



## NORTHERN TERRITORY OF AUSTRALIA

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No. 43 of 1988

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### AN ACT

to amend the *Small Claims Act*

[Assented to 15 September 1988]

**B**E it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Small Claims Amendment Act 1988*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

The *Small Claims Act* is in this Act referred to as the Principal Act.

4. DEFINITIONS

Section 4 of the Principal Act is amended -

- (a) by omitting from the definition of "Court" in subsection (1) "Stipendiary Magistrate" and substituting "Magistrate, and includes a Clerk when exercising the jurisdiction of the Court in accordance with the Rules";
  - (b) by omitting from the definition of "judgment" in subsection (1) "assessing the amount of damages";
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(c) by inserting after the definition of "proceedings" in subsection (1) the following:

"'Rules' means the Rules made under section 50;"  
and

(d) by omitting subsection (2).

5. PROCEEDINGS UNDER THIS ACT

Section 5(1) of the Principal Act is amended by omitting "2,000 dollars" and substituting "\$5,000".

6. REPEAL OF SECTIONS 6 AND 7

Sections 6 and 7 of the Principal Act are repealed.

7. ABANDONMENT OF EXCESS

Section 8 of the Principal Act is amended by omitting "2,000 dollars" (twice occurring) and substituting "\$3,000".

8. REPEAL AND SUBSTITUTION

Sections 9, 10 and 11 of the Principal Act are repealed and the following substituted:

"9. PRE-HEARING CONFERENCES

"(1) The Court may, on or without the application of a party, order that a claim be referred to a magistrate or the Clerk for a pre-hearing conference.

"(2) A magistrate or the Clerk shall conduct the pre-hearing conference in accordance with the Rules and may -

(a) if the matter is not settled between the parties, refer back to the Court; or

(b) enter an order with the consent in writing of each of the parties.

"(3) An order entered under subsection (2)(b) has effect as an order of the Court."

9. REPEAL AND SUBSTITUTION

Section 13 of the Principal Act is repealed and the following substituted:

"13. EVIDENCE MAY BE ON OATH, &c.

"The Court may require a person giving evidence in proceedings before it to take an oath."

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10. REPEAL OF SECTIONS 15, 16, 17 AND 20

Sections 15, 16, 17 and 20 of the Principal Act are repealed.

11. WITNESS TO ANSWER QUESTIONS

Section 21 of the Principal Act is amended by omitting "500 dollars" and substituting "\$1,000".

12. COURT MAY ORDER PROCEEDINGS BE DEALT WITH UNDER LOCAL COURTS ACT

Section 23 of the Principal Act is amended by omitting subsections (4), (5), (6) and (7).

13. COURT MAY ORDER PROCEEDINGS UNDER LOCAL COURTS ACT BE DEALT WITH UNDER THIS ACT

Section 24 of the Principal Act is amended by omitting subsections (4) and (5).

14. REPEAL OF SECTIONS 25 AND 26

Sections 25 and 26 of the Principal Act are repealed.

15. COURT MAY AMEND CLAIM

Section 30 of the Principal Act is amended by omitting "of a party" and substituting "of a party or, on the application or with the consent of the applicant, to bring the proceedings within the Court's jurisdiction".

16. NEW SECTION

The Principal Act is amended by inserting after section 30 the following:

"30A. ORDER OF COURT

"(1) Where a settlement is made in respect of a claim, the Court shall, on the request of a party to the settlement, make an order that gives effect to the terms of the settlement.

"(2) The Court may make an order -

(a) that requires a party to the proceedings before it (other than the claimant) to pay money to a person specified in the order;

(b) that requires a party to the proceedings before it (other than the claimant) to perform work to rectify a defect in goods or services to which the claim in the proceedings relates;

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- (c) in the case of a claim for relief from payment of money -
  - (i) that money in an amount specified is not due or owing by the claimant to a person specified in the order; or
  - (ii) that requires the claimant to pay money to a person specified in the order;
- (d) that dismisses the claim to which the proceedings relates;
- (e) that requires a party to the proceedings before it to return any goods to which the claim in the proceedings relates and which are in his possession or control, whether the property therein has passed or not, to a person specified in the order; or
- (f) that requires a party to the proceedings before it (other than the claimant) to replace any goods to which the claim in the proceedings relates,

or any 2 or more of those things.

