

No. 2771.

An Act to amend the Law relating to
Default Summonses.

[30th November, 1915.]

BE it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

1. This Act may be cited as the *Default Summonses Act* 1915 and shall be read and construed as one with the *Justices Act* 1915 which Act and this Act may be cited together as the Justices Acts.

2. (1) Section

Short title
construction
and citation.
No. 2675.

2. (1) Section ninety-nine of the *Justices Act* 1915 is hereby amended as follows :—

Amendment of
No. 2675 s. 99.

(a) In sub-section (2) of the said section ninety-nine after the words "therein mentioned" there shall be inserted the words "or before the clerk of petty sessions as hereinafter provided"; and after the words "court of petty sessions" where last occurring there shall be inserted the words "or clerk of petty sessions (as the case may be)."

No. 2675 s. 99
(2).

(b) In sub-section (3) of the said section ninety-nine for the words "and an order in his favour may be made by the court notwithstanding his absence" there shall be substituted the words—
"and notwithstanding his absence an order in his favour may be made by the court of petty sessions or (whether the court of petty sessions is then sitting or not) by the clerk of petty sessions, and—

Power of clerk of
petty sessions
in case of
default
summons if no
notice given of
intention to
defend to
make order in
favour of
complainant.
No. 2675 s. 99
(3).
Comp. No. 2636
s. 64.

(i) an order (including any award of costs) made by the clerk of petty sessions as aforesaid shall to all intents and purposes be the same and have the same effect and be enforced in like manner as if it had been an order of the court of petty sessions; and

Ib. s. 63.

(ii) it shall be a sufficient compliance with the provisions of sub-section (4) of section eighty-four of the *Justices Act* 1915 if the entries made in the register relating to any order made by the clerk of petty sessions as aforesaid are signed by the said clerk making the order instead of by a justice or justices."

No. 2675 s. 84
(4).

(c) In sub-section (4) of the said section ninety-nine for the words "on the hearing of such complaint" there shall be substituted the words "whether by the court of petty sessions on the hearing of such complaint or by the clerk of petty sessions as aforesaid (as the case may be)."

Ib. s. 99 (4).

(d) For

Re-enactment
of No. 2675 s.
99 (6) (a).

(d) For paragraph (a) of sub-section (6) of the said section ninety-nine there shall be substituted the following paragraph :—

Power to set
aside order
when made.

“(a) Where an order has been made as aforesaid (whether by a court of petty sessions or a clerk of petty sessions) any court of petty sessions sitting at the place where the summons on which the order was made was returnable or any police magistrate (whether sitting in court or not) may within twenty-one days after the making of the order and upon being satisfied by affidavit or statutory declaration that the defendant has a good defence set aside the order, and reinstate the complaint, and appoint a time and place for the hearing thereof, and, if necessary, stay or set aside any warrant of distress upon the order, and give leave to defend upon such terms as to costs or otherwise as to the said court or police magistrate seem just.”

Consequential
amendment of
No. 2675 s. 99
(6) (c).

(e) In paragraph (c) of sub-section (6) of the said section ninety-nine after the word “court” there shall be inserted the words “or police magistrate”; and for the words “submitted to it” there shall be substituted the words “submitted to it or him.”

Due service on
defendant
corporation
deemed to be
personal
service in case
of default
summons.

(f) At the end of the said section ninety-nine there shall be added the following new sub-section:—

“(9) Service upon a body corporate in the manner provided by any Act of Parliament relating to any such body corporate shall be deemed personal service within the meaning of this section.”

Amendment of
Form 64,
Second Schedule
to No. 2675.

(2) In Form 64 of the Second Schedule to the *Justices Act* 1915 the words “by the court” are hereby repealed.

No. 2772.