

**COURTS OF PETTY SESSIONS (CIVIL CLAIMS)  
AMENDMENT ACT, 1980, No. 61**

**New South Wales**



ANNO VICESIMO NONO

**ELIZABETHÆ II REGINÆ**

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**Act No. 61, 1980.**

An Act to amend the Courts of Petty Sessions (Civil Claims) Act, 1970, with respect to the removal of actions into or from the District Court, the monetary jurisdiction of courts of petty sessions and certain other matters. [Assented to, 28th April, 1980.]

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See also Frustrated Contracts (Petty Sessions) Amendment Act, 1980.

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*Courts of Petty Sessions (Civil Claims) 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 :—

**Short title.**      **1.** This Act may be cited as the "Courts of Petty Sessions (Civil Claims) Amendment Act, 1980".

**Commence-  
ment.**            **2.** (1) Except as provided in subsection (2), this Act shall commence on the date of assent to this Act.

(2) Sections 5 and 6 and Schedules 1, 2 and 3 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

**Principal  
Act.**              **3.** The Courts of Petty Sessions (Civil Claims) Act, 1970, is referred to in this Act as the Principal Act.

**Schedules.**      **4.** This Act contains the following Schedules :—

**SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT  
RELATING TO THE REMOVAL OF ACTIONS INTO OR  
FROM THE DISTRICT COURT.**

**SCHEDULE 2.—FURTHER AMENDMENTS TO THE PRINCIPAL  
ACT.**

**SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT BY  
WAY OF STATUTE LAW REVISION.**



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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5. The Principal Act is amended in the manner set forth in Schedules 1, 2 and 3. Amendment  
of Act  
No. 11,  
1970.

6. Any action or other proceeding in a court or before the registrar of a court under the Principal Act as in force at any time before the day appointed and notified under section 2 (2) and not completed before that day may be continued and completed, and a judgment or order in that action or proceeding may be given, entered up or made, as if this Act had not been enacted. Saving.

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SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT.

(1) Section 2—

After the matter relating to Part III, insert :—

PART IIIA.—REMOVAL OF ACTIONS INTO OR FROM  
DISTRICT COURT—ss. 21A–21G.

DIVISION 1.—*Removal of Actions into District Court*  
—ss. 21A–21E.

DIVISION 2.—*Removal of Actions from District Court*  
—ss. 21F, 21G.

(2) Section 12 (2)–(5)—

Omit the subsections.



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

## (3) Part IIIA—

After Part III, insert :—

## PART IIIA.

REMOVAL OF ACTIONS INTO OR FROM  
DISTRICT COURT.DIVISION 1.—*Removal of Actions into  
District Court.*Interpre-  
tation: Pt.  
IIIA, Div. 1.

21A. In this Division, “proclaimed place” and “nearest proclaimed place” have the meanings ascribed thereto in sections 4 (1) and 5 respectively of the District Court Act, 1973.

Removal  
of pro-  
ceedings  
into  
District  
Court.

21B. (1) Where an action is pending in a court, the District Court may, on application by a party to the action, order that—

- (a) the action;
- (b) proceedings in relation to any set-off which is pleaded as a defence to the action and in respect of which section 15 (2) has been complied with;  
or
- (c) both the action and any such proceedings,  
be removed into the District Court sitting at such proclaimed place as the District Court may specify in the order.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

(2) Subject to section 21E (8), the District Court may make an order for removal under subsection (1) upon such terms as to payment of costs, giving of security for any amount claimed or for costs, or otherwise, as the District Court thinks fit.

(3) An order for removal made under subsection (1) shall take effect on service of a copy of the order on the registrar of the court or on earlier notification of the order to the registrar of the court in such manner as the District Court may direct.

(4) Subject to section 21E (7), an order for removal made under subsection (1) shall not affect the validity of any order made or other thing done in the action, or in the proceedings in relation to the set-off, to which the order for removal relates before the order for removal takes effect but, except as otherwise expressly provided by this Division, any such order or thing has no operation after the order for removal takes effect.

(5) Where the District Court has made an order for removal under subsection (1), the registrar of the court in which the action was commenced shall forthwith after a copy of the order authenticated in accordance with the rules is lodged with him deliver or send by post the whole record thereof to the registrar of the District Court for the proclaimed place specified in the order.



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

Stay of  
proceedings  
in petty  
sessions.

21c. (1) Where an application is pending in the District Court for an order under section 21B (1) for removal of an action, of proceedings in relation to a set-off or of both, the District Court may make orders for a stay of proceedings in the action or of the proceedings, if any, in relation to the set-off.

(2) An order under subsection (1) for a stay of proceedings shall take effect on service of a copy of the order on the registrar of the court or on earlier notification of the order to the registrar of the court in such manner as the District Court may direct.

Place of  
application  
for removal  
or stay.

21D. (1) Proceedings in the District Court for an order under section 21B (1) for removal of an action in a court, of proceedings in a court in relation to a set-off or of both, or proceedings in the District Court for a stay under section 21C of proceedings in any such action or proceedings, shall be commenced at the nearest proclaimed place to the court.

(2) Where proceedings to which subsection (1) applies are commenced at a proclaimed place that is not a place at which they ought, under subsection (1), to have been commenced, the District Court may, on the application of a party to the proceedings or without any such application—

- (a) order that the proceedings be continued in the District Court notwithstanding that they were commenced at that place;

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

- (b) order a change of venue of the proceedings under section 40 of the District Court Act, 1973, to such other proclaimed place as the District Court thinks proper; or
- (c) strike out the proceedings.

21E. (1) Where an order under section 21B (1) for removal into the District Court of an action in a court or of proceedings in a court in relation to a set-off takes effect, the action or set-off ceases to be an action or set-off in the court but proceedings in the action or in relation to the set-off, as the case may be, continue, in accordance with rules made under the District Court Act, 1973, in the District Court—

Proceedings  
after  
removal.

- (a) where the order relates to an action only or to both an action and a set-off, as if the action had been duly commenced in the District Court at the place specified in the order on the date on which the plaintiff commencing the action was filed in the court and as if the set-off, if any, had been duly pleaded in accordance with the District Court Act, 1973, and the rules thereunder as a cross-claim in the District Court at that place on the date on which section 15 (2) was complied with with respect to the set-off; and
- (b) where the order relates to a set-off only, as if the amount claimed by the defendant by way of set-off had been claimed by him in an action



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

duly commenced by him as plaintiff in the District Court at the place specified in the order on the date on which section 15 (2) was complied with with respect to the set-off.

(2) Where any proceedings continue in the District Court as referred to in subsection (1), any abandonment made in accordance with section 14 or 15 has no further force or effect except to the extent that the amount originally claimed by the plaintiff before any abandonment made by him, or any amount claimed by the defendant as a set-off before any abandonment made by him, exceeded the appropriate amount specified in section 44 (1) (a) or (b) of the District Court Act, 1973, as the case may be.

(3) Where—

- (a) an order is made under section 21B (1) for the removal of an action into the District Court;
- (b) a set-off has been pleaded as a defence to the action and section 15 (2) has been complied with with respect to the set-off; and
- (c) no order under section 21B (1) has been made for the removal of the proceedings in relation to the set-off,

the set-off ceases to be a set-off in the court but proceedings on the set-off continue in the court as if the amount claimed by the defendant by way of set-off had been claimed by him, as plaintiff, in an action duly commenced by him in the court on the date on which section 15 (2) was complied with with respect to the set-off by the filing of a plaint for the amount claimed by way of set-off and an ordinary summons.



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

(4) Where an action continues as referred to in subsection (3)—

- (a) the ordinary summons referred to in subsection (3) shall be deemed to have been made returnable at the court in which the proceedings on the set-off continue on the day last set down for the hearing of the action the subject of the order for removal before the order for removal was made; and
- (b) the defendant in the action which so continues (being the plaintiff in the action the subject of the order for removal) shall be deemed to have been served with that ordinary summons on the day on which the copy of the notice of set-off was served on him in accordance with the rules.

(5) Where an order under section 21B (1) for removal into the District Court of an action in a court or of proceedings in a court in relation to a set-off takes effect, any admission made in accordance with the rules for the purpose of the action or set-off shall, if it could have been made under section 69 (1) (b) of the District Court Act, 1973, or in accordance with the rules made under that Act, be treated as an admission made under section 69 (1) (b) of that Act or those rules, as the case may be.

(6) Subsection (1) has effect subject to—

- (a) the District Court Act, 1973, and the rules made under that Act; and
- (b) any order of the District Court as to procedure.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

(7) An order made by a court in an action or in proceedings in relation to a set-off removed into the District Court under subsection (1) may be set aside or varied, and is subject to appeal, as if made by the District Court.

(8) Costs payable under the District Court Act, 1973, or under an order of the District Court, in respect of any step in an action or proceedings in relation to a set-off in a court removed into the District Court under subsection (1) shall be limited as may be prescribed by the rules.

DIVISION 2.—*Removal of Actions from District Court.*

Removal of  
proceedings  
from  
District  
Court.

21F. (1) Where an action is pending in the District Court and the District Court is satisfied that the action could properly have been commenced as an action in a court or that any cross-claim (whether in the nature of a set-off, cross-action or otherwise) pleaded in connection with an action so pending could properly have been pleaded as a set-off in a court, the District Court may, on application by a party to the action or of its own motion, order that—

- (a) the action;
- (b) proceedings in relation to any such cross-claim;  
or
- (c) both the action and any such proceedings,

be removed into the court for such district as the District Court may, having regard to the principles expressed in section 16, specify in the order.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

(2) The District Court shall not make an order under subsection (1) unless it is satisfied that—

- (a) in the case of an order relating to an action (whether or not it also relates to a cross-claim), a copy of the ordinary statement of claim or of the statement of liquidated claim by the lodging of which the action was commenced has been served on the defendant; or
- (b) in the case of an order relating to a cross-claim (whether or not it also relates to an action), a copy of the cross-claim has been served on the plaintiff.

(3) An order for removal made under subsection (1) shall take effect on service of a copy of the order on the registrar of the court or on earlier notification of the order to the registrar of the court in such manner as the District Court may direct.

(4) Subject to section 21G (7), an order for removal made under subsection (1) shall not affect the validity of any order made or other thing done in the action, or in the proceedings in relation to the cross-claim, to which the order for removal relates before the order for removal takes effect but, except as otherwise expressly provided by this Division, any such order or thing has no operation after the order for removal takes effect.

(5) Where the District Court has made an order for removal under subsection (1), the applicant for the order shall, within 10 days after the making of the order or within such other time as the District Court may direct,



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

or, if the applicant defaults, any other party may, lodge with the registrar of the court for the district specified in the order for removal a copy of each document filed in the District Court in the action, and in any proceedings in relation to the cross-claim, to which the order for removal relates.

Proceedings  
after  
removal.

21G. (1) Where an order under section 21F (1) for removal into a court of an action in the District Court or of proceedings in the District Court in relation to a cross-claim takes effect, the action or cross-claim ceases to be an action or cross-claim in the District Court but proceedings in the action or in relation to the cross-claim, as the case may be, continue in the court—

- (a) where the order relates to an action only or to both an action and a cross-claim, as if the action had been duly commenced in the court for the district specified in the order on the date on which the ordinary statement of claim or statement of liquidated claim commencing the action was lodged with a registrar of the District Court and as if the cross-claim, if any, had been duly pleaded in accordance with this Act and the rules as a set-off in the court for that district on the date on which the cross-claim was pleaded; and
- (b) where the order relates to a cross-claim only, as if the amount claimed by the defendant by way of cross-claim had been claimed by him in an action duly commenced by him as plaintiff in the court for the district specified in the order on the date on which the cross-claim was pleaded.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

(2) Where an order under section 21F (1) for removal into a court of an action in the District Court or of proceedings in the District Court in relation to a cross-claim takes effect, the registrar shall forthwith—

- (a) list the action or proceedings for hearing; and
- (b) serve on each of the parties to the action or proceedings a copy of the order and a notice of the listing of the action or proceedings.

(3) Where—

- (a) proceedings in an action continue as referred to in subsection (1) (a), or proceedings in relation to a cross-claim continue as an action as referred to in subsection (1) (b), due proof of service on the defendant of the notice referred to in subsection (2) (b) shall, for the purposes of section 26 (1) (b), be deemed to be due proof of service of the summons referred to in section 26 (1) (b); and
- (b) proceedings in relation to a cross-claim continue as referred to in subsection (1) (a), section 26 (1A) has effect as if any reference therein to the prescribed notice of set-off were a reference to the notice referred to in subsection (2) (b).

