



LOCAL COURTS AMENDMENT ACT (No. 2) 1985

No. 103 of 1985

TABLE OF PROVISIONS

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. Short title. 2. Commencement. 3. Principal Act. 4. Amendment of section 7 of Principal Act (Interpretation). 5. Amendment of section 29 of Principal Act (Duties of bailiff, &c.). 6. Amendment of section 128 of Principal Act (Fees). | <ol style="list-style-type: none"> 7. Insertion in Principal Act of new section 149. 149—Regulations. 8. Amendment of Schedule V to Principal Act (RULES OF PRACTICE). 9. Amendment of Schedule VI to Principal Act (FORMS). 10. Provision with respect to the Rules of Court under the Principal Act. |
|---|--|

AN ACT to amend the Local Courts Act 1896.

[Royal Assent 14 November 1985]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Local Courts Amendment Act* (No. 2) 1985. Short title.

2—(1) This section and section 1 shall commence on the day on which this Act receives the Royal assent. Commencement.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be fixed by proclamation.

Principal Act.

3—In this Act, the *Local Courts Act 1896** is referred to as the Principal Act.

Amendment of section 7 of Principal Act (Interpretation).

4—Section 7 of the Principal Act is amended by inserting the following definition before the definition of “ bailiff ”:—

“ authorized server ” has the meaning assigned to that expression in section 29 (5);

Amendment of section 29 of Principal Act (Duties of bailiff, &c.).

5—Section 29 of the Principal Act is amended as follows:—

(a) by inserting in subsection (3) “ or by a person who is the holder of a subsisting process server’s licence under the *Commercial and Inquiry Agents Act 1974* or who is specified in section 42 (1) of that Act as a person to whom that Act does not apply ” after “ those proceedings ”;

(b) by adding the following subsection after subsection (4):—

(5) Where a person other than a bailiff serves any process in any proceedings (being a process that is authorized or required to be served by him under the rules of practice), that person (in this Act referred to as “ an authorized server ”) is entitled to recover a service fee in accordance with a scale prescribed by the regulations.

Amendment of section 128 of Principal Act (Fees).

6—Section 128 of the Principal Act is amended by omitting “ such fees as are prescribed by the Rules of Court ” and substituting “ fees in accordance with a scale prescribed by the regulations ”.

Insertion in Principal Act of new section 149.

7—After section 148 of the Principal Act, the following section is inserted:—

Regulations.

149—The Governor may make regulations—

(a) prescribing a scale or scales of service fees for the purposes of section 29 (5);

(b) prescribing a scale or scales of fees for the purposes of section 128;

* 60 Vict. No. 48. For this Act, as amended as at 1st July 1977, see the continuing Reprint of Statutes. Subsequently amended by No. 99 of 1982, Nos. 47 and 79 of 1983, No. 29 of 1984, and No. 13 of 1985.

- (c) prescribing the fees that are payable in respect of the inspection of processes filed in a court, including, without prejudice to the generality of the foregoing, prescribing a maximum fee payable in respect of any such inspections that are made in respect of particular proceedings during any one day or during any other period specified in the regulations; and
- (d) prescribing matters for or with respect to any of the fees referred to in paragraph (a), (b), or (c).

8—Schedule V to the Principal Act is amended as follows:—

Amendment of
Schedule V to
Principal Act
(RULES OF
PRACTICE).

- (a) by omitting rules 2A and 3 and substituting the following rules:—

2A. For the purposes of subsection (3) of section 29 of the Act, the following process in any proceedings may be served by a party to those proceedings or by another person referred to in that subsection:—

- (a) a summons to appear to a plaintiff;
- (b) a summons to a witness;
- (c) a summons for directions;
- (d) a notice of defence;
- (e) all other interlocutory process.

3. Unless a person who, in any proceedings, files process mentioned in rule 2A otherwise notifies the registrar in writing, the registrar shall, forthwith after that process is filed, issue it to the bailiff to be served by him.

- (b) by inserting in rule 11 (1) “ or authorized server ” after “ bailiff ”;
- (c) by inserting in rule 11 (2) “ or an authorized server ” after “ bailiff ”;
- (d) by omitting from rule 18 “ an additional copy ” and substituting “ 2 additional copies ”;
- (e) by inserting in rule 34 “ or an authorized server ” after “ bailiff ”;
- (f) by inserting in rule 35 “ or an authorized server ” after “ bailiff ”.

Amendment of Schedule VI to Principal Act (FORMS).

9—Form 5 in Schedule VI to the Principal Act is amended as follows:—

- (a) by omitting “ bailiff ”, where firstly occurring, and substituting “ *bailiff ”;
- (b) by inserting “/*of
[address], [description], being an authorized server,” after “ [title of court],”;
- (c) by omitting “ E.F., Bailiff.” and substituting the following:—

.....
*Bailiff/*Authorized Server.

Provision with respect to the Rules of Court under the Principal Act.

10—(1) In this section, the Rules of Court means the Rules of Court made as provided in section 148 of the Principal Act and in force immediately before the day fixed by proclamation under section 2 (2).

(2) The provisions in the Rules of Court prescribing the fees payable under section 128 of the Principal Act shall, on the day fixed by proclamation under section 2 (2), cease to have effect.