

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

New South Wales



ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

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.]

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

c)

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 :—

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 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.

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
ACT.

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

Courts of Petty Sessions (Civil Claims) Amendment.

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

Saving. **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.

Sec. 5.

SCHEDULE 1.

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.

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.*

(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.*

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.*

(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.

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. **Stay of proceedings in petty sessions.**

(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. **Place of application for removal or stay.**

(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.*

- (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.

Proceedings
after
removal.

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—

- (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
- (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.*

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.

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.*

(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.

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.*

(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.*

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.

- (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.

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.*

(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,

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.*

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.

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.

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.*

(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**

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.*

- (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.

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.*

(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)”.

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) (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),”.

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.*

(10) Section 84 (1) (n)—

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

Sec. 5.

SCHEDULE 2.

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.

Courts of Petty Sessions (Civil Claims) Amendment.

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.

Courts of Petty Sessions (Civil Claims) Amendment.

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”.

Courts of Petty Sessions (Civil Claims) Amendment.

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”.

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 :—

(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”.

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 :—

(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.

Courts of Petty Sessions (Civil Claims) Amendment.

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.

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 :—

(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.

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)”.

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—

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)”.

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

Courts of Petty Sessions (Civil Claims) Amendment.

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”.

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”.

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)—
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)”.

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)—

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)”.

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)—
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)”.

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)—

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.”.

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)—

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 subsection (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”.

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)—

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”.