(4) Where—

- (a) an order is made under section 21F (1) for the removal of an action into a court;
- (b) a cross-claim has been pleaded in respect of the action; and



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

- (c) no order under section 21F (1) has been made for the removal of the proceedings in relation to the cross-claim,

the cross-claim ceases to be a cross-claim in the District Court but proceedings in relation to the cross-claim continue, in accordance with rules made under the District Court Act, 1973, in the District Court as if the amount claimed by the defendant by way of cross-claim had been claimed by him, as plaintiff, in an action duly commenced in the District Court on the date on which the cross-claim was pleaded.

(5) Where an order under section 21F (1) for removal into a court of an action in the District Court or of proceedings in the District Court in relation to a cross-claim takes effect, any admission made as required by the District Court under section 69 (1) (b) of the District Court Act, 1973, or made in accordance with the rules made under that Act, for the purpose of the action shall, if it could have been made under the rules, be treated as an admission made under the rules in the action or proceedings in that court.

(6) Subsection (1) has effect subject to this Act and the rules.

(7) An order made by the District Court in an action or in proceedings in relation to a cross-claim removed into a court under subsection (1) may be set aside or varied, and is subject to appeal, as if made by the court.



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

(8) No costs shall be payable under the District Court Act, 1973, or under an order of the District Court, in respect of any step in an action or proceedings in relation to a cross-claim removed into a court under subsection (1).

(9) In respect of an action or proceedings in relation to a cross-claim removed under subsection (1) into a court, there shall be payable—

- (a) as regards the order of removal, the copies of the order and any step in the action or proceedings before the order takes effect, professional costs in such amount as may be specified in the judgment; and
- (b) as regards any fees paid in respect of the proceedings in the District Court in the action or the proceedings in relation to the cross-claim up to and including the time of the making of the order of removal, costs in the amount of those fees,

but otherwise no costs as regards any such matters shall be payable under this Act.

(10) Costs allowed as referred to in subsection (9) shall be added to the judgment debt or made the subject of an order referred to in section 35, as the case may require.

(4) Section 28 (11)—

After “section 35”, insert “but subject to section 21G (9)”.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

## (5) (a) Section 33 (1)—

Omit “subsection (2)”, insert instead “subsections (1A) and (2)”.

## (b) Section 33 (1A)—

After section 33 (1), insert :—

(1A) Nothing in subsection (1) affects the operation of section 21G (9) or (10).

## (6) Section 34—

Omit “subsection (3) of section 27”, insert instead “sections 21G (10) and 27 (3)”.

## (7) Section 35—

After “the court may”, insert “subject to section 21G (9),”.

## (8) Section 36 (2)—

After “and 35,”, insert “, but subject to section 21G (9),”.

## (9) Section 37—

After “section”, insert “21G (9),”.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

(10) Section 84 (1) (n)—

Omit “or section 20 (4) of the Frustrated Contracts Act,  
1978,”.

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SCHEDULE 2.

Sec. 5.

FURTHER AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 12 (1)—

Omit “\$2,000”, insert instead “\$3,000”.

(2) Section 13 (3)—

Omit “\$2,000”, insert instead “\$3,000”.

(3) (a) Section 15 (1)—

Omit “\$2,000”, insert instead “\$3,000”.

(b) Section 15 (6)—

Omit “\$2,000”, insert instead “\$3,000”.

(c) Section 15 (8), (9)—

Omit the subsections.



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (4) (a) Section 16 (1), (2), (2A)—

Omit section 16 (1) and (2), insert instead :—

(1) In this section, “appropriate court”, in relation to a defendant, means the court held for any one of the following districts :—

- (a) the district in which the defendant had, at the time the cause of action arose, his place of abode;
- (b) the district in which the defendant had, at that time, his place of business;
- (c) the district in which the defendant had, at that time, his place of employment;
- (d) the district in which the defendant has, at the time the action is commenced, his place of abode;
- (e) the district in which the defendant has, at the time the action is commenced, his place of business;
- (f) the district in which the defendant has, at the time the action is commenced, his place of employment;
- (g) the district in which the cause of action arose.

(2) Every court, wherever situated, shall have jurisdiction in accordance with this Act.



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 2—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(2A) Where an action is commenced in a court which is not an appropriate court, the defendant or any one of two or more defendants may file with the registrar of the court, within such time and in such manner as may be prescribed—

(a) a notice—

- (i) stating that he intends to defend the action and, in the case of an action commenced by the filing of a special summons, that he intends or does not intend to defend the action in the manner referred to in section 23A (2) (b) or (c);
- (ii) specifying the grounds of his defence; and
- (iii) stating that he elects that the action be transferred to an appropriate court specified in the notice; and

(b) an affidavit verifying the facts on which he intends to rely for his defence.

(b) Section 16 (3)—

Omit “the defendant makes an election under subsection (2)”, insert instead “a defendant files a notice, accompanied by an affidavit, under subsection (2A)”.

(c) Section 16 (3)—

Omit “court for the district specified in the notice of election”, insert instead “appropriate court specified in the notice”.



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (d) Section 16 (4) (a)—

Omit “(in this subsection referred to as the ‘transferee court’)”.

## (e) Section 16 (4)—

Omit “transferee court” where secondly and thirdly occurring, insert instead “court to which the action was transferred”.

## (f) Section 16 (4) (b)—

Omit “a court for a district in which is situated a place referred to in paragraph (a) or (b) of subsection (2)”, insert instead “an appropriate court”.

## (g) Section 16 (4)—

Omit “a court specified in the order, being a court for a district in which is situated a place referred to in paragraph (a) or (b) of subsection (2)”, insert instead “an appropriate court”.

## (h) Section 16 (5) (a)—

Omit “court for the district”, insert instead “appropriate court”.

## (i) Section 16 (5) (b)—

After “the court”, insert “making the order”.

## (5) Section 17 (1)—

Omit “27 or 28”, insert instead “25A, 27, 28 or 40”.



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 2—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(6) Section 23A (2A)—

After section 23A (2), insert :—

(2A) A notice filed under section 16 (2A) shall, upon the transfer of the action, be deemed to be a notice filed under subsection (2).

(7) Section 25 (1A)—

After section 25 (1), insert :—

(1A) A notice filed under section 16 (2A) shall, upon the transfer of the action, be deemed to be a notice filed under subsection (1).

(8) (a) Section 28 (1)—

After “commenced”, insert “in a court”.

(b) Section 28 (1)—

Omit “sign a statement”, insert instead “file with the registrar a statement signed by him”.

(c) Section 28 (1)—

After “plaintiff”, insert “, accompanied by an affidavit as to the defendant’s property and means,”.

(d) Section 28 (2)—

After “commenced”, insert “in a court”.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (e) Section 28 (3), (3A), (3B)—

Omit section 28 (3), insert instead :—

(3) A statement under subsection (1) may, instead of being signed by the defendant, be signed by his barrister or attorney on his behalf.

(3A) An agreement referred to in subsection (2) may, instead of being entered into personally by the plaintiff or the defendant, be entered into by his barrister or attorney on his behalf.

(3B) A statement under subsection (1) or an agreement referred to in subsection (2) shall be in or to the effect of the prescribed form and shall have no force or effect for the purposes of this section unless the signature of every person executing it, other than a barrister or attorney, is witnessed by a person of a prescribed class.

## (f) Section 28 (4)—

Omit “Where a statement under subsection (1) is filed with the registrar, the registrar”, insert instead “The registrar with whom a statement and affidavit are filed under subsection (1)”.

## (9) Section 30 (2)—

At the end of section 30, insert :—

(2) Where a judgment is set aside, the court may, at the same time or subsequently, make such orders as it thinks fit as to the costs incurred by any party by the setting aside of the judgment or by any adjournment of the hearing of the action.



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 2—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(10) Section 37—

Omit “27 (1), 28 (11)”, insert instead “25A (5), 27 (1), 28 (11), 30 (2)”.

(11) (a) Section 40 (3), (3A)—

Omit section 40 (3), insert instead :—

(3) An agreement referred to in subsection (2) (b) may, instead of being entered into personally by the judgment creditor or the judgment debtor, be entered into by his barrister or attorney on his behalf.

(3A) An agreement referred to in subsection (2) (b) shall be in or to the effect of the prescribed form and shall have no force or effect for the purposes of this section unless the signature of every person executing it, other than a barrister or attorney, is witnessed by a person of a prescribed class.

(b) Section 40 (12)—

After section 40 (11), insert :—

(12) The jurisdiction under this section of any court that is prescribed by rules made for the purposes of this subsection may be exercised by the registrar of the court and any order made by him in the exercise of that jurisdiction may, on application made by the judgment creditor or the judgment debtor, be confirmed, varied or vacated by the court.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (12) Section 53 (3), (3A)—

Omit section 53 (3), insert instead :—

(3) An agreement referred to in subsection (2) may, instead of being entered into personally by the judgment creditor or the garnishee, be entered into by his barrister or attorney on his behalf.

(3A) An agreement referred to in subsection (2) shall be in or to the effect of the prescribed form and shall have no force or effect for the purposes of this section unless the signature of every person executing it, other than a barrister or attorney, is witnessed by a person of a prescribed class.

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SCHEDULE 3.

## Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION.

## (1) Section 2—

From the matter relating to Part VIII, omit “85”, insert instead “84”.

## (2) Section 3 (1)—

Omit “to this Act”.

## (3) Section 4 (1), definition of “court”—

Omit “subsection (3) of section 77”, insert instead “section 77 (3)”.



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—*continued.*

(4) Section 21—

Omit “eighteen”, insert instead “18”.

(5) Section 23A (5)—

After “such order”, insert “as it thinks fit”.

(6) (a) Section 25A (1)—

Omit “twenty-eight days or later than twelve”, insert  
instead “28 days or later than 12”.

(b) Section 25A (2) (c)—

Omit “fourteen”, insert instead “14”.

(c) Section 25A (3) (a)—

Omit “and”.

(d) Section 25A (3) (c) (i)—

After “made;”, insert “and”.

(7) (a) Section 26 (1B) (d)—

After “not”, insert “of”.

(b) Section 26 (2)—

Omit “paragraph (b) of subsection (1)”, insert  
instead “subsection (1) (b)”.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

---

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—*continued.*

## (8) (a) Section 27 (1)—

Omit “fourteen days or later than twelve”, insert instead “14 days or later than 12”.

## (b) Section 27 (2)—

Omit “subparagraph (ii) of paragraph (b) of subsection (1)”, insert instead “subsection (1) (b) (ii)”.

## (c) Section 27 (3)—

Omit “subparagraph (ii) or (iii) of paragraph (b) of subsection (1)”, insert instead “subsection (1) (b) (ii) or (iii)”.

## (9) (a) Section 28 (5)—

Omit :—

the registrar shall forthwith after the expiration of that prescribed time—

- (i) enter up judgment for the plaintiff for the amount to which the defendant has confessed; and
- (ii) where any terms of payment are specified in the statement, order that the judgment debt be paid by such instalments payable at such times as are so specified.

insert instead :—

the registrar shall forthwith after the expiration of that prescribed time—

- (c) enter up judgment for the plaintiff for the amount to which the defendant has confessed; and



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—*continued.*

- (d) where any terms of payment are specified in the statement, order that the judgment debt be paid by such instalments payable at such times as are so specified.

(b) Section 28 (8), (9)—

Omit the subsections, insert instead :—

(8) An order in respect of a judgment debt made under subsection (4) (b) (ii) or (5) (d) shall be deemed to be an order made under section 40 (4) pursuant to an application made by the judgment debtor under section 40 (2) (a).

(9) An order in respect of a judgment debt made under subsection (6) (b) shall be deemed to be an order made under section 40 (4) pursuant to an agreement referred to in section 40 (2) (b).

(c) Section 28 (10) (b)—

Omit “subsection (5) of section 40”, insert instead “section 40 (5)”.

(10) (a) Section 36 (1), definition of “the prescribed amount”—

From paragraph (a), omit “forty dollars”, insert instead “\$40”.

