

CONCURRENCE COPY

DISTRICT COURT (INTEREST) AMENDMENT BILL, 1983

EXPLANATORY NOTE

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

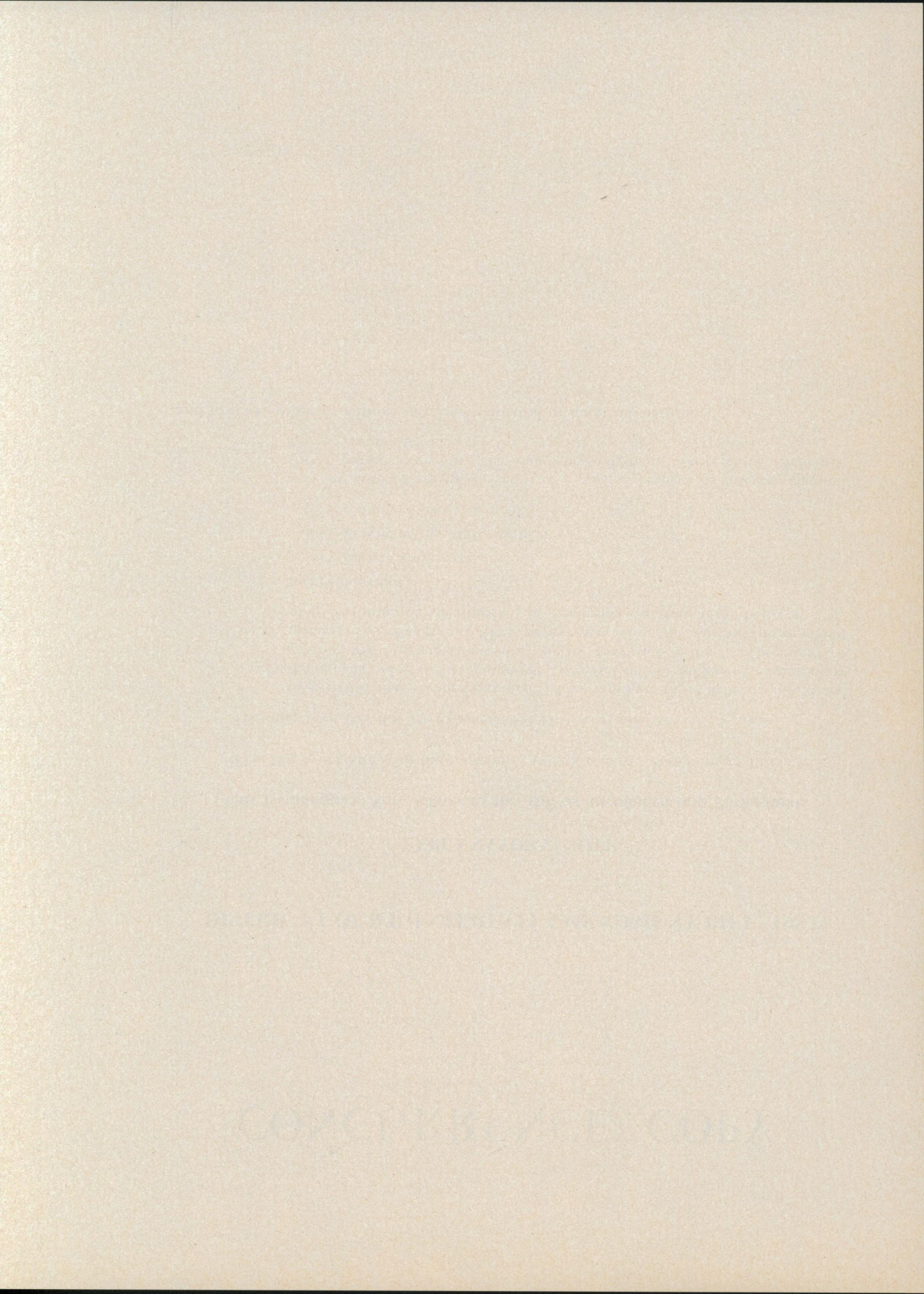
This Bill is cognate with the Supreme Court (Interest) Amendment Bill, 1983.

The objects of this Bill are to amend the District Court Act, 1973, so as—

- (a) to provide that, where payment of an amount of a debt or liquidated demand is made before judgment (whether or not judgment is ultimately given), the District Court may in its discretion order the payment of interest on that amount for a period preceding the date of the payment of that amount (Schedule 1 (2)—proposed section 83A (1A)); and
- (b) to provide that—
 - (i) default judgment;
 - (ii) judgment by confession; or
 - (iii) judgment by agreement,

may be entered up in the District Court in respect of interest claimed for a period preceding the date the judgment takes effect (Schedule 1 (3)—proposed section 83AA),

and to make other provisions of a consequential or ancillary nature.



