

**COURTS OF PETTY SESSIONS (CIVIL CLAIMS)
FURTHER AMENDMENT ACT, 1982, No. 166**

New South Wales



ANNO TRICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 166, 1982.

An Act to amend the Courts of Petty Sessions (Civil Claims) Act, 1970, as a consequence of the enactment of the Local Courts Act, 1982; to vary the requirements for certain forms; and to make certain savings. [Assented to, 24th December, 1982.]

Courts of Petty Sessions (Civil Claims) Further 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:—

Short title.

1. This Act may be cited as the "Courts of Petty Sessions (Civil Claims) Further Amendment Act, 1982".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on the day appointed and notified pursuant to section 2 (2) of the Local Courts Act, 1982.

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.

SCHEDULE 2.—SAVINGS.

Amendment of Act No. 11, 1970.

5. The Principal Act is amended in the manner set forth in Schedule 1.

Courts of Petty Sessions (Civil Claims) Further Amendment.

Savings.

6. Schedule 2 has effect.

SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT.

- (1) Long title—

Omit “courts of petty sessions”, insert instead “Local Courts”.

- (2) Section 1 (1)—

Omit “Courts of Petty Sessions”, insert instead “Local Courts”.

- (3) Section 3 (2)—

Omit the subsection.

- (4) (a) Section 4 (1), definitions of “court”, “district”—

Omit the definitions, insert instead:—

“court” means a Local Court, other than a Local Court in respect of which an order under section 77 (3) is in force;

“district” means a district appointed under section 6 (1) of the Local Courts Act, 1982, for which a court shall be held;

- (b) Section 4 (1), definitions of “Local Court”, “Magistrate”—

After the definition of “garnishee order”, insert:—

“Local Court” means a Local Court established under the Local Courts Act, 1982;

Courts of Petty Sessions (Civil Claims) Further Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

“Magistrate” means a Magistrate within the meaning of the Local Courts Act, 1982;

(5) (a) Section 5 (2)—

Omit “court of petty sessions” where secondly occurring, insert instead “Local Court”.

(b) Sections 5 (2), 6, 18 (2), 32 (4), 44 (5), 75 (2), 81—

Omit “stipendiary magistrate” wherever occurring, insert instead “Magistrate”.

(6) Section 8 (2)—

Omit “clerk of petty sessions”, insert instead “Clerk of the Local Court”.

(7) Sections 13 (2), 19 (2), 81—

Omit “court of petty sessions” wherever occurring, insert instead “Local Court”.

(8) Section 83A—

After section 83, insert:—

Forms.

83A. (1) Forms to be used for the purposes of this Act, including the forms of any affidavits or other documents to be so used, shall be in or to the effect of forms approved for the time being for those purposes by an order made by the Chief Magistrate of the Local Courts appointed under the Local Courts Act, 1982.

Courts of Petty Sessions (Civil Claims) Further Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(2) Where the form of any document to be used in a Local Court for the purposes of this Act has not been approved under subsection (1), the form of the document shall be adequate for those purposes if it has been approved by the registrar of the court.

- (9) Section 84 (1) (b)—
Omit the paragraph.

SCHEDULE 2.

(Sec. 6.)

SAVINGS.

Interpretation: Sch. 2.

1. In this Schedule—

“corresponding Court” has the meaning ascribed to that expression in clause 1 of Schedule 1 to the Local Courts Act, 1982;

“Local Court” means a Local Court established under the Local Courts Act, 1982;

“the commencement” means the commencement of this Schedule.

Saving of certain appointments.

2. (1) Any person holding office as a deputy registrar at a court of petty sessions immediately before the commencement shall be deemed to have been appointed, under section 8 (3) of the Principal Act, as amended by this Act, as a deputy registrar at the corresponding Court.

(2) Any person holding office as a bailiff at a court of petty sessions immediately before the commencement shall be deemed to have been appointed, in accordance with the provisions of the Principal Act, as amended by this Act, and the rules made under that Act, as so amended, as a bailiff for the service and execution, in the district for which the corresponding Court is appointed to be held, of the processes, judgments and orders authorised by that Act, as so amended, and those rules.

Courts of Petty Sessions (Civil Claims) Further Amendment.

SCHEDULE 2—*continued.*SAVINGS—*continued.***Certain proceedings after abolition of courts of petty sessions.**

3. (1) All proceedings pending under the Principal Act in a court of petty sessions immediately before the commencement may be continued and completed in the corresponding Court under the Principal Act, as amended by this Act, and any judgment or order of a court of petty sessions that has been abolished given or entered up or made under the Principal Act before the commencement may be enforced and proceedings taken thereon in the same manner as if the proceedings had been commenced in, or the judgment had been given or entered up in, or the order had been made in, the corresponding Court under the Principal Act, as so amended.

(2) For the purpose of enabling the provisions of subclause (1) to be carried into effect, any act, matter or thing done or omitted to be done pursuant to the Principal Act before the commencement by a stipendiary magistrate, a registrar for a court of petty sessions or a deputy registrar or a bailiff at a court of petty sessions shall be deemed to have been done or omitted to be done by a Magistrate, the registrar for the corresponding Court or a deputy registrar or bailiff at the corresponding Court, as the case may require.

Saving of certain references.

4. Except in so far as the context or subject-matter otherwise indicates or requires (and subject to the exceptions, if any, prescribed by rules made under the Principal Act), a reference in any Act, other than this Act (whether the other Act was assented to before, or is assented to on or after, the date of assent to this Act) or in any regulation, by-law, rule or other statutory instrument or in any other document, whether of the same or a different kind, to the Courts of Petty Sessions (Civil Claims) Act, 1970, shall be read and construed as a reference to the Local Courts (Civil Claims) Act, 1970.

Section 77 of the Principal Act inapplicable.

5. Section 77 of the Principal Act does not apply to or in respect of the abolition of any court of petty sessions by the Local Courts Act, 1982.

Certain forms deemed to be approved.

6. Any forms prescribed, immediately before the commencement, by rules made under section 84 of the Principal Act shall, on the commencement, be deemed to be approved by an order made under section 83A (1) of that Act, as amended by this Act.

Courts of Petty Sessions (Civil Claims) Further Amendment.

SCHEDULE 2—*continued.*

SAVINGS—*continued.*

Saving relating to certain rules.

7. Any rule which was made under section 84 of the Principal Act, section 84 (1) (b) of that Act excepted, before the commencement and which—

(a) was in force immediately before the commencement; or

(b) is expressed to take effect on the day appointed and notified under section 2 (2) of the Local Courts Act, 1982,

shall be deemed to have been made under section 84 of the Principal Act, as amended by this Act.

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

J. A. ROWLAND,
Governor.

Government House,
Sydney, 24th December, 1982.

