the prescribed form and within the prescribed time.

SCHEDULE

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District Court (Amendment).

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SCHEDULE 1—continued.

AMENDMENTS TO THE DISTRICT COURT ACT, 1973  
—continued.

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

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

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

20 (5) Where—

(a) a summons issues under subsection (2) or  
(3) and the amount of the claim is paid  
into court or, where the subject of the claim  
is property other than a debt—

25 (i) that property is transferred into  
court; or

(ii) if the registrar so requires—the  
applicant gives security to the value  
of that property; or

SCHEDULE

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*District Court (Amendment).*

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SCHEDULE 1—*continued.*

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

- 5 (b) a summons issues under subsection (4),  
all proceedings in respect of the debt or other property  
in dispute are stayed, whether those proceedings are in  
the Court, the Supreme Court or a court of petty  
sessions.
- 10 (6) Where, in respect of a particular  
application under section 115—
- (a) any summons issued under subsection (2)  
has been complied with;
- (b) more than one summons issued under  
subsection (3) has been complied with; or
- 15 (c) the summons issued under subsection (4)  
has been complied with,
- the registrar shall record the commencement of an  
interpleader action and shall issue notice of that action  
to each claimant who has complied with a summons  
20 issued in respect of him and also—
- (d) where the summons was issued under  
subsection (2)—to the plaintiff in the  
proceedings referred to in that subsection;  
or
- 25 (e) where the summons was issued under  
subsection (4)—to the judgment creditor  
on whose application was issued the writ  
of execution pursuant to which the property  
in dispute was seized.

SCHEDULE

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*District Court (Amendment).*

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SCHEDULE 1—*continued.*

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

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

(a) shall make such order as to it seems fit between the parties in respect of the claims, the costs of the proceedings and the continuance of the actions in which proceedings have been stayed; and

10 (b) where any amount has been paid, or security has been given, to a bailiff in respect of property the subject of the claim, or the property has been sold under section 116  
15 (1) (e) (ii), shall make such order as to it seems fit with respect to the payment of the amount or the enforcement or discharge of the security, or the proceeds of sale of the property.

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

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

117A. (1) This section applies in respect of an application under section 115 where— Summons not complied with.

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

SCHEDULE



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District Court (Amendment).

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SCHEDULE 1—continued.

AMENDMENTS TO THE DISTRICT COURT ACT, 1973  
—continued.

5 (b) no summons, or only one summons, issued under section 117 (3) in respect of the application has been complied with; or

(c) the summons issued under section 117 (4) in respect of the application has not been complied with.

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

(a) the stay of proceedings imposed by section 117 (5) following the issue of a summons in respect of that application is removed;

15 (b) any money paid, or any property transferred, into court as referred to in section 117 (5) (a) shall be paid or transferred by the registrar—

20 (i) in the case referred to in subsection (1) (a)—to the plaintiff in the proceedings referred to in section 117 (2); or

25 (ii) in the case referred to in subsection (1) (b)—to the only claimant who complied with the summons issued under section 117 (3) or, where no claimant complied with the summons, as the Court directs; and

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*District Court (Amendment).*

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SCHEDULE 1—*continued.*

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

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

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

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

20 (8) Section 161 (1) (j1)—

After section 161 (1) (j), insert :—

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

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977

**DISTRICT COURT (AMENDMENT) BILL, 1977**

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**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

THE objects of this Bill are—

- (a) to enable the upper monetary limit on the jurisdiction of the District Court to be increased by consent at any stage of the proceedings instead of, as at present, only at the time of filing a statement of claim (Schedule 1 (2));
  - (b) to empower the District Court to order the administration of interrogatories (Schedule 1 (3));
  - (c) to confer on the District Court the same powers as the Supreme Court has with respect to ordering payment of interest on a judgment for the period between the date when the cause of action arose and the date when the judgment takes effect (Schedule 1 (4));
  - (d) in addition to the powers at present enjoyed by all registrars to order payment of a judgment debt by instalments where the parties agree or there is no objection, to confer on the registrars at certain larger centres, subject to appeal to the District Court, the present powers of the District Court to order payment of a judgment debt after a hearing on the merits where there has been no agreement, or there has been an objection, or where the registrar has refused to exercise the powers he has to order payment by instalments without such a hearing (Schedule 1 (5));
  - (e) to enable an interpleader action to be initiated in the District Court in respect of a debt or other personal property before or after other proceedings have been initiated in respect of the debt or other property (Schedule 1 (6) and (7));
  - (f) to extend the rule-making power of the District Court (Schedule 1 (8));  
and
  - (g) to make other provisions of a minor or ancillary character.
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PROOF

DISTRICT COURT (AMEND/DEED) BILL, 1977

EXPLANATORY NOTE

(This explanatory note refers to this Bill as introduced into Parliament.)

The object of this Bill is—

(a) to amend the law relating to the jurisdiction of the District Court in respect of the enforcement of judgments and orders of the District Court; and

(b) to amend the law relating to the jurisdiction of the District Court in respect of the enforcement of judgments and orders of the District Court.

The Bill amends the District Court Act, 1973, in relation to the enforcement of judgments and orders of the District Court.