(b) Section 36 (2)—

Omit “subsection (11) of section 28, and of sections 34”, insert instead “section 28 (11), 34”.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

---

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—*continued.*

## (11) Section 39 (2)—

Omit “subsection (3) of section 3”, insert instead “section 3 (3)”.

## (12) (a) Section 40 (4) (a)—

Omit “paragraph (a) of subsection (2)”, insert instead “subsection (2) (a)”.

## (b) Section 40 (4) (b)—

Omit “paragraph (b) of subsection (2)”, insert instead “subsection (2) (b)”.

## (c) Section 40 (5)—

Omit “paragraph (a) of subsection (2)”, insert instead “subsection (2) (a)”.

## (13) (a) Section 41 (1)—

Omit “paragraph (b) of subsection (2)”, insert instead “subsection (2) (b)”.

## (b) Section 41 (5)—

Omit “Subsection (4) of section 11”, insert instead “Section 11 (4)”.

## (c) Section 41 (5)—

Omit “of this section”.

## (d) Section 41 (6)—

Omit “three”, insert instead “3”.



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—*continued.*

(14) (a) Section 42 (3)—

Omit “fourteen”, insert instead “14”.

(b) Section 42 (4)—

Omit “fourteen”, insert instead “14”.

(15) (a) Section 43A (1)—

Omit “fourteen”, insert instead “14”.

(b) Section 43A (3) (c)—

Omit “three”, insert instead “3”.

(16) (a) Section 44 (1)—

Omit “paragraph (b) of subsection (2) of section 41”,  
insert instead “section 41 (2) (b)”.

(b) Section 44 (1)—

Omit “subsection (4) of that section”, insert instead  
“section 41 (4)”.

(c) Section 44 (2)—

Omit “paragraph (b) of subsection (2) of section 41”,  
insert instead “section 41 (2) (b)”.

(d) Section 44 (3)—

Omit “subsection (4) of section 40”, insert instead  
“section 40 (4)”.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—*continued.*

## (e) Section 44 (3)—

Omit “paragraph (a) of subsection (2) of that section”, insert instead “section 40 (2) (a)”.

## (f) Section 44 (3)—

Omit “that section” where secondly occurring, insert instead “section 40”.

## (17) Section 46—

Omit “One hundred dollars”, insert instead “\$100”.

## (18) Section 47 (2) (b)—

Omit “four”, insert instead “4”.

## (19) Section 48 (3)—

Omit “four”, insert instead “4”.

## (20) Section 49 (1), definition of “prescribed rate”—

Omit “eight dollars” wherever occurring, insert instead “\$8”.

## (21) Section 50 (1)—

Omit “ten per centum”, insert instead “10 per cent”.

## (22) (a) Section 51 (1)—

Omit “subsection (4) of section 48”, insert instead “section 48 (4)”.



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—*continued.*

(b) Section 51 (2)—

Omit “one” wherever occurring, insert instead “1”.

(c) Section 51 (3)—

Omit “one” wherever occurring, insert instead “1”.

(23) (a) Section 52 (4) (a) (i)—

Omit “two hundred and fifty dollars”, insert instead  
“\$250”.

(b) Section 52 (4) (b)—

Omit “two hundred and fifty dollars”, insert instead  
“\$250”.

(c) Section 52 (5)—

Omit “paragraph (b) of subsection (4)”, insert  
instead “subsection (4) (b)”.

(24) Section 52A (4)—

Omit “two”, insert instead “2”.

(25) (a) Section 53 (4)—

Omit “paragraph (a) of subsection (2) of section  
40”, insert instead “section 40 (2) (a)”.

(b) Section 53 (4)—

Omit “subsection (4) of that section”, insert instead  
“section 40 (4)”.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—*continued.*

## (c) Section 53 (4)—

Omit “that section” where secondly occurring, insert instead “section 40”.

## (26) Section 55 (1)—

Omit “section 55 (2)”, insert instead “subsection (2)”.

## (27) Section 56 (1)—

Omit “One hundred dollars”, insert instead “\$100”.

## (28) Section 58 (1)—

Omit “twelve”, insert instead “12”.

## (29) Section 59 (7)—

Omit “One hundred dollars”, insert instead “\$100”.

## (30) Section 60 (2)—

Omit “section 4 (1)”, insert instead “section 5”.

## (31) Section 61—

Omit “the hour of eight in the afternoon on one day and seven in the forenoon”, insert instead “8 p.m. on one day and 7 a.m.”.



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—*continued.*

(32) Section 65 (3) (b)—

Omit “paragraph (a) of subsection (1)”, insert instead  
“subsection (1) (a)”.

(33) (a) Section 66 (1) (b)—

Omit “debtor) is”, insert instead “debtor), is”.

(b) Section 66 (3)—

Omit “subparagraph (i) of paragraph (d) of sub-  
section (1)”, insert instead “subsection (1) (d) (i)”.

(c) Section 66 (3)—

Omit “subsection (1) of section 65”, insert instead  
“section 65 (1)”.

(34) (a) Section 72 (8)—

Omit “subsection (3) of section 84”, insert instead  
“section 84 (3)”.

(b) Section 72 (8)—

Omit “that section”, insert instead “section 84 of that  
Act”.

(35) Section 76—

Omit “One hundred dollars”, insert instead “\$100”.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW  
REVISION—*continued.*

## (36) Section 77 (1)—

Omit “up, or the order had been made, by”, insert instead  
“up by, or the order had been made by”.

## (37) (a) Section 79—

Omit “Two hundred dollars”, insert instead “\$200”.

## (b) Section 79—

Omit “six”, insert instead “6”.

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

A. R. CUTLER,  
*Governor.*

*Government House,  
Sydney, 28th April, 1980.*









*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.*

*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, March, 1980.*

## **New South Wales**



ANNO VICESIMO NONO

# **ELIZABETHÆ II REGINÆ**

\*\*\*\*\*

**Act No.       , 1980.**

An Act to amend the Courts of Petty Sessions (Civil Claims) Act, 1970, with respect to the removal of actions into or from the District Court, the monetary jurisdiction of courts of petty sessions and certain other matters.

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See also Frustrated Contracts (Petty Sessions) Amendment Bill, 1980.

*Courts of Petty Sessions (Civil Claims) 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 “Courts of Petty Sessions **Short title.**  
(Civil Claims) Amendment Act, 1980”.

**2.** (1) Except as provided in subsection (2), this Act shall **Commence-**  
commence on the date of assent to this Act. **ment.**

      (2) Sections 5 and 6 and Schedules 1, 2 and 3 shall  
10 commence on such day as may be appointed by the Governor in  
respect thereof and as may be notified by proclamation published  
in the Gazette.

**3.** The Courts of Petty Sessions (Civil Claims) Act, 1970, is **Principal**  
referred to in this Act as the Principal Act. **Act.**

15    **4.** This Act contains the following Schedules :— **Schedules.**

**SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT**  
      **RELATING TO THE REMOVAL OF ACTIONS INTO OR**  
      **FROM THE DISTRICT COURT.**

**SCHEDULE 2.—FURTHER AMENDMENTS TO THE PRINCIPAL**  
20    **ACT.**

**SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT BY**  
      **WAY OF STATUTE LAW REVISION.**



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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5. The Principal Act is amended in the manner set forth in Schedules 1, 2 and 3.

Amendment  
of Act  
No. 11,  
1970.

6. Any action or other proceeding in a court or before the registrar of a court under the Principal Act as in force at any time before the day appointed and notified under section 2 (2) and not completed before that day may be continued and completed, and a judgment or order in that action or proceeding may be given, entered up or made, as if this Act had not been enacted.

Saving.

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SCHEDULE 1.

Sec. 5.

10 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT.

(1) Section 2—

After the matter relating to Part III, insert :—

15 PART IIIA.—REMOVAL OF ACTIONS INTO OR FROM  
DISTRICT COURT—ss. 21A–21G.

DIVISION 1.—*Removal of Actions into District Court*  
—ss. 21A–21E.

20 DIVISION 2.—*Removal of Actions from District Court*  
—ss. 21F, 21G.

(2) Section 12 (2)–(5)—

Omit the subsections.

*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

5 (3) Part IIIA—

After Part III, insert :—

PART IIIA.

REMOVAL OF ACTIONS INTO OR FROM  
DISTRICT COURT.

10 DIVISION 1.—*Removal of Actions into  
District Court.*

21A. In this Division, “proclaimed place” and “nearest  
proclaimed place” have the meanings ascribed thereto in  
sections 4 (1) and 5 respectively of the District Court Act,  
1973.

Interpre-  
tation: Pt.  
IIIA, Div. 1.

21B. (1) Where an action is pending in a court, the  
District Court may, on application by a party to the action,  
order that—

Removal  
of pro-  
ceedings  
into  
District  
Court.

(a) the action;

20 (b) proceedings in relation to any set-off which is  
pleaded as a defence to the action and in respect  
of which section 15 (2) has been complied with;  
or

(c) both the action and any such proceedings,

25 be removed into the District Court sitting at such  
proclaimed place as the District Court may specify in the  
order.



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

5           (2) Subject to section 21E (8), the District Court  
may make an order for removal under subsection (1) upon  
such terms as to payment of costs, giving of security for  
any amount claimed or for costs, or otherwise, as the  
District Court thinks fit.

10           (3) An order for removal made under subsection  
(1) shall take effect on service of a copy of the order on  
the registrar of the court or on earlier notification of the  
order to the registrar of the court in such manner as the  
District Court may direct.

15           (4) Subject to section 21E (7), an order for  
removal made under subsection (1) shall not affect the  
validity of any order made or other thing done in the  
action, or in the proceedings in relation to the set-off, to  
20           which the order for removal relates before the order for  
removal takes effect but, except as otherwise expressly  
provided by this Division, any such order or thing has no  
operation after the order for removal takes effect.

25           (5) Where the District Court has made an order  
for removal under subsection (1), the registrar of the court  
in which the action was commenced shall forthwith after a  
copy of the order authenticated in accordance with the  
rules is lodged with him deliver or send by post the whole  
record thereof to the registrar of the District Court for the  
proclaimed place specified in the order.

*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

21c. (1) Where an application is pending in the District Court for an order under section 21B (1) for removal of an action, of proceedings in relation to a set-off or of both, the District Court may make orders for a stay of proceedings in the action or of the proceedings, if any, in relation to the set-off.

(2) An order under subsection (1) for a stay of proceedings shall take effect on service of a copy of the order on the registrar of the court or on earlier notification of the order to the registrar of the court in such manner as the District Court may direct.

21d. (1) Proceedings in the District Court for an order under section 21B (1) for removal of an action in a court, of proceedings in a court in relation to a set-off or of both, or proceedings in the District Court for a stay under section 21c of proceedings in any such action or proceedings, shall be commenced at the nearest proclaimed place to the court.

(2) Where proceedings to which subsection (1) applies are commenced at a proclaimed place that is not a place at which they ought, under subsection (1), to have been commenced, the District Court may, on the application of a party to the proceedings or without any such application—

(a) order that the proceedings be continued in the District Court notwithstanding that they were commenced at that place;



*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

5 (b) order a change of venue of the proceedings under  
section 40 of the District Court Act, 1973, to  
such other proclaimed place as the District Court  
thinks proper; or

(c) strike out the proceedings.

10 21E. (1) Where an order under section 21B (1) for Proceedings  
removal into the District Court of an action in a court or after  
of proceedings in a court in relation to a set-off takes effect, removal.  
the action or set-off ceases to be an action or set-off in  
the court but proceedings in the action or in relation to  
15 the set-off, as the case may be, continue, in accordance  
with rules made under the District Court Act, 1973, in the  
District Court—

20 (a) where the order relates to an action only or to  
both an action and a set-off, as if the action had  
been duly commenced in the District Court at  
the place specified in the order on the date on  
which the plaint commencing the action was  
filed in the court and as if the set-off, if any,  
had been duly pleaded in accordance with the  
25 District Court Act, 1973, and the rules there-  
under as a cross-claim in the District Court at  
that place on the date on which section 15 (2)  
was complied with with respect to the set-off;  
and

30 (b) where the order relates to a set-off only, as if  
the amount claimed by the defendant by way of  
set-off had been claimed by him in an action

*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

5                   duly commenced by him as plaintiff in the District Court at the place specified in the order on the date on which section 15 (2) was complied with with respect to the set-off.