DISTRICT COURT (INTEREST) AMENDMENT BILL, 1983

NO. , 1983.

A BILL FOR

An Act to amend the District Court Act, 1973, in relation to the payment of interest in certain cases.

[MR WALKER—12 *October*, 1983.]

District Court (Interest) 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 Short title.

1. This Act may be cited as the "District Court (Interest) Amendment Act, 1983".

Commencement.

2. (1) Except as provided by subsection (2), this Act shall commence 10 on the date of assent to this Act.

(2) Section 3 and Schedule 1 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.

Amendment of Act No. 9, 1973.

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

Transitional provisions.

4. (1) The provisions of section 83A (1A) of the District Court Act, 1973, as amended by this Act, apply to proceedings commenced before the 20 day appointed and notified under section 2 (2), as well as to proceedings commenced on or after that day, but do not operate to authorise the giving of interest on money paid before that day.

(2) The provisions of section 83AA of the District Court Act, 1973, as amended by this Act, do not apply to proceedings commenced before 25 the day appointed and notified under section 2 (2).

District Court (Interest) Amendment.

SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE DISTRICT COURT ACT, 1973.

(1) Section 3—

5 From the matter relating to Subdivision 9 of Division 3 of Part III, omit "83A", insert instead "83AA".

(2) (a) Section 83A (1A)—

After section 83A (1), insert:—

(1A) Where—

10 (a) proceedings have been commenced for the recovery of a debt or liquidated demand; and

(b) payment of the whole or a part of the debt or demand is made during the currency of the proceedings and prior to or without judgment being given in respect
15 of the debt or demand,

the Court may order that interest be paid at such rate as it thinks fit on the whole or any part of the money paid for the whole or any part of the period between the date when the cause of action arose and the date of the payment.

20 (b) Section 83A (2)—

Omit "Subsection (1)", insert instead "This section".

(3) Section 83AA—

After section 83A, insert:—

Entering up of judgment for interest.

25 83AA. (1) In this section, "interest" means interest of the kind referred to in section 83A.

District Court (Interest) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE DISTRICT COURT ACT, 1973—*continued.*

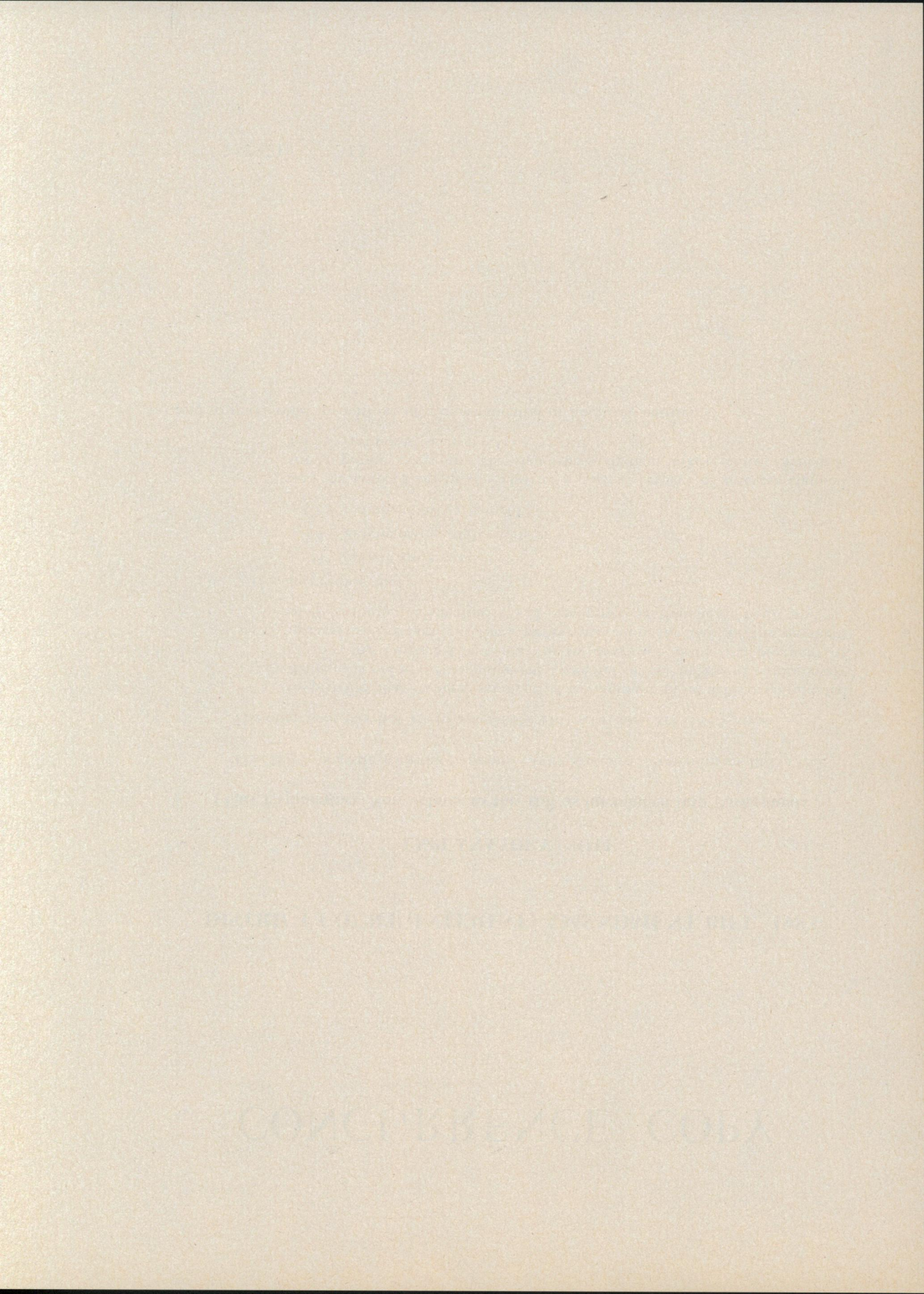
5 (2) Subject to the rules, where in any proceedings of a prescribed class or description the plaintiff has, in accordance with the rules, claimed interest, the amount of interest calculated in accordance with the claim shall, for the purposes of sections 58, 60, and 61, be deemed to be part of the amount claimed in respect of the cause of action for which the proceedings were commenced, and judgment may, subject to and in accordance with those sections, 10 accordingly be entered up with respect to any such amount of interest.

