

THE NORTHERN TERRITORY OF AUSTRALIA

No. 115 of 1979

AN ACT

To amend the Local Courts Act

[Assented to 28 September 1979]

BE 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. This Act may be cited as the <u>Local Courts Act</u> (No. 2) 1979. | Short title |
| 2. The <u>Local Courts Act</u> is in this Act referred to as the Principal Act. | Principal Act |
| 3. This Act shall come into operation on a date to be fixed by the Administrator by notice in the <u>Gazette</u> . | Commencement |
| 4. Section 27 of the Principal Act is amended by omitting "2,000 dollars" (wherever occurring) and substituting "\$10,000". | Jurisdiction of Courts of Full Jurisdiction |
| 5. Section 28 of the Principal Act is amended by omitting "100 dollars" (wherever occurring) and substituting "\$500". | Jurisdiction of Courts of Limited Jurisdiction |
| 6. After section 32 of the Principal Act the following sections are inserted: | |
| "32A. Where, in any action or proceeding in a Local Court, a <u>prima facie</u> case of liability is established by any contract, and there is alleged as a matter of defence a right to be relieved wholly or partially from such liability, the Court may make an order for the preservation or interim custody of the subject-matter of the litigation, or may order that the amount in dispute be brought into Court or otherwise secured. | Interim order for preservation of subject-matter |

Local Courts (No. 2)

Order for sale
of perishable
or other
property

"32B. The Court may, in any action or proceeding in a Local Court, on the application of a party to the action or proceeding, make an order for the sale, by any person or persons named in the order, and in such manner and on such terms as the Court orders, of any goods, wares or merchandise which are of a perishable nature or are likely to be injured from keeping, or which, for any other just and sufficient reason, it is desirable to have sold at once.

Order for
detention,
preservation
or inspection
of property

"32C. The Court may, in any action or proceeding in a Local Court, on the application of a party to the action or proceeding, and upon such terms as it thinks fit, make an order for the detention, preservation or inspection of any property or thing, being the subject-matter of the litigation, or as to which any question may arise in the action or proceeding, and for all or any of those purposes, may authorize a person to enter upon or into any land or building in the possession of a party to the action or proceeding, and for all or any of those purposes, may authorize any samples to be taken, or any observation to be made or experiment to be tried, which seems necessary or expedient for the purpose of obtaining full information or evidence.

Injunction to
restrain
repetition or
commission of
acts of like
kind

"32D. In any action or proceeding in a Local Court in which an injunction has been or might have been claimed, the plaintiff may, before or after judgment, apply for an injunction to restrain the defendant or respondent from the repetition or continuance of the wrongful act or breach of contract complained of, or from the commission of any injury or breach of contract of a like kind relating to the same property or right, or arising out of the same contract, and the Court may grant the injunction, either upon or without terms, as is just.

Equities
appearing
incidentally

"32E.(1) A Local Court shall take notice of all equitable estates, titles and rights, and of all equitable duties and liabilities appearing incidentally in the course of an action or proceeding, in the manner in which the English Court of Chancery would, immediately before the commencement of The Supreme Court of Judicature Act, 1873 of the United Kingdom, have taken notice of those matters in an action or proceeding properly instituted in that Court.

"(2) A Local Court shall have -

(a) jurisdiction to pronounce any declaratory judgment; and

Local Courts (No. 2)

(b) jurisdiction in equity to pronounce or make any judgment, decree or order,

that is, in the opinion of the Court, incidental or ancillary to, and necessary or expedient for, the just determination of an action or proceeding before the Court.

"(3) This section does not confer on a Local Court jurisdiction to entertain any principal claim for declaratory or equitable relief that it would not otherwise have had jurisdiction to entertain or, in any event, jurisdiction to make any order or adjudication otherwise than in accordance with established principles upon which declaratory or equitable relief may be granted.

"(4) The provisions of sub-section (2) are supplementary to, and do not derogate from, the equitable jurisdiction otherwise conferred upon a Local Court under this Act."

7. After section 54 of the Principal Act the following section is inserted:

"54A.(1) A party intending to appeal under section 54(1) or (2) shall within 28 days after the day on which the judgment, determination, order or interlocutory order was delivered or made, serve on or post to the Clerk of the Court and the opposite party or his solicitor in the action or proceeding a notice in writing of his intention to appeal.

Notice of
intention
to appeal

"(2) A notice referred to in sub-section (1) shall not operate as a stay of proceedings under the judgment, determination, order or interlocutory order from which it is intended to appeal."