10                   (2) Where any proceedings continue in the District Court as referred to in subsection (1), any abandonment made in accordance with section 14 or 15 has no further force or effect except to the extent that the amount originally claimed by the plaintiff before any abandonment made by him, or any amount claimed by the defendant as  
15                   a set-off before any abandonment made by him, exceeded the appropriate amount specified in section 44 (1) (a) or (b) of the District Court Act, 1973, as the case may be.

(3) Where—

- 20                   (a) an order is made under section 21B (1) for the removal of an action into the District Court;
- (b) a set-off has been pleaded as a defence to the action and section 15 (2) has been complied with with respect to the set-off; and
- 25                   (c) no order under section 21B (1) has been made for the removal of the proceedings in relation to the set-off,

30                   the set-off ceases to be a set-off in the court but proceedings on the set-off continue in the court as if the amount claimed by the defendant by way of set-off had been claimed by him, as plaintiff, in an action duly commenced by him in the court on the date on which section 15 (2) was complied with with respect to the set-off by the filing of a plaint for the amount claimed by way of set-off and an ordinary summons.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

- 5                   (4) Where an action continues as referred to in  
subsection (3)—
- 10                   (a) the ordinary summons referred to in subsection  
                    (3) shall be deemed to have been made return-  
able at the court in which the proceedings on the  
set-off continue on the day last set down for the  
hearing of the action the subject of the order for  
removal before the order for removal was made;  
and
- 15                   (b) the defendant in the action which so continues  
                    (being the plaintiff in the action the subject of  
the order for removal) shall be deemed to have  
been served with that ordinary summons on the  
day on which the copy of the notice of set-off  
was served on him in accordance with the rules.
- 20                   (5) Where an order under section 21B (1) for  
removal into the District Court of an action in a court or  
of proceedings in a court in relation to a set-off takes effect,  
any admission made in accordance with the rules for the  
purpose of the action or set-off shall, if it could have been  
25                   made under section 69 (1) (b) of the District Court Act,  
1973, or in accordance with the rules made under that  
Act, be treated as an admission made under section 69 (1)  
(b) of that Act or those rules, as the case may be.
- (6) Subsection (1) has effect subject to—
- 30                   (a) the District Court Act, 1973, and the rules made  
                    under that Act; and
- (b) any order of the District Court as to procedure.



*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

5 (7) An order made by a court in an action or in proceedings in relation to a set-off removed into the District Court under subsection (1) may be set aside or varied, and is subject to appeal, as if made by the District Court.

10 (8) Costs payable under the District Court Act, 1973, or under an order of the District Court, in respect of any step in an action or proceedings in relation to a set-off in a court removed into the District Court under subsection (1) shall be limited as may be prescribed by the rules.

DIVISION 2.—*Removal of Actions from District Court.*

15 21F. (1) Where an action is pending in the District Court and the District Court is satisfied that the action could properly have been commenced as an action in a court or that any cross-claim (whether in the nature of a set-off, cross-action or otherwise) pleaded in connection with an action so pending could properly have been pleaded as a set-off in a court, the District Court may, on application by a party to the action or of its own motion, order that—

Removal of proceedings from District Court.

20 (a) the action;

25 (b) proceedings in relation to any such cross-claim; or

(c) both the action and any such proceedings, be removed into the court for such district as the District Court may, having regard to the principles expressed in section 16, specify in the order.

30

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

- 5           (2) The District Court shall not make an order  
under subsection (1) unless it is satisfied that—
- 10           (a) in the case of an order relating to an action  
(whether or not it also relates to a cross-claim),  
a copy of the ordinary statement of claim or of  
the statement of liquidated claim by the lodging  
of which the action was commenced has been  
served on the defendant; or
- 15           (b) in the case of an order relating to a cross-claim  
(whether or not it also relates to an action), a  
copy of the cross-claim has been served on the  
plaintiff.
- 20           (3) An order for removal made under subsection  
(1) shall take effect on service of a copy of the order on  
the registrar of the court or on earlier notification of the  
order to the registrar of the court in such manner as the  
District Court may direct.
- 25           (4) Subject to section 21G (7), an order for  
removal made under subsection (1) shall not affect the  
validity of any order made or other thing done in the action,  
or in the proceedings in relation to the cross-claim, to  
which the order for removal relates before the order for  
removal takes effect but, except as otherwise expressly  
provided by this Division, any such order or thing has no  
operation after the order for removal takes effect.
- 30           (5) Where the District Court has made an order  
for removal under subsection (1), the applicant for the  
order shall, within 10 days after the making of the order  
or within such other time as the District Court may direct,

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

5 or, if the applicant defaults, any other party may, lodge  
with the registrar of the court for the district specified in  
the order for removal a copy of each document filed in  
the District Court in the action, and in any proceedings  
10 in relation to the cross-claim, to which the order for removal  
relates.

21G. (1) Where an order under section 21F (1) for Proceedings  
removal into a court of an action in the District Court or after  
of proceedings in the District Court in relation to a cross-removal.  
claim takes effect, the action or cross-claim ceases to be an  
15 action or cross-claim in the District Court but proceedings  
in the action or in relation to the cross-claim, as the case  
may be, continue in the court—

(a) where the order relates to an action only or to  
20 both an action and a cross-claim, as if the action  
had been duly commenced in the court for the  
district specified in the order on the date on which  
the ordinary statement of claim or statement of  
liquidated claim commencing the action was  
lodged with a registrar of the District Court and  
25 as if the cross-claim, if any, had been duly  
pleaded in accordance with this Act and the rules  
as a set-off in the court for that district on the  
date on which the cross-claim was pleaded; and

(b) where the order relates to a cross-claim only, as  
30 if the amount claimed by the defendant by way  
of cross-claim had been claimed by him in an  
action duly commenced by him as plaintiff in the  
court for the district specified in the order on  
the date on which the cross-claim was pleaded.



*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

5

(2) Where an order under section 21F (1) for removal into a court of an action in the District Court or of proceedings in the District Court in relation to a cross-claim takes effect, the registrar shall forthwith—

- (a) list the action or proceedings for hearing; and  
10 (b) serve on each of the parties to the action or proceedings a copy of the order and a notice of the listing of the action or proceedings.

(3) Where—

- 15 (a) proceedings in an action continue as referred to in subsection (1) (a), or proceedings in relation to a cross-claim continue as an action as referred to in subsection (1) (b), due proof of service on the defendant of the notice referred to in subsection (2) (b) shall, for the purposes of  
20 section 26 (1) (b), be deemed to be due proof of service of the summons referred to in section 26 (1) (b); and  
25 (b) proceedings in relation to a cross-claim continue as referred to in subsection (1) (a), section 26 (1A) has effect as if any reference therein to the prescribed notice of set-off were a reference to the notice referred to in subsection (2) (b).

(4) Where—

- 30 (a) an order is made under section 21F (1) for the removal of an action into a court;  
(b) a cross-claim has been pleaded in respect of the action; and

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

5           (c) no order under section 21F (1) has been made  
for the removal of the proceedings in relation to  
the cross-claim,

10           the cross-claim ceases to be a cross-claim in the District  
Court but proceedings in relation to the cross-claim con-  
tinue, in accordance with rules made under the District  
Court Act, 1973, in the District Court as if the amount  
15           claimed by the defendant by way of cross-claim had been  
claimed by him, as plaintiff, in an action duly commenced  
in the District Court on the date on which the cross-claim  
was pleaded.

20           (5) Where an order under section 21F (1) for  
removal into a court of an action in the District Court or  
of proceedings in the District Court in relation to a cross-  
claim takes effect, any admission made as required by the  
District Court under section 69 (1) (b) of the District  
Court Act, 1973, or made in accordance with the rules  
made under that Act, for the purpose of the action shall, if  
it could have been made under the rules, be treated as an  
admission made under the rules in the action or  
25           proceedings in that court.

(6) Subsection (1) has effect subject to this Act  
and the rules.

30           (7) An order made by the District Court in an  
action or in proceedings in relation to a cross-claim  
removed into a court under subsection (1) may be set  
aside or varied, and is subject to appeal, as if made by the  
court.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

- 5 (8) No costs shall be payable under the District Court Act, 1973, or under an order of the District Court, in respect of any step in an action or proceedings in relation to a cross-claim removed into a court under subsection (1).
- 10 (9) In respect of an action or proceedings in relation to a cross-claim removed under subsection (1) into a court, there shall be payable—
- 15 (a) as regards the order of removal, the copies of the order and any step in the action or proceedings before the order takes effect, professional costs in such amount as may be specified in the judgment; and
- 20 (b) as regards any fees paid in respect of the proceedings in the District Court in the action or the proceedings in relation to the cross-claim up to and including the time of the making of the order of removal, costs in the amount of those fees,
- 25 but otherwise no costs as regards any such matters shall be payable under this Act.
- (10) Costs allowed as referred to in subsection (9) shall be added to the judgment debt or made the subject of an order referred to in section 35, as the case may require.
- 30 (4) Section 28 (11)—
- After “section 35”, insert “but subject to section 21G (9)”.



*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

5 (5) (a) Section 33 (1)—

Omit “subsection (2)”, insert instead “subsections (1A) and (2)”.

(b) Section 33 (1A)—

After section 33 (1), insert :—

10 (1A) Nothing in subsection (1) affects the operation of section 21G (9) or (10).

(6) Section 34—

Omit “subsection (3) of section 27”, insert instead “sections 21G (10) and 27 (3)”.

15 (7) Section 35—

After “the court may”, insert “subject to section 21G (9),”.

(8) Section 36 (2)—

After “and 35,”, insert “, but subject to section 21G (9),”.

20 (9) Section 37—

After “section”, insert “21G (9),”.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

5 (10) Section 84 (1) (n)—

Omit “or section 20 (4) of the Frustrated Contracts Act,  
1978.”

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SCHEDULE 2.

Sec. 5.

FURTHER AMENDMENTS TO THE PRINCIPAL ACT.

10 (1) Section 12 (1)—

Omit “\$2,000”, insert instead “\$3,000”.

(2) Section 13 (3)—

Omit “\$2,000”, insert instead “\$3,000”.

(3) (a) Section 15 (1)—

15 Omit “\$2,000”, insert instead “\$3,000”.

(b) Section 15 (6)—

Omit “\$2,000”, insert instead “\$3,000”.

(c) Section 15 (8), (9)—

Omit the subsections.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 2—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) (a) Section 16 (1), (2), (2A)—

Omit section 16 (1) and (2), insert instead :—

- 5           (1) In this section, “appropriate court”, in relation to a defendant, means the court held for any one of the following districts :—
- 10           (a) the district in which the defendant had, at the time the cause of action arose, his place of abode;
- (b) the district in which the defendant had, at that time, his place of business;
- (c) the district in which the defendant had, at that time, his place of employment;
- 15           (d) the district in which the defendant has, at the time the action is commenced, his place of abode;
- (e) the district in which the defendant has, at the time the action is commenced, his place of business;
- 20           (f) the district in which the defendant has, at the time the action is commenced, his place of employment;
- (g) the district in which the cause of action
- 25           arose.

(2) Every court, wherever situated, shall have jurisdiction in accordance with this Act.



*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 2—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (2A) Where an action is commenced in a court which is not an appropriate court, the defendant or any one of two or more defendants may file with the registrar of the court, within such time and in such manner as may be prescribed—

(a) a notice—

10 (i) stating that he intends to defend the action and, in the case of an action commenced by the filing of a special summons, that he intends or does not intend to defend the action in the manner referred to in section 23A (2) (b) or (c);

15 (ii) specifying the grounds of his defence; and

20 (iii) stating that he elects that the action be transferred to an appropriate court specified in the notice; and

(b) an affidavit verifying the facts on which he intends to rely for his defence.

(b) Section 16 (3)—

25 Omit “the defendant makes an election under subsection (2)”, insert instead “a defendant files a notice, accompanied by an affidavit, under subsection (2A)”.

(c) Section 16 (3)—

30 Omit “court for the district specified in the notice of election”, insert instead “appropriate court specified in the notice”.

*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 2—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(d) Section 16 (4) (a)—

5 Omit “(in this subsection referred to as the ‘transferee court’)”.

(e) Section 16 (4)—

Omit “transferee court” where secondly and thirdly occurring, insert instead “court to which the action was transferred”.

