

Act No. 27, 1912.

An Act for consolidating enactments relating to
Claims against the Government and Crown
Suits. [26th November, 1912.]

BE it enacted by the King'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 :—

1. This Act may be cited as the "Claims against the Government and Crown Suits Act, 1912." Short title.

2. (1) The Acts mentioned in the Schedule to this Act are hereby repealed. Repeal.
Schedule.

(2) All rules of court made or deemed to have been made under the authority of any Act hereby repealed, and being in force at the time of the passing of this Act, shall be deemed to have been made under the authority of this Act. Rules of court under
Acts hereby repealed.
Act No. 30, 1897, s. 2.

Claims against the Government and Crown Suits.

Claimant may
petition Governor.
Act No. 30, 1897, s. 3.

3. (1) Any person having or deeming himself to have any just claim or demand whatever against the Government of New South Wales may set forth the same in a petition to the Governor praying him to appoint a nominal defendant in the matter of such petition, and the Governor may by notification in the Gazette appoint any person resident in New South Wales to be a nominal defendant accordingly.

Governor may
appoint nominal
defendant.

(2) If within one month after presentation of such petition no such notification is made, the Colonial Treasurer shall be the nominal defendant.

Petitioner may sue
as in ordinary cases.
Ibid. s. 4.

4. The petitioner may sue such nominal defendant at law or in equity in any competent court, and every such case shall be commenced in the same way, and the proceedings and rights of parties therein shall as nearly as possible be the same, and judgment and costs shall follow or may be awarded on either side as in an ordinary case between subject and subject.

Action not to abate
by reason of death of
nominal defendant.
Act No. 4, 1904, s. 2.

5. The death of a nominal defendant appointed under this Act, or any Act hereby repealed, shall not cause the action or suit to abate, but it may be continued as hereinafter provided.

Governor to appoint
fresh nominal
defendant.
Ibid. s. 3 (2).

6. Where such death occurs the Governor shall, by notification in the Gazette, appoint any person resident in New South Wales to be a nominal defendant within fourteen days after being petitioned to do so by the claimant.

Order of court for
amendment of
pleadings.
Ibid. s. 4.

7. On an appointment being made under the last preceding section, the court before whom any such action or suit is pending, or a judge of such court, may order that the pleadings, issue, or record in the action or suit be amended by substituting for the original defendant the name of the nominal defendant so appointed; and thereupon all judgments, decrees, and orders made or given in the action or suit in respect of the original defendant shall have effect in respect of the person so appointed, and all future proceedings may be continued against the said person as if he had been the original nominal defendant.

Limited liability of
nominal defendant.
Act No. 30, 1897, s. 5.

8. The nominal defendant in any case under this Act shall not be individually liable in person or property by reason of his being such defendant.

Nature of relief.
Ibid. s. 6.

9. In any action or suit under this Act all necessary judgments, decrees, and orders may be given and made, including every species of relief, whether by way of—

- (a) specific performance; or
- (b) restitution of rights; or
- (c) recovery of lands or chattels; or
- (d) payment of money or damages.

Claims against the Government and Crown Suits.

10. In any information, action, suit, or other proceeding by or on behalf of the Crown in respect of any property of the Crown, the proceeds, or rents, or profits whereof by any Act now in force or hereafter to be passed are to be carried to the Consolidated Revenue Fund of New South Wales, or in respect of any money due to the Crown by virtue of any Act relating to the public revenue, costs shall follow or may be awarded as in an ordinary case between subject and subject.

Costs in proceedings by Crown.
Act No. 30, 1897, s. 7.

11. (1) The Colonial Treasurer shall pay—

Treasurer to pay damages, &c.
Ibid. s. 8.

(a) all damages and costs adjudged against such nominal defendant; or

(b) costs awarded against the Crown or Attorney-General, out of any moneys in his hands then legally applicable thereto and forming part of or belonging to the Consolidated Revenue or voted by Parliament for that purpose.

(2) In the event of such payment not being made within sixty days after demand, execution may be had for the amount, and levied upon any property vested in the Government, but not upon any property—

Execution.

(a) vested in the Government on behalf of the Imperial Government; or

(b) to which the Imperial Government has any claim or is in anywise entitled.

12. Costs recovered by or on behalf of the Crown shall be paid into the Treasury and become part of the Consolidated Revenue.

Payment into Treasury.
Ibid. s. 9.

13. (1) The judges of the Supreme Court, or any three of them, may make general rules for carrying this Act into effect.

Rules.
Ibid. s. 10.

(2) Such rules shall not be inconsistent with this Act, and on being published in the Gazette shall have the force of law.

(3) Copies of all such rules shall be laid before both Houses of Parliament within seven days after publication thereof, or if Parliament be not sitting, then within seven days after the commencement of the next ensuing session.

(4) If either House shall at any time by resolution disapprove of such rules, the rules so disapproved of shall, on notification of such resolution to the Chief Justice, cease and determine.

Act No. 28, 1912.

Careless Use of Fire.

SCHEDULE.

Reference to Act.	Title of Act.
Act No. 30, 1897...	Claims against the Government and Crown Suits Act, 1897.
Act No. 4, 1904...	Claims against the Government and Crown Suits (Amendment) Act, 1904.