(3) The rules may provide that, for the purposes of subsection (2) and sections 58, 60 and 61 (or any of those sections)—

- 15 (a) interest shall be deemed to have been claimed at a prescribed rate instead of at the rate (if any) at which it was in fact claimed; and
- (b) interest shall be deemed to have been claimed for a 20 prescribed period instead of for the period (if any) for which it was in fact claimed.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1983



DISTRICT COURT (INTEREST) AMENDMENT ACT, 1983,
No. 202

New South Wales



ANNO TRICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 202, 1983.

An Act to amend the District Court Act, 1973, in relation to the payment
of interest in certain cases. [Assented to, 31st December, 1983.]

District Court (Interest) 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 "District Court (Interest) Amendment Act, 1983".

Commencement.

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.

(2) Section 3 and Schedule 1 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.

Amendment of Act No. 9, 1973.

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

Transitional provisions.

4. (1) The provisions of section 83A (1A) of the District Court Act, 1973, as amended by this Act, apply to proceedings commenced before the day appointed and notified under section 2 (2), as well as to proceedings commenced on or after that day, but do not operate to authorise the giving of interest on money paid before that day.

(2) The provisions of section 83AA of the District Court Act, 1973, as amended by this Act, do not apply to proceedings commenced before the day appointed and notified under section 2 (2).

District Court (Interest) Amendment.

SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE DISTRICT COURT ACT, 1973.

(1) Section 3—

From the matter relating to Subdivision 9 of Division 3 of Part III, omit "83A", insert instead "83AA".

(2) (a) Section 83A (1A)—

After section 83A (1), insert:—

(1A) Where—

- (a) proceedings have been commenced for the recovery of a debt or liquidated demand; and
- (b) payment of the whole or a part of the debt or demand is made during the currency of the proceedings and prior to or without judgment being given in respect of the debt or demand,

the Court may order that interest be paid at such rate as it thinks fit on the whole or any part of the money paid for the whole or any part of the period between the date when the cause of action arose and the date of the payment.

(b) Section 83A (2)—

Omit "Subsection (1)", insert instead "This section".

(3) Section 83AA—

After section 83A, insert:—

Entering up of judgment for interest.

83AA. (1) In this section, "interest" means interest of the kind referred to in section 83A.

District Court (Interest) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE DISTRICT COURT ACT, 1973—*continued.*

(2) Subject to the rules, where in any proceedings of a prescribed class or description the plaintiff has, in accordance with the rules, claimed interest, the amount of interest calculated in accordance with the claim shall, for the purposes of sections 58, 60, and 61, be deemed to be part of the amount claimed in respect of the cause of action for which the proceedings were commenced, and judgment may, subject to and in accordance with those sections, accordingly be entered up with respect to any such amount of interest.

(3) The rules may provide that, for the purposes of subsection (2) and sections 58, 60 and 61 (or any of those sections)—

- (a) interest shall be deemed to have been claimed at a prescribed rate instead of at the rate (if any) at which it was in fact claimed; and
- (b) interest shall be deemed to have been claimed for a prescribed period instead of for the period (if any) for which it was in fact claimed.

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

L. W. STREET,
*By Deputation from
His Excellency the Governor.*

*Government House,
Sydney, 31st December, 1983.*