10 (f) Section 16 (4) (b)—

Omit “a court for a district in which is situated a place referred to in paragraph (a) or (b) of subsection (2)”, insert instead “an appropriate court”.

(g) Section 16 (4)—

15 Omit “a court specified in the order, being a court for a district in which is situated a place referred to in paragraph (a) or (b) of subsection (2)”, insert instead “an appropriate court”.

(h) Section 16 (5) (a)—

20 Omit “court for the district”, insert instead “appropriate court”.

(i) Section 16 (5) (b)—

After “the court”, insert “making the order”.

(5) Section 17 (1)—

25 Omit “27 or 28”, insert instead “25A, 27, 28 or 40”.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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**SCHEDULE 2—continued.**

**FURTHER AMENDMENTS TO THE PRINCIPAL ACT—continued.**

(6) Section 23A (2A)—

After section 23A (2), insert :—

- 5           (2A) A notice filed under section 16 (2A) shall, upon the transfer of the action, be deemed to be a notice filed under subsection (2).

(7) Section 25 (1A)—

After section 25 (1), insert :—

- 10           (1A) A notice filed under section 16 (2A) shall, upon the transfer of the action, be deemed to be a notice filed under subsection (1).

(8) (a) Section 28 (1)—

After “commenced”, insert “in a court”.

15           (b) Section 28 (1)—

Omit “sign a statement”, insert instead “file with the registrar a statement signed by him”.

(c) Section 28 (1)—

- 20           After “plaintiff”, insert “, accompanied by an affidavit as to the defendant’s property and means,”.

(d) Section 28 (2)—

After “commenced”, insert “in a court”.



*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 2—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(e) Section 28 (3), (3A), (3B)—

Omit section 28 (3), insert instead :—

5           (3) A statement under subsection (1) may, instead of being signed by the defendant, be signed by his barrister or attorney on his behalf.

10           (3A) An agreement referred to in subsection (2) may, instead of being entered into personally by the plaintiff or the defendant, be entered into by his barrister or attorney on his behalf.

15           (3B) A statement under subsection (1) or an agreement referred to in subsection (2) shall be in or to the effect of the prescribed form and shall have no force or effect for the purposes of this section unless the signature of every person executing it, other than a barrister or attorney, is witnessed by a person of a prescribed class.

(f) Section 28 (4)—

20           Omit “Where a statement under subsection (1) is filed with the registrar, the registrar”, insert instead “The registrar with whom a statement and affidavit are filed under subsection (1)”.

(9) Section 30 (2)—

25           At the end of section 30, insert :—

30           (2) Where a judgment is set aside, the court may, at the same time or subsequently, make such orders as it thinks fit as to the costs incurred by any party by the setting aside of the judgment or by any adjournment of the hearing of the action.

*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 2—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(10) Section 37—

5 Omit “27 (1), 28 (11)”, insert instead “25A (5), 27 (1),  
28 (11), 30 (2)”.

(11) (a) Section 40 (3), (3A)—

Omit section 40 (3), insert instead :—

10 (3) An agreement referred to in subsection (2)  
(b) may, instead of being entered into personally by  
the judgment creditor or the judgment debtor, be  
entered into by his barrister or attorney on his behalf.

15 (3A) An agreement referred to in subsection (2)  
(b) shall be in or to the effect of the prescribed form  
and shall have no force or effect for the purposes of  
this section unless the signature of every person  
executing it, other than a barrister or attorney, is  
witnessed by a person of a prescribed class.

(b) Section 40 (12)—

After section 40 (11), insert :—

20 (12) The jurisdiction under this section of any  
court that is prescribed by rules made for the purposes  
of this subsection may be exercised by the registrar of  
the court and any order made by him in the exercise  
of that jurisdiction may, on application made by the  
25 judgment creditor or the judgment debtor, be  
confirmed, varied or vacated by the court.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 2—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(12) Section 53 (3), (3A)—

Omit section 53 (3), insert instead :—

5 (3) An agreement referred to in subsection (2) may, instead of being entered into personally by the judgment creditor or the garnishee, be entered into by his barrister or attorney on his behalf.

10 (3A) An agreement referred to in subsection (2) shall be in or to the effect of the prescribed form and shall have no force or effect for the purposes of this section unless the signature of every person executing it, other than a barrister or attorney, is witnessed by a person of a prescribed class.

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SCHEDULE 3.

Sec. 5.

15 AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION.

(1) Section 2—

From the matter relating to Part VIII, omit “85”, insert instead “84”.

20 (2) Section 3 (1)—

Omit “to this Act”.

(3) Section 4 (1), definition of “court”—

Omit “subsection (3) of section 77”, insert instead “section 77 (3)”.



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—*continued.*

## (4) Section 21—

5       Omit “eighteen”, insert instead “18”.

## (5) Section 23A (5)—

After “such order”, insert “as it thinks fit”.

## (6) (a) Section 25A (1)—

10       Omit “twenty-eight days or later than twelve”, insert  
instead “28 days or later than 12”.

## (b) Section 25A (2) (c)—

Omit “fourteen”, insert instead “14”.

## (c) Section 25A (3) (a)—

Omit “and”.

## 15       (d) Section 25A (3) (c) (i)—

After “made;”, insert “and”.

## (7) (a) Section 26 (1B) (d)—

After “not”, insert “of”.

## (b) Section 26 (2)—

20       Omit “paragraph (b) of subsection (1)”, insert  
instead “subsection (1) (b)”.

*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—*continued.*

(8) (a) Section 27 (1)—

5 Omit “fourteen days or later than twelve”, insert  
instead “14 days or later than 12”.

(b) Section 27 (2)—

Omit “subparagraph (ii) of paragraph (b) of sub-  
section (1)”, insert instead “subsection (1) (b) (ii)”.

10 (c) Section 27 (3)—

Omit “subparagraph (ii) or (iii) of paragraph (b) of  
subsection (1)”, insert instead “subsection (1) (b)  
(ii) or (iii)”.

(9) (a) Section 28 (5)—

15 Omit :—

the registrar shall forthwith after the expiration of  
that prescribed time—

20 (i) enter up judgment for the plaintiff for the  
amount to which the defendant has  
confessed; and

(ii) where any terms of payment are specified in  
the statement, order that the judgment debt  
be paid by such instalments payable at such  
times as are so specified.

25 insert instead :—

the registrar shall forthwith after the expiration of that  
prescribed time—

30 (c) enter up judgment for the plaintiff for the  
amount to which the defendant has confessed;  
and

*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—*continued.*

- 5 (d) where any terms of payment are specified in the statement, order that the judgment debt be paid by such instalments payable at such times as are so specified.

(b) Section 28 (8), (9)—

Omit the subsections, insert instead :—

- 10 (8) An order in respect of a judgment debt made under subsection (4) (b) (ii) or (5) (d) shall be deemed to be an order made under section 40 (4) pursuant to an application made by the judgment debtor under section 40 (2) (a).

- 15 (9) An order in respect of a judgment debt made under subsection (6) (b) shall be deemed to be an order made under section 40 (4) pursuant to an agreement referred to in section 40 (2) (b).

(c) Section 28 (10) (b)—

- 20 Omit “subsection (5) of section 40”, insert instead “section 40 (5)”.

(10) (a) Section 36 (1), definition of “the prescribed amount”—

From paragraph (a), omit “forty dollars”, insert instead “\$40”.

25 (b) Section 36 (2)—

Omit “subsection (11) of section 28, and of sections 34”, insert instead “sections 28 (11), 34”.



*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—*continued.*

(11) Section 39 (2)—

- 5 Omit “subsection (3) of section 3”, insert instead “section 3 (3)”.

(12) (a) Section 40 (4) (a)—

Omit “paragraph (a) of subsection (2)”, insert instead “subsection (2) (a)”.

10 (b) Section 40 (4) (b)—

Omit “paragraph (b) of subsection (2)”, insert instead “subsection (2) (b)”.

(c) Section 40 (5)—

- 15 Omit “paragraph (a) of subsection (2)”, insert instead “subsection (2) (a)”.

(13) (a) Section 41 (1)—

Omit “paragraph (b) of subsection (2)”, insert instead “subsection (2) (b)”.

(b) Section 41 (5)—

- 20 Omit “Subsection (4) of section 11”, insert instead “Section 11 (4)”.

(c) Section 41 (5)—

Omit “of this section”.

(d) Section 41 (6)—

- 25 Omit “three”, insert instead “3”.

*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—*continued.*

- (14) (a) Section 42 (3)—  
5       Omit “fourteen”, insert instead “14”.  
      (b) Section 42 (4)—  
          Omit “fourteen”, insert instead “14”.
- (15) (a) Section 43A (1)—  
          Omit “fourteen”, insert instead “14”.
- 10       (b) Section 43A (3) (c)—  
          Omit “three”, insert instead “3”.
- (16) (a) Section 44 (1)—  
          Omit “paragraph (b) of subsection (2) of section 41”,  
          insert instead “section 41 (2) (b)”.
- 15       (b) Section 44 (1)—  
          Omit “subsection (4) of that section”, insert instead  
          “section 41 (4)”.
- (c) Section 44 (2)—  
          Omit “paragraph (b) of subsection (2) of section 41”,  
20       insert instead “section 41 (2) (b)”.
- (d) Section 44 (3)—  
          Omit “subsection (4) of section 40”, insert instead  
          “section 40 (4)”.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—*continued.*

(e) Section 44 (3)—

- 5           Omit “paragraph (a) of subsection (2) of that  
            section”, insert instead “section 40 (2) (a)”.

(f) Section 44 (3)—

Omit “that section” where secondly occurring, insert  
instead “section 40”.

10 (17) Section 46—

Omit “One hundred dollars”, insert instead “\$100”.

(18) Section 47 (2) (b)—

Omit “four”, insert instead “4”.

(19) Section 48 (3)—

- 15           Omit “four”, insert instead “4”.

(20) Section 49 (1), definition of “prescribed rate”—

Omit “eight dollars” wherever occurring, insert instead  
“\$8”.

(21) Section 50 (1)—

- 20           Omit “ten per centum”, insert instead “10 per cent”.

(22) (a) Section 51 (1)—

Omit “subsection (4) of section 48”, insert instead  
“section 48 (4)”.



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—*continued.*

(b) Section 51 (2)—

5           Omit “one” wherever occurring, insert instead “1”.

(c) Section 51 (3)—

          Omit “one” wherever occurring, insert instead “1”.

(23) (a) Section 52 (4) (a) (i)—

10           Omit “two hundred and fifty dollars”, insert instead  
          “\$250”.

(b) Section 52 (4) (b)—

          Omit “two hundred and fifty dollars”, insert instead  
          “\$250”.

(c) Section 52 (5)—

15           Omit “paragraph (b) of subsection (4)”, insert  
          instead “subsection (4) (b)”.

(24) Section 52A (4)—

          Omit “two”, insert instead “2”.

(25) (a) Section 53 (4)—

20           Omit “paragraph (a) of subsection (2) of section  
          40”, insert instead “section 40 (2) (a)”.

(b) Section 53 (4)—

          Omit “subsection (4) of that section”, insert instead  
          “section 40 (4)”.

*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—*continued.*

(c) Section 53 (4)—

- 5           Omit “that section” where secondly occurring, insert  
            instead “section 40”.

(26) Section 55 (1)—

Omit “section 55 (2)”, insert instead “subsection (2)”.

(27) Section 56 (1)—

- 10           Omit “One hundred dollars”, insert instead “\$100”.

(28) Section 58 (1)—

Omit “twelve”, insert instead “12”.

(29) Section 59 (7)—

Omit “One hundred dollars”, insert instead “\$100”.

15 (30) Section 60 (2)—

Omit “section 4 (1)”, insert instead “section 5”.

(31) Section 61—

- 20           Omit “the hour of eight in the afternoon on one day and  
            seven in the forenoon”, insert instead “8 p.m. on one day  
            and 7 a.m.”.

*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—*continued.*

(32) Section 65 (3) (b)—

5 Omit “paragraph (a) of subsection (1)”, insert instead  
“subsection (1) (a)”.

(33) (a) Section 66 (1) (b)—

Omit “debtor) is”, insert instead “debtor), is”.

(b) Section 66 (3)—

10 Omit “subparagraph (i) of paragraph (d) of sub-  
section (1)”, insert instead “subsection (1) (d) (i)”.

(c) Section 66 (3)—

Omit “subsection (1) of section 65”, insert instead  
“section 65 (1)”.