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**PROOF**

**DISTRICT COURT (AMENDMENT) BILL, 1977**

No. , 1977.

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**A BILL FOR**

An Act to amend the District Court Act, 1973, in relation  
to procedural and other matters.

[MR F. J. WALKER—26 *October*, 1977.]

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**BE**

*District Court (Amendment).*

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

5 **1.** This Act may be cited as the "District Court Short title.  
(Amendment) Act, 1977".

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

SCHEDULE 1.

Sec. 2.

10 AMENDMENTS TO THE DISTRICT COURT ACT, 1973.

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

(2) (a) Section 51 (1)—

Omit the subsection, insert instead :—

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

SCHEDULE

---

*District Court (Amendment).*

---

SCHEDULE 1—*continued.*

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

(b) Section 51 (2)—

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

(c) Section 51 (2)—

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

(3) (a) Section 68 (1) (a) (iv)—

            Omit “or”.

(b) Section 68 (1) (a) (vi)—

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

            or

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

(c) Section 68 (2) (b1)—

20           After section 68 (2) (b), insert :—

            (b1) a party answer interrogatories adminis-  
                tered by another party;

SCHEDULE

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*District Court (Amendment).*

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**SCHEDULE 1—continued.**

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

(4) Section 83A—

5       After section 83, insert :—

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

15               (2) Subsection (1) does not—

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

(5) Section 88 (10)—

After section 88 (9), insert :—

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

**SCHEDULE**



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*District Court (Amendment).*

---

SCHEDULE 1—*continued.*

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

(6) (a) Section 115 (1) (a)—

5 Omit the paragraph, insert instead :—

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

(b) Section 115 (3)—

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

(c) Section 115 (3) (b)—

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

(7) Sections 117, 117A—

Omit section 117, insert instead :—

25 117. (1) A reference in this section to the issue of a summons in respect of a claimant is a reference to the issue of a summons calling on the claimant to state the nature and particulars of his claim in the prescribed form and within the prescribed time.

SCHEDULE

---

*District Court (Amendment).*

---

SCHEDULE 1—*continued.*

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

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

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

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

20           (5) Where—  
(a) a summons issues under subsection (2) or  
(3) and the amount of the claim is paid  
into court or, where the subject of the claim  
is property other than a debt—

25           (i) that property is transferred into  
court; or

(ii) if the registrar so requires—the  
applicant gives security to the value  
of that property; or

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*District Court (Amendment).*

---

SCHEDULE 1—*continued.*

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

- 5 (b) a summons issues under subsection (4),  
all proceedings in respect of the debt or other property  
in dispute are stayed, whether those proceedings are in  
the Court, the Supreme Court or a court of petty  
sessions.
- 10 (6) Where, in respect of a particular  
application under section 115—
- (a) any summons issued under subsection (2)  
has been complied with;
- (b) more than one summons issued under  
subsection (3) has been complied with; or
- 15 (c) the summons issued under subsection (4)  
has been complied with,
- the registrar shall record the commencement of an  
interpleader action and shall issue notice of that action  
to each claimant who has complied with a summons  
20 issued in respect of him and also—
- (d) where the summons was issued under  
subsection (2)—to the plaintiff in the  
proceedings referred to in that subsection;  
or
- 25 (e) where the summons was issued under  
subsection (4)—to the judgment creditor  
on whose application was issued the writ  
of execution pursuant to which the property  
in dispute was seized.

SCHEDULE

---

District Court (Amendment).

---

SCHEDULE 1—*continued.*

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

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

(a) shall make such order as to it seems fit between the parties in respect of the claims, the costs of the proceedings and the continuance of the actions in which proceedings have been stayed; and

10 (b) where any amount has been paid, or security has been given, to a bailiff in respect of property the subject of the claim, or the property has been sold under section 116  
15 (1) (e) (ii), shall make such order as to it seems fit with respect to the payment of the amount or the enforcement or discharge of the security, or the proceeds of sale of the property.

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

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

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

Summons  
not com-  
plied with.

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

SCHEDULE

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*District Court (Amendment).*

---

SCHEDULE 1—*continued.*

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

- 5 (b) no summons, or only one summons, issued under section 117 (3) in respect of the application has been complied with; or
- (c) the summons issued under section 117 (4) in respect of the application has not been complied with.
- 10 (2) Where this section applies in respect of an application under section 115—
- (a) the stay of proceedings imposed by section 117 (5) following the issue of a summons in respect of that application is removed;
- 15 (b) any money paid, or any property transferred, into court as referred to in section 117 (5) (a) shall be paid or transferred by the registrar—
- 20 (i) in the case referred to in subsection (1) (a)—to the plaintiff in the proceedings referred to in section 117 (2); or
- 25 (ii) in the case referred to in subsection (1) (b)—to the only claimant who complied with the summons issued under section 117 (3) or, where no claimant complied with the summons, as the Court directs; and

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*District Court (Amendment).*

---

SCHEDULE 1—*continued.*

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

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

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

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

20 (8) Section 161 (1) (j1)—

After section 161 (1) (j), insert :—

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

---

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977