"(3) An order may direct that what is by that order required to be done shall be done within a time limited in the order."

17. REPEAL OF SECTION 31

Section 31 of the Principal Act is repealed.

18. REPEAL AND SUBSTITUTION

Sections 32 to 38, inclusive, of the Principal Act are repealed and the following substituted:

"32. APPEAL TO SUPREME COURT

"(1) Subject to this Act, a party to proceedings may appeal to the Supreme Court against a judgment under this Act on the grounds that -

- (a) the decision was wrong in law; or
- (b) the conduct of the proceedings was unfair.

"(2) An appeal under this section shall be made in accordance with the Rules of the Supreme Court.

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"33. WRITTEN REASONS FOR ORDER

"Where a copy of a notice of appeal is, in accordance with the Supreme Court Rules, filed in the Court, the Court may, in its discretion, give to the Supreme Court and the parties the reasons in writing for the order made or the procedure adopted by the Court in resolving the issue in dispute."

19. BASIS ON WHICH APPEAL DETERMINED

Section 39(1) of the Principal Act is amended by omitting all words after "is concluded".

20. REPEAL OF SECTION 41

Section 41 of the Principal Act is repealed.

21. PARTIES TO BE ASSISTED IN INSTITUTING PROCEEDINGS, &c.

Section 43 of the Principal Act is amended by omitting "The Chief Magistrate" and substituting "The Clerk of the Court".

22. REPEAL OF SECTION 44

Section 44 of the Principal Act is repealed.

23. COURT FEES

Section 45(2) of the Principal Act is amended -

- (a) by omitting from paragraph (c) "and";
- (b) by omitting from paragraph (d) "a judgment," and substituting "a judgment; and"; and
- (c) by inserting after paragraph (d) the following:  
"(e) for the personal service of a document,".

24. REPEAL OF SECTIONS 46, 47 AND 48

Sections 46, 47 and 48 are repealed.

25. REPEAL AND SUBSTITUTION

Section 50 of the Principal Act is repealed and the following substituted:

"50. RULES

"(1) The Chief Magistrate, within the meaning of the *Magistrates Act*, may make such rules and give such practice directions, not inconsistent with this Act -

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- (a) regulating the practice and procedures of the Court, including the practice and procedures to be followed in the registry; and
- (b) regulating and prescribing all matters and things incidental or relating to any such practice or procedure or to costs,

as are necessary or convenient for the conduct of the business of the Court.

"(2) The Rules may impose or confer on the Clerk functions and powers in relation to the Court and proceedings before the Court and the Clerk shall perform those functions and may exercise those powers accordingly.

"(3) Subject to this Act, the practice and procedures of the Court in relation to a matter within its jurisdiction are in the discretion of the Court."

26. FURTHER AMENDMENTS

The Principal Act is further amended as set out in the Schedule.

27. REPEAL OF SMALL CLAIMS REGULATIONS

The Small Claims Regulations made under the Principal Act, being Regulations 1982, No. 57, are repealed.

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SCHEDULE

Section 26

Provision	Amendment	
	Omit	Substitute
Section 4(1)	" <i>Local Courts Ordinance</i> " (twice occurring)	" <i>Local Courts Act</i> "
Section 5(1)	" <i>Local Courts Ordinance</i> "	" <i>Local Courts Act</i> "
Section 18(2)	"1,000 dollars"	"\$1,000"
Section 20(4)	"Registrar"	"Master"
Section 20(8)	" <i>Local Courts Ordinance</i> "	" <i>Local Courts Act</i> "
Section 22	" <i>Local Courts Ordinance</i> "	" <i>Local Courts Act</i> "
Section 23(1)	" <i>Local Courts Ordinance</i> "	" <i>Local Courts Act</i> "
Section 24(1)	" <i>Local Courts Ordinance</i> "	" <i>Local Courts Act</i> "
Section 29(2)	" <i>Local Courts Ordinance</i> "	" <i>Local Courts Act</i> "
Long title and sections 1, 2, 4, 5, 19, 20(4), 22, 24(1), 28, 29(1), 30, 42(1) and 43(a)	"Ordinance" (wherever occurring)	"Act"