15 (34) (a) Section 72 (8)—

Omit “subsection (3) of section 84”, insert instead  
“section 84 (3)”.

(b) Section 72 (8)—

20 Omit “that section”, insert instead “section 84 of that  
Act”.

(35) Section 76—

Omit “One hundred dollars”, insert instead “\$100”.



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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**SCHEDULE 3—*continued.***

**AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW  
REVISION—*continued.***

(36) Section 77 (1)—

- 5       Omit “up, or the order had been made, by”, insert instead  
      “up by, or the order had been made by,”.

(37) (a) Section 79—

      Omit “Two hundred dollars”, insert instead “\$200”.

(b) Section 79—

- 10       Omit “six”, insert instead “6”.







## **COURTS OF PETTY SESSIONS (CIVIL CLAIMS) AMENDMENT BILL, 1980**

### **EXPLANATORY NOTE**

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

The Frustrated Contracts (Petty Sessions) Amendment Bill, 1980, is cognate with this Bill.

The objects of this Bill are—

- (a) to substitute for the existing provisions in section 12 (2)–(4) of the Courts of Petty Sessions (Civil Claims) Act, 1970 (“the Principal Act”), which relate to the transfer of actions from a court of petty sessions to the District Court where the amount claimed exceeds \$1,250, provisions under which actions in, or set-offs pleaded in, courts of petty sessions may be removed to the District Court upon an order for their removal being made by the District Court, irrespective of the amount claimed in the action or on the set-off (Schedule 1 (3)—new Part IIIA, Division 1);
- (b) to provide for the removal of actions and cross-claims in the District Court to courts of petty sessions upon an order being made by the District Court, where the action could properly have been commenced or the cross-claim pleaded in a court of petty sessions (Schedule 1 (3)—new Part IIIA, Division 2);
- (c) to make amendments consequential upon the provisions referred to in paragraphs (a) and (b) with respect to costs payable under the Principal Act (Schedule 1 (5)–(9));
- (d) to increase the jurisdiction of courts of petty sessions in civil matters from \$2,000 to \$3,000 (Schedule 2 (1)–(3));
- (e) to clarify the provisions of section 16 of the Principal Act relating to the right of a defendant in an action in a court of petty sessions to require the venue at which the action is to be heard to be changed (Schedule 2 (4));
- (f) to enable the powers, under sections 25A and 40 of the Principal Act, of the registrar of a court of petty sessions to be exercised notwithstanding that the defendant or one of 2 or more defendants is not within New South Wales (Schedule 2 (5));
- (g) to deem a notice of defence filed under section 16 (2A) of the Principal Act to be also a notice of defence filed under section 23A (2) or 25 (2) of the Principal Act (Schedule 2 (6), (7));

- (h) to require a statement confessing to the amount or part of the amount of a claim, made in accordance with section 28 (1) of the Principal Act to be accompanied by an affidavit as to the defendant's property and means when the statement is filed with the registrar of a court of petty sessions (Schedule 2 (8) (a)-(c), (e));
- (i) to permit a barrister or attorney acting on behalf of a person to execute certain instruments on behalf of that person for the purposes of the Principal Act and to provide that the signature of a barrister or attorney need not be witnessed by a person of a prescribed class (Schedule 2 (8) (d), (11) (a), (12));
- (j) to enable a court of petty sessions to make orders as to costs when it sets aside any judgment given or entered up or order made in the court (Schedule 2 (9));
- (k) to amend section 37 of the Principal Act, which specifies the circumstances in which professional costs between party and party may be allowed, so as to refer to additional provisions under which professional costs are allowable (Schedule 2 (10));
- (l) to empower the registrar of a court of petty sessions, where a judgment creditor has filed notice of objection to the payment of the judgment debt by instalments specified in an order made by the registrar, to confirm, vary or vacate the order subject to appeal to the court of petty sessions for which he is the registrar (Schedule 2 (11) (b));
- (m) to make amendments to the Principal Act by way of statute law revision (Schedule 3); and
- (n) to make other provisions of a minor or ancillary nature.







**COURTS OF PETTY SESSIONS (CIVIL CLAIMS)  
AMENDMENT BILL, 1980**

No. , 1980.

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**A BILL FOR**

**An Act to amend the Courts of Petty Sessions (Civil Claims) Act, 1970, with respect to the removal of actions into or from the District Court, the monetary jurisdiction of courts of petty sessions and certain other matters.**

[MR F. J. WALKER—20 February, 1980.]

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**See also Frustrated Contracts (Petty Sessions) Amendment Bill, 1980.**

*Courts of Petty Sessions (Civil Claims) 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 “Courts of Petty Sessions Short title.  
(Civil Claims) Amendment Act, 1980”.

**2.** (1) Except as provided in subsection (2), this Act shall **Commence-**  
commence on the date of assent to this Act. **ment.**

     (2) Sections 5 and 6 and Schedules 1, 2 and 3 shall  
10 commence on such day as may be appointed by the Governor in  
respect thereof and as may be notified by proclamation published  
in the Gazette.

**3.** The Courts of Petty Sessions (Civil Claims) Act, 1970, is **Principal**  
referred to in this Act as the Principal Act. **Act.**

15    **4.** This Act contains the following Schedules :— **Schedules.**

     SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT  
RELATING TO THE REMOVAL OF ACTIONS INTO OR  
FROM THE DISTRICT COURT.

20    SCHEDULE 2.—FURTHER AMENDMENTS TO THE PRINCIPAL  
ACT.

     SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT BY  
WAY OF STATUTE LAW REVISION.



*Courts of Petty Sessions (Civil Claims) Amendment.*

5. The Principal Act is amended in the manner set forth in Schedules 1, 2 and 3. Amendment  
of Act  
No. 11,  
1970.

6. Any action or other proceeding in a court or before the registrar of a court under the Principal Act as in force at any time before the day appointed and notified under section 2 (2) and not completed before that day may be continued and completed, and a judgment or order in that action or proceeding may be given, entered up or made, as if this Act had not been enacted. Saving.

**SCHEDULE 1.**

Sec. 5.

10 **AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT.**

(1) Section 2—

After the matter relating to Part III, insert :—

15 **PART IIIA.—REMOVAL OF ACTIONS INTO OR FROM  
DISTRICT COURT—ss. 21A–21G.**

**DIVISION 1.—*Removal of Actions into District Court*  
—ss. 21A–21E.**

20 **DIVISION 2.—*Removal of Actions from District Court*  
—ss. 21F, 21G.**

(2) Section 12 (2)–(5)—

Omit the subsections.

*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

5 (3) Part IIIA—

After Part III, insert :—

PART IIIA.

REMOVAL OF ACTIONS INTO OR FROM  
DISTRICT COURT.

10 DIVISION 1.—*Removal of Actions into  
District Court.*

21A. In this Division, “proclaimed place” and “nearest  
proclaimed place” have the meanings ascribed thereto in  
sections 4 (1) and 5 respectively of the District Court Act,  
1973.

Interpre-  
tation: Pt.  
IIIA, Div. 1.

21B. (1) Where an action is pending in a court, the  
District Court may, on application by a party to the action,  
order that—

Removal  
of pro-  
ceedings  
into  
District  
Court.

(a) the action;

(b) proceedings in relation to any set-off which is  
pleaded as a defence to the action and in respect  
of which section 15 (2) has been complied with;  
or

(c) both the action and any such proceedings,

be removed into the District Court sitting at such  
proclaimed place as the District Court may specify in the  
order.

*Courts of Petty Sessions (Civil Claims) Amendment.*

**SCHEDULE 1—continued.**

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—continued.**

5           (2) Subject to section 21E (8), the District Court  
may make an order for removal under subsection (1) upon  
such terms as to payment of costs, giving of security for  
any amount claimed or for costs, or otherwise, as the  
District Court thinks fit.

10           (3) An order for removal made under subsection  
(1) shall take effect on service of a copy of the order on  
the registrar of the court or on earlier notification of the  
order to the registrar of the court in such manner as the  
District Court may direct.

15           (4) Subject to section 21E (7), an order for  
removal made under subsection (1) shall not affect the  
validity of any order made or other thing done in the  
action, or in the proceedings in relation to the set-off, to  
20           which the order for removal relates before the order for  
removal takes effect but, except as otherwise expressly  
provided by this Division, any such order or thing has no  
operation after the order for removal takes effect.

25           (5) Where the District Court has made an order  
for removal under subsection (1), the registrar of the court  
in which the action was commenced shall forthwith after a  
copy of the order authenticated in accordance with the  
rules is lodged with him deliver or send by post the whole  
record thereof to the registrar of the District Court for the  
proclaimed place specified in the order.



*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

5        21C. (1) Where an application is pending in the District Court for an order under section 21B (1) for removal of an action, of proceedings in relation to a set-off or of both, the District Court may make orders for a stay of proceedings in the action or of the proceedings, if any, in relation to the set-off. Stay of proceedings in petty sessions.

10  
  
15        (2) An order under subsection (1) for a stay of proceedings shall take effect on service of a copy of the order on the registrar of the court or on earlier notification of the order to the registrar of the court in such manner as the District Court may direct.

20        21D. (1) Proceedings in the District Court for an order under section 21B (1) for removal of an action in a court, of proceedings in a court in relation to a set-off or of both, or proceedings in the District Court for a stay under section 21C of proceedings in any such action or proceedings, shall be commenced at the nearest proclaimed place to the court. Place of application for removal or stay.

25        (2) Where proceedings to which subsection (1) applies are commenced at a proclaimed place that is not a place at which they ought, under subsection (1), to have been commenced, the District Court may, on the application of a party to the proceedings or without any such application—

30        (a) order that the proceedings be continued in the District Court notwithstanding that they were commenced at that place;

*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

- 5 (b) order a change of venue of the proceedings under section 40 of the District Court Act, 1973, to such other proclaimed place as the District Court thinks proper; or
- (c) strike out the proceedings.
- 10 21E. (1) Where an order under section 21B (1) for removal into the District Court of an action in a court or of proceedings in a court in relation to a set-off takes effect, the action or set-off ceases to be an action or set-off in the court but proceedings in the action or in relation to the set-off, as the case may be, continue, in accordance with rules made under the District Court Act, 1973, in the District Court—
- 15
- 20 (a) where the order relates to an action only or to both an action and a set-off, as if the action had been duly commenced in the District Court at the place specified in the order on the date on which the plaint commencing the action was filed in the court and as if the set-off, if any, had been duly pleaded in accordance with the District Court Act, 1973, and the rules thereunder as a cross-claim in the District Court at that place on the date on which section 15 (2) was complied with with respect to the set-off; and
- 25
- 30 (b) where the order relates to a set-off only, as if the amount claimed by the defendant by way of set-off had been claimed by him in an action

*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

5                   duly commenced by him as plaintiff in the District Court at the place specified in the order on the date on which section 15 (2) was complied with with respect to the set-off.

10                   (2) Where any proceedings continue in the District Court as referred to in subsection (1), any abandonment made in accordance with section 14 or 15 has no further force or effect except to the extent that the amount originally claimed by the plaintiff before any abandonment made by him, or any amount claimed by the defendant as  
15                   a set-off before any abandonment made by him, exceeded the appropriate amount specified in section 44 (1) (a) or (b) of the District Court Act, 1973, as the case may be.

(3) Where—

20                   (a) an order is made under section 21B (1) for the removal of an action into the District Court;

(b) a set-off has been pleaded as a defence to the action and section 15 (2) has been complied with with respect to the set-off; and

25                   (c) no order under section 21B (1) has been made for the removal of the proceedings in relation to the set-off,

the set-off ceases to be a set-off in the court but proceedings on the set-off continue in the court as if the amount claimed by the defendant by way of set-off had been claimed by him, as plaintiff, in an action duly commenced by him in  
30                   the court on the date on which section 15 (2) was complied with with respect to the set-off by the filing of a plaint for the amount claimed by way of set-off and an ordinary summons.



