

**DISTRICT COURT (CIVIL CLAIMS) AMENDMENT BILL
1987**

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Local Courts (Civil Claims) Amendment Bill 1987.

The objects of this Bill are to amend the District Court Act 1973 as a consequence of the enactment of the proposed Local Courts (Civil Claims) Amendment Act 1987—

- (a) to increase from \$1,000 to \$4,000 the minimum amount for which an action may be brought in the District Court without leave of the Court; and
- (b) to amend the procedures relating to the enforcement of a summons for the examination of a judgment debtor by a judgment creditor.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the days on which corresponding provisions in the proposed Local Courts (Civil Claims) Amendment Act 1987 commence.

Clause 3 gives effect to the Schedule of amendments to the Principal Act.

Schedule 1 (1) amends section 48 (Miscellaneous limitations on jurisdiction) of the Principal Act to increase from \$1,000 to \$4,000 the minimum amount for which an action may be brought in the District Court without leave of the Court.

Schedule 1 (2) amends section 92 (Failure to attend in answer to examination summons) of the Principal Act—

- (a) to remove the requirement that conduct money must be tendered to a judgment debtor in connection with the service of an examination summons;

District Court (Civil Claims) Amendment 1987

- (b) to impose a time limit of 3 months on the issue, at the request of the judgment creditor, of a warrant for the apprehension of a judgment debtor; and
 - (c) to enable the 3-month time limit to be extended in appropriate circumstances.
-

DISTRICT COURT (CIVIL CLAIMS) AMENDMENT BILL 1987

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 9, 1973

SCHEDULE 1—AMENDMENTS

**DISTRICT COURT (CIVIL CLAIMS) AMENDMENT BILL
1987**

NEW SOUTH WALES



No. , 1987

A BILL FOR

An Act to amend the District Court Act 1973 as a consequence of the enactment of the Local Courts (Civil Claims) Amendment Act 1987.

District Court (Civil Claims) Amendment 1987

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the District Court (Civil Claims) Amendment Act 1987.

5 Commencement

2. (1) Except as provided by subsection (2), this Act commences when Schedule 1 to the Local Courts (Civil Claims) Amendment Act 1987 commences.

(2) Schedule 1 (2), and section 3 in its application to that provision, 10 commences when Schedule 2 (25) to the Local Courts (Civil Claims) Amendment Act 1987 commences.

Amendment of Act No. 9, 1973

3. The District Court Act 1973 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

15

(Sec. 3)

(1) Section 48 (**Miscellaneous limitations on jurisdiction**)—

Section 48 (1)—

Omit “\$1,000”, insert instead “\$4,000”.

(2) Section 92 (**Failure to attend in answer to examination summons**)—

20

(a) Section 92 (1)—

Omit the subsection, insert instead:

25

(1) If, at the time set down (whether originally or in an order under subsection (7A) (d) or on an adjournment) for the examination of the person to whom an examination summons is directed—

30

- (a) the person fails to attend before the presiding registrar;
- (b) that registrar has no information which satisfies that registrar that the judgment debt has been paid;
- (c) there is due proof of service of the examination summons on the person (or, if the examination has been adjourned, that the person has been notified of the time and place fixed for the examination); and

35

(d) the judgment creditor so requests,
that registrar shall report in writing to the Court that the person has so failed to attend.

District Court (Civil Claims) Amendment 1987

SCHEDULE 1—AMENDMENTS—*continued*

(b) Section 92 (4)—

Omit “, after the expiration of that period,”, insert instead “, not earlier than 14 days and not later than 3 months after the Court authorised the issue of the warrant for the examination of the person,”.

(c) Section 92 (4A)—

After section 92 (4), insert:

(4A) If a judgment creditor fails to make an application under subsection (4) within the time limited by that subsection, the Court may, on satisfactory explanation by the judgment creditor as to the reasons for the failure, and if it thinks fit, direct the registrar to issue a warrant for the apprehension of the person to whom the examination summons was directed.

DISTRICT COURT (CIVIL CLAIMS) AMENDMENT ACT 1987 No. 282

NEW SOUTH WALES



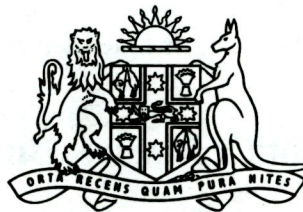
TABLE OF PROVISIONS

1. Short title
 2. Commencement
 3. Amendment of Act No. 9, 1973
- SCHEDULE 1—AMENDMENTS**
-



DISTRICT COURT (CIVIL CLAIMS) AMENDMENT ACT 1987
No. 282

NEW SOUTH WALES



Act No. 282, 1987

An Act to amend the District Court Act 1973 as a consequence of the enactment of the Local Courts (Civil Claims) Amendment Act 1987.
[Assented to 16 December 1987]

District Court (Civil Claims) Amendment 1987

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the District Court (Civil Claims) Amendment Act 1987.

Commencement

2. (1) Except as provided by subsection (2), this Act commences when Schedule 1 to the Local Courts (Civil Claims) Amendment Act 1987 commences.

(2) Schedule 1 (2), and section 3 in its application to that provision, commences when Schedule 2 (25) to the Local Courts (Civil Claims) Amendment Act 1987 commences.

Amendment of Act No. 9, 1973

3. The District Court Act 1973 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 48 (Miscellaneous limitations on jurisdiction)—

Section 48 (1)—

Omit “\$1,000”, insert instead “\$4,000”.

(2) Section 92 (Failure to attend in answer to examination summons)—

(a) Section 92 (1)—

Omit the subsection, insert instead:

(1) If, at the time set down (whether originally or in an order under subsection (7A) (d) or on an adjournment) for the examination of the person to whom an examination summons is directed—

- (a) the person fails to attend before the presiding registrar;
- (b) that registrar has no information which satisfies that registrar that the judgment debt has been paid;
- (c) there is due proof of service of the examination summons on the person (or, if the examination has been adjourned, that the person has been notified of the time and place fixed for the examination); and
- (d) the judgment creditor so requests,

that registrar shall report in writing to the Court that the person has so failed to attend.

District Court (Civil Claims) Amendment 1987

SCHEDULE 1—AMENDMENTS—*continued*

(b) Section 92 (4)—

Omit “, after the expiration of that period,”, insert instead “, not earlier than 14 days and not later than 3 months after the Court authorised the issue of the warrant for the examination of the person,”.

(c) Section 92 (4A)—

After section 92 (4), insert:

(4A) If a judgment creditor fails to make an application under subsection (4) within the time limited by that subsection, the Court may, on satisfactory explanation by the judgment creditor as to the reasons for the failure, and if it thinks fit, direct the registrar to issue a warrant for the apprehension of the person to whom the examination summons was directed.