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

- 5                   (4) Where an action continues as referred to in  
                    subsection (3)—
- 10                   (a) the ordinary summons referred to in subsection  
                    (3) shall be deemed to have been made return-  
                    able at the court in which the proceedings on the  
                    set-off continue on the day last set down for the  
                    hearing of the action the subject of the order for  
                    removal before the order for removal was made;  
                    and
- 15                   (b) the defendant in the action which so continues  
                    (being the plaintiff in the action the subject of  
                    the order for removal) shall be deemed to have  
                    been served with that ordinary summons on the  
                    day on which the copy of the notice of set-off  
                    was served on him in accordance with the rules.
- 20                   (5) Where an order under section 21B (1) for  
                    removal into the District Court of an action in a court or  
                    of proceedings in a court in relation to a set-off takes effect,  
                    any admission made in accordance with the rules for the  
                    purpose of the action or set-off shall, if it could have been  
25                   made under section 69 (1) (b) of the District Court Act,  
                    1973, or in accordance with the rules made under that  
                    Act, be treated as an admission made under section 69 (1)  
                    (b) of that Act or those rules, as the case may be.
- (6) Subsection (1) has effect subject to—
- 30                   (a) the District Court Act, 1973, and the rules made  
                    under that Act; and
- (b) any order of the District Court as to procedure.

*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

5 (7) An order made by a court in an action or in proceedings in relation to a set-off removed into the District Court under subsection (1) may be set aside or varied, and is subject to appeal, as if made by the District Court.

10 (8) Costs payable under the District Court Act, 1973, or under an order of the District Court, in respect of any step in an action or proceedings in relation to a set-off in a court removed into the District Court under subsection (1) shall be limited as may be prescribed by the rules.

DIVISION 2.—*Removal of Actions from District Court.*

15 21F. (1) Where an action is pending in the District Court and the District Court is satisfied that the action could properly have been commenced as an action in a court or that any cross-claim (whether in the nature of a set-off, cross-action or otherwise) pleaded in connection with an action so pending could properly have been pleaded as a set-off in a court, the District Court may, on application by a party to the action or of its own motion, order that—

Removal of  
proceedings  
from  
District  
Court.

20 (a) the action;

25 (b) proceedings in relation to any such cross-claim;  
or

(c) both the action and any such proceedings,  
be removed into the court for such district as the District Court may, having regard to the principles expressed in section 16, specify in the order.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

- 5           (2) The District Court shall not make an order  
under subsection (1) unless it is satisfied that—
- 10           (a) in the case of an order relating to an action  
(whether or not it also relates to a cross-claim),  
a copy of the ordinary statement of claim or of  
the statement of liquidated claim by the lodging  
of which the action was commenced has been  
served on the defendant; or
- 15           (b) in the case of an order relating to a cross-claim  
(whether or not it also relates to an action), a  
copy of the cross-claim has been served on the  
plaintiff.
- 20           (3) An order for removal made under subsection  
(1) shall take effect on service of a copy of the order on  
the registrar of the court or on earlier notification of the  
order to the registrar of the court in such manner as the  
District Court may direct.
- 25           (4) Subject to section 21G (7), an order for  
removal made under subsection (1) shall not affect the  
validity of any order made or other thing done in the action,  
or in the proceedings in relation to the cross-claim, to  
which the order for removal relates before the order for  
removal takes effect but, except as otherwise expressly  
provided by this Division, any such order or thing has no  
operation after the order for removal takes effect.
- 30           (5) Where the District Court has made an order  
for removal under subsection (1), the applicant for the  
order shall, within 10 days after the making of the order  
or within such other time as the District Court may direct,



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

5 or, if the applicant defaults, any other party may, lodge  
with the registrar of the court for the district specified in  
the order for removal a copy of each document filed in  
the District Court in the action, and in any proceedings  
10 in relation to the cross-claim, to which the order for removal  
relates.

21G. (1) Where an order under section 21F (1) for Proceedings  
removal into a court of an action in the District Court or after  
of proceedings in the District Court in relation to a cross- removal.  
claim takes effect, the action or cross-claim ceases to be an  
15 action or cross-claim in the District Court but proceedings  
in the action or in relation to the cross-claim, as the case  
may be, continue in the court—

(a) where the order relates to an action only or to  
20 both an action and a cross-claim, as if the action  
had been duly commenced in the court for the  
district specified in the order on the date on which  
the ordinary statement of claim or statement of  
liquidated claim commencing the action was  
25 lodged with a registrar of the District Court and  
as if the cross-claim, if any, had been duly  
pleaded in accordance with this Act and the rules  
as a set-off in the court for that district on the  
date on which the cross-claim was pleaded; and

(b) where the order relates to a cross-claim only, as  
30 if the amount claimed by the defendant by way  
of cross-claim had been claimed by him in an  
action duly commenced by him as plaintiff in the  
court for the district specified in the order on  
the date on which the cross-claim was pleaded.

*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

5

(2) Where an order under section 21F (1) for removal into a court of an action in the District Court or of proceedings in the District Court in relation to a cross-claim takes effect, the registrar shall forthwith—

- (a) list the action or proceedings for hearing; and
- 10 (b) serve on each of the parties to the action or proceedings a copy of the order and a notice of the listing of the action or proceedings.

(3) Where—

15

- (a) proceedings in an action continue as referred to in subsection (1) (a), or proceedings in relation to a cross-claim continue as an action as referred to in subsection (1) (b), due proof of service on the defendant of the notice referred to in subsection (2) (b) shall, for the purposes of section 26 (1) (b), be deemed to be due proof of service of the summons referred to in section 26 (1) (b); and

20

25

- (b) proceedings in relation to a cross-claim continue as referred to in subsection (1) (a), section 26 (1A) has effect as if any reference therein to the prescribed notice of set-off were a reference to the notice referred to in subsection (2) (b).

(4) Where—

30

- (a) an order is made under section 21F (1) for the removal of an action into a court;
- (b) a cross-claim has been pleaded in respect of the action; and

*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

5 (c) no order under section 21F (1) has been made  
for the removal of the proceedings in relation to  
the cross-claim,

10 the cross-claim ceases to be a cross-claim in the District  
Court but proceedings in relation to the cross-claim con-  
tinue, in accordance with rules made under the District  
Court Act, 1973, in the District Court as if the amount  
claimed by the defendant by way of cross-claim had been  
15 claimed by him, as plaintiff, in an action duly commenced  
in the District Court on the date on which the cross-claim  
was pleaded.

(5) Where an order under section 21F (1) for  
removal into a court of an action in the District Court or  
of proceedings in the District Court in relation to a cross-  
claim takes effect, any admission made as required by the  
20 District Court under section 69 (1) (b) of the District  
Court Act, 1973, or made in accordance with the rules  
made under that Act, for the purpose of the action shall, if  
it could have been made under the rules, be treated as an  
admission made under the rules in the action or  
25 proceedings in that court.

(6) Subsections (1) and (4) have effect subject  
to this Act and the rules.

(7) An order made by the District Court in an  
action or in proceedings in relation to a cross-claim  
30 removed into a court under subsection (1) may be set  
aside or varied, and is subject to appeal, as if made by the  
court.



*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

5 (8) No costs shall be payable under the District Court Act, 1973, or under an order of the District Court, in respect of any step in an action or proceedings in relation to a cross-claim removed into a court under subsection (1).

10 (9) In respect of an action or proceedings in relation to a cross-claim removed under subsection (1) into a court, there shall be payable—

15 (a) as regards the order of removal, the copies of the order and any step in the action or proceedings before the order takes effect, professional costs in such amount as may be specified in the judgment; and

20 (b) as regards any fees paid in respect of the proceedings in the District Court in the action or the proceedings in relation to the cross-claim up to and including the time of the making of the order of removal, costs in the amount of those fees,

25 but otherwise no costs as regards any such matters shall be payable under this Act.

(10) Costs allowed as referred to in subsection (9) shall be added to the judgment debt or made the subject of an order referred to in section 35, as the case may require.

30 (4) Section 28 (11)—

After “section 35”, insert “but subject to section 21G (9)”.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

5 (5) (a) Section 33 (1)—

Omit “subsection (2)”, insert instead “subsections (1A) and (2)”.

(b) Section 33 (1A)—

After section 33 (1), insert :—

- 10 (1A) Nothing in subsection (1) affects the operation of section 21G (9) or (10).

(6) Section 34—

Omit “subsection (3) of section 27”, insert instead “sections 21G (10) and 27 (3)”.

15 (7) Section 35—

After “the court may”, insert “subject to section 21G (9),”.

(8) Section 36 (2)—

After “and 35,”, insert “, but subject to section 21G (9),”.

20 (9) Section 37—

After “section”, insert “21G (9),”.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
THE REMOVAL OF ACTIONS INTO OR FROM THE  
DISTRICT COURT—*continued.*

5 (10) Section 84 (1) (n)—

Omit “or section 20 (4) of the Frustrated Contracts Act,  
1978,”.

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SCHEDULE 2.

Sec. 5.

FURTHER AMENDMENTS TO THE PRINCIPAL ACT.

10 (1) Section 12 (1)—

Omit “\$2,000”, insert instead “\$3,000”.

(2) Section 13 (3)—

Omit “\$2,000”, insert instead “\$3,000”.

(3) (a) Section 15 (1)—

15 Omit “\$2,000”, insert instead “\$3,000”.

(b) Section 15 (6)—

Omit “\$2,000”, insert instead “\$3,000”.

(c) Section 15 (8), (9)—

Omit the subsections.



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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 2—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) (a) Section 16 (1), (2), (2A)—

Omit section 16 (1) and (2), insert instead :—

5 (1) In this section, “appropriate court”, in relation to a defendant, means the court held for any one of the following districts :—

10 (a) the district in which the defendant had, at the time the cause of action arose, his place of abode;

(b) the district in which the defendant had, at that time, his place of business;

(c) the district in which the defendant had, at that time, his place of employment;

15 (d) the district in which the defendant has, at the time the action is commenced, his place of abode;

20 (e) the district in which the defendant has, at the time the action is commenced, his place of business;

(f) the district in which the defendant has, at the time the action is commenced, his place of employment;

25 (g) the district in which the cause of action arose.

(2) Every court, wherever situated, shall have jurisdiction in accordance with this Act.

*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 2—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (2A) Where an action is commenced in a court which is not an appropriate court, the defendant or any one of two or more defendants may file with the registrar of the court, within such time and in such manner as may be prescribed—

(a) a notice—

10 (i) stating that he intends to defend the action and, in the case of an action commenced by the filing of a special summons, that he intends or does not intend to defend the action in the manner referred to in section  
15 23A (2) (b) or (c);

(ii) specifying the grounds of his defence; and

20 (iii) stating that he elects that the action be transferred to an appropriate court specified in the notice; and

(b) an affidavit verifying the facts on which he intends to rely for his defence.

(b) Section 16 (3)—

25 Omit “the defendant makes an election under subsection (2)”, insert instead “a defendant files a notice, accompanied by an affidavit, under subsection (2A)”.

(c) Section 16 (3)—

30 Omit “court for the district specified in the notice of election”, insert instead “appropriate court specified in the notice”.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 2—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(d) Section 16 (4) (a)—

5 Omit “(in this subsection referred to as the ‘transferee court’)”.

(e) Section 16 (4)—

Omit “transferee court” where secondly and thirdly occurring, insert instead “court to which the action was transferred”.

10 (f) Section 16 (4) (b)—

Omit “a court for a district in which is situated a place referred to in paragraph (a) or (b) of subsection (2)”, insert instead “an appropriate court”.

(g) Section 16 (4)—

15 Omit “a court specified in the order, being a court for a district in which is situated a place referred to in paragraph (a) or (b) of subsection (2)”, insert instead “an appropriate court”.

(h) Section 16 (5) (a)—

20 Omit “court for the district”, insert instead “appropriate court”.

(i) Section 16 (5) (b)—

After “the court”, insert “making the order”.

(5) Section 17 (1)—

25 Omit “27 or 28”, insert instead “25A, 27, 28 or 40”.



*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 2—continued.

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—continued.

(6) Section 23A (2A)—

After section 23A (2), insert :—

- 5       (2A) A notice filed under section 16 (2A) shall, upon the transfer of the action, be deemed to be a notice filed under subsection (2).

(7) Section 25 (1A)—

After section 25 (1), insert :—

- 10       (1A) A notice filed under section 16 (2A) shall, upon the transfer of the action, be deemed to be a notice filed under subsection (1).

(8) (a) Section 28 (1)—

After “commenced”, insert “in a court”.

15       (b) Section 28 (1)—

Omit “sign a statement”, insert instead “file with the registrar a statement signed by him”.

(c) Section 28 (1)—

- 20       After “plaintiff”, insert “, accompanied by an affidavit as to the defendant’s property and means,”.

(d) Section 28 (2)—

After “commenced”, insert “in a court”.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 2—*continued.*FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (e) Section 28 (3), (3A), (3B)—

Omit section 28 (3), insert instead :—

5           (3) A statement under subsection (1) may, instead of being signed by the defendant, be signed by his barrister or attorney on his behalf.

10           (3A) An agreement referred to in subsection (2) may, instead of being entered into personally by the plaintiff or the defendant, be entered into by his barrister or attorney on his behalf.

15           (3B) A statement under subsection (1) or an agreement referred to in subsection (2) shall be in or to the effect of the prescribed form and shall have no force or effect for the purposes of this section unless the signature of every person executing it, other than a barrister or attorney, is witnessed by a person of a prescribed class.

## (f) Section 28 (4)—

20           Omit “Where a statement under subsection (1) is filed with the registrar, the registrar”, insert instead “The registrar with whom a statement and affidavit are filed under subsection (1)”.

## (9) Section 30 (2)—

25           At the end of section 30, insert :—

30           (2) Where a judgment is set aside, the court may, at the same time or subsequently, make such orders as it thinks fit as to the costs incurred by any party by the setting aside of the judgment or by any adjournment of the hearing of the action.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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**SCHEDULE 2—continued.****FURTHER AMENDMENTS TO THE PRINCIPAL ACT—continued.****(10) Section 37—**

- 5       Omit “27 (1), 28 (11)”, insert instead “25A (5), 27 (1),  
28 (11), 30 (2)”.

**(11) (a) Section 40 (3), (3A)—**

- 10       Omit section 40 (3), insert instead :—  
      (3) An agreement referred to in subsection (2)  
      (b) may, instead of being entered into personally by  
the judgment creditor or the judgment debtor, be  
entered into by his barrister or attorney on his behalf.

- 15       (3A) An agreement referred to in subsection (2)  
      (b) shall be in or to the effect of the prescribed form  
and shall have no force or effect for the purposes of  
this section unless the signature of every person  
executing it, other than a barrister or attorney, is  
witnessed by a person of a prescribed class.

**(b) Section 40 (12)—**

After section 40 (11), insert :—

- 20       (12) The jurisdiction under this section of any  
court that is prescribed by rules made for the purposes  
of this subsection may be exercised by the registrar of  
the court and any order made by him in the exercise  
of that jurisdiction may, on application made by the  
25 judgment creditor or the judgment debtor, be  
confirmed, varied or vacated by the court.



*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 2—*continued.*

FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(12) Section 53 (3), (3A)—

Omit section 53 (3), insert instead :—

5 (3) An agreement referred to in subsection (2) may, instead of being entered into personally by the judgment creditor or the garnishee, be entered into by his barrister or attorney on his behalf.

10 (3A) An agreement referred to in subsection (2) shall be in or to the effect of the prescribed form and shall have no force or effect for the purposes of this section unless the signature of every person executing it, other than a barrister or attorney, is witnessed by a person of a prescribed class.

SCHEDULE 3.

Sec. 5.

15 AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION.

(1) Section 2—

From the matter relating to Part VIII, omit "85", insert instead "84".

20 (2) Section 3 (1)—

Omit "to this Act".

(3) Section 4 (1), definition of "court"—

Omit "subsection (3) of section 77", insert instead "section 77 (3)".

*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—*continued.*

(4) Section 21—

5 Omit “eighteen”, insert instead “18”.

(5) Section 23A (5)—

After “such order”, insert “as it thinks fit”.

(6) (a) Section 25A (1)—

10 Omit “twenty-eight days or later than twelve”, insert  
instead “28 days or later than 12”.

(b) Section 25A (2) (c)—

Omit “fourteen”, insert instead “14”.

(c) Section 25A (3) (a)—

Omit “and”.

15 (d) Section 25A (3) (c) (i)—

After “made;”, insert “and”.

(7) (a) Section 26 (1B) (d)—

After “not”, insert “of”.

(b) Section 26 (2)—

20 Omit “paragraph (b) of subsection (1)”, insert  
instead “subsection (1) (b)”.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—*continued.*

## (8) (a) Section 27 (1)—

- 5           Omit “fourteen days or later than twelve”, insert  
          instead “14 days or later than 12”.

## (b) Section 27 (2)—

          Omit “subparagraph (ii) of paragraph (b) of sub-  
          section (1)”, insert instead “subsection (1) (b) (ii)”.

## 10          (c) Section 27 (3)—

          Omit “subparagraph (ii) or (iii) of paragraph (b) of  
          subsection (1)”, insert instead “subsection (1) (b)  
          (ii) or (iii)”.

## (9) (a) Section 28 (5)—

- 15          Omit :—

          the registrar shall forthwith after the expiration of  
          that prescribed time—

- 20           (i) enter up judgment for the plaintiff for the  
              amount to which the defendant has  
              confessed; and
- (ii) where any terms of payment are specified in  
              the statement, order that the judgment debt  
              be paid by such instalments payable at such  
              times as are so specified.

- 25          insert instead :—

          the registrar shall forthwith after the expiration of that  
          prescribed time—

- 30           (c) enter up judgment for the plaintiff for the  
              amount to which the defendant has confessed;  
              and



*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—*continued.*

5 (d) where any terms of payment are specified in the statement, order that the judgment debt be paid by such instalments payable at such times as are so specified.

(b) Section 28 (8), (9)—

Omit the subsections, insert instead :—

10 (8) An order in respect of a judgment debt made under subsection (4) (b) (ii) or (5) (d) shall be deemed to be an order made under section 40 (4) pursuant to an application made by the judgment debtor under section 40 (2) (a).

15 (9) An order in respect of a judgment debt made under subsection (6) (b) shall be deemed to be an order made under section 40 (4) pursuant to an agreement referred to in section 40 (2) (b).

(c) Section 28 (10) (b)—

20 Omit “subsection (5) of section 40”, insert instead “section 40 (5)”.

(10) (a) Section 36 (1), definition of “the prescribed amount”—

From paragraph (a), omit “forty dollars”, insert instead “\$40”.

25 (b) Section 36 (2)—

Omit “subsection (11) of section 28, and of sections 34”, insert instead “sections 28 (11), 34”.

*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—*continued.*

(11) Section 39 (2)—

- 5       Omit “subsection (3) of section 3”, insert instead “section 3 (3)”.

(12) (a) Section 40 (4) (a)—

Omit “paragraph (a) of subsection (2)”, insert instead “subsection (2) (a)”.

10       (b) Section 40 (4) (b)—

Omit “paragraph (b) of subsection (2)”, insert instead “subsection (2) (b)”.

(c) Section 40 (5)—

- 15       Omit “paragraph (a) of subsection (2)”, insert instead “subsection (2) (a)”.

(13) (a) Section 41 (1)—

Omit “paragraph (b) of subsection (2)”, insert instead “subsection (2) (b)”.

(b) Section 41 (5)—

- 20       Omit “Subsection (4) of section 11”, insert instead “Section 11 (4)”.

(c) Section 41 (5)—

Omit “of this section”.

(d) Section 41 (6)—

Omit “three”, insert instead “3”.

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*Courts of Petty Sessions (Civil Claims) Amendment.*

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**SCHEDULE 3—continued.****AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—continued.**

- (14) (a) Section 42 (3)—  
5       Omit “fourteen”, insert instead “14”.
- (b) Section 42 (4)—  
          Omit “fourteen”, insert instead “14”.
- (15) (a) Section 43A (1)—  
          Omit “fourteen”, insert instead “14”.
- 10       (b) Section 43A (3) (c)—  
          Omit “three”, insert instead “3”.
- (16) (a) Section 44 (1)—  
          Omit “paragraph (b) of subsection (2) of section 41”,  
          insert instead “section 41 (2) (b)”.
- 15       (b) Section 44 (1)—  
          Omit “subsection (4) of that section”, insert instead  
          “section 41 (4)”.
- (c) Section 44 (2)—  
          Omit “paragraph (b) of subsection (2) of section 41”,  
20       insert instead “section 41 (2) (b)”.
- (d) Section 44 (3)—  
          Omit “subsection (4) of section 40”, insert instead  
          “section 40 (4)”.



*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—*continued.*

(e) Section 44 (3)—

- 5 Omit “paragraph (a) of subsection (2) of that section”, insert instead “section 40 (2) (a)”.

(f) Section 44 (3)—

Omit “that section” where secondly occurring, insert instead “section 40”.

10 (17) Section 46—

Omit “One hundred dollars”, insert instead “\$100”.

(18) Section 47 (2) (b)—

Omit “four”, insert instead “4”.

(19) Section 48 (3)—

- 15 Omit “four”, insert instead “4”.

(20) Section 49 (1), definition of “prescribed rate”—

Omit “eight dollars” wherever occurring, insert instead “\$8”.

(21) Section 50 (1)—

- 20 Omit “ten per centum”, insert instead “10 per cent”.

(22) (a) Section 51 (1)—

Omit “subsection (4) of section 48”, insert instead “section 48 (4)”.

*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 3—continued.

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—continued.

- (b) Section 51 (2)—  
5 Omit “one” wherever occurring, insert instead “1”.
- (c) Section 51 (3)—  
Omit “one” wherever occurring, insert instead “1”.
- (23) (a) Section 52 (4) (a) (i)—  
10 Omit “two hundred and fifty dollars”, insert instead  
“\$250”.
- (b) Section 52 (4) (b)—  
Omit “two hundred and fifty dollars”, insert instead  
“\$250”.
- (c) Section 52 (5)—  
15 Omit “paragraph (b) of subsection (4)”, insert  
instead “subsection (4) (b)”.
- (24) Section 52A (4)—  
Omit “two”, insert instead “2”.
- (25) (a) Section 53 (4)—  
20 Omit “paragraph (a) of subsection (2) of section  
40”, insert instead “section 40 (2) (a)”.
- (b) Section 53 (4)—  
Omit “subsection (4) of that section”, insert instead  
“section 40 (4)”.

*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—*continued.*

(c) Section 53 (4)—

- 5 Omit “that section” where secondly occurring, insert  
instead “section 40”.

(26) Section 55 (1)—

Omit “section 55 (2)”, insert instead “subsection (2)”.

(27) Section 56 (1)—

- 10 Omit “One hundred dollars”, insert instead “\$100”.

(28) Section 58 (1)—

Omit “twelve”, insert instead “12”.

(29) Section 59 (7)—

Omit “One hundred dollars”, insert instead “\$100”.

15 (30) Section 60 (2)—

Omit “section 4 (1)”, insert instead “section 5”.

(31) Section 61—

- 20 Omit “the hour of eight in the afternoon on one day and  
seven in the forenoon”, insert instead “8 p.m. on one day  
and 7 a.m.”.



*Courts of Petty Sessions (Civil Claims) Amendment.*

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE  
LAW REVISION—*continued.*

(32) Section 65 (3) (b)—

5 Omit “paragraph (a) of subsection (1)”, insert instead  
“subsection (1) (a)”.

(33) (a) Section 66 (1) (b)—

Omit “debtor) is”, insert instead “debtor), is”.

(b) Section 66 (3)—

10 Omit “subparagraph (i) of paragraph (d) of sub-  
section (1)”, insert instead “subsection (1) (d) (i)”.

(c) Section 66 (3)—

Omit “subsection (1) of section 65”, insert instead  
“section 65 (1)”.

15 (34) (a) Section 72 (8)—

Omit “subsection (3) of section 84”, insert instead  
“section 84 (3)”.

(b) Section 72 (8)—

20 Omit “that section”, insert instead “section 84 of that  
Act”.

(35) Section 76—

Omit “One hundred dollars”, insert instead “\$100”.

*Courts of Petty Sessions (Civil Claims) Amendment.*

**SCHEDULE 3—continued.**

**AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW  
REVISION—continued.**

(36) Section 77 (1)—

- 5 Omit “up, or the order had been made, by”, insert instead  
“up by, or the order had been made by.”

(37) (a) Section 79—

Omit “Two hundred dollars”, insert instead “\$200”.

(b) Section 79—

- 10 Omit “six”, insert instead “6”.

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