

Serial 11
Small Claims Amendment Bill 2001
Dr Toyne

**A BILL
for
AN ACT**

to amend the *Small Claims Act*



NORTHERN TERRITORY OF AUSTRALIA
SMALL CLAIMS AMENDMENT ACT 2001

No. of 2001

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NORTHERN TERRITORY OF AUSTRALIA

No. of 2001

AN ACT

to amend the *Small Claims Act*

[Assented to 2001]
[Second reading 2001]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Small Claims Amendment Act 2001*.

2. Commencement

This Act comes into operation on the day on which, but immediately after, the *Local Court Amendment Act 2001* commences.

3. Principal Act

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

4. Repeal and substitution

Sections 19 and 20 of the Principal Act are repealed and the following substituted:

"19. Party to proceedings may not commence or continue any other proceedings for same cause or matter

"Subject to this Act, if the Court makes a final order in proceedings, a party to the proceedings may not commence or continue any other proceedings

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(whether under this Act or any other law) in any court for the same cause or matter.

"20. Re-hearing

"(1) If, other than in an appeal to the Court, an order is made in proceedings against a party to the proceedings who –

- (a) did not file a notice of defence;
- (b) did not appear in the proceedings; or
- (c) consented to the making of the order but there are grounds on which to satisfy the Court that the order is to be set aside (for example on the grounds of fraud, duress, suppression of evidence or the giving of false evidence),

the party may, subject to and in accordance with the Rules, apply to the Court for an order that the order be set aside and that the proceedings be re-heard.

"(2) On an application under this section, the Court may set aside the order subject to such terms and conditions, if any, as it considers just and re-hear the proceedings.

"(3) An application under this section operates as a stay of the order unless the Court orders otherwise.

"(4) If an application made under this section is heard and determined, the party who made the application must not file in respect of the proceedings to which the determined application relates another application under this section without the leave of the Court or the consent of the other party."

5. Heading to Part III

The heading to Part III is omitted.

6. New Part

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

"PART III – APPEALS

"31. Appeal from order made by Registrar

"(1) A party to proceedings may appeal to the Court constituted by a magistrate from an order in those proceedings made by a Registrar.

"(2) A party to proceedings may not appeal to the Supreme Court from an order in those proceedings made by a Registrar.

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"(3) An appeal under subsection (1) is to –

(a) be made within 14 days after the day on which the order appealed against was made (and, if so, is made without the leave of the Court); or

(b) be made with the leave of a Registrar or a magistrate.

"(4) The hearing of the appeal is to be by hearing de novo.

"(5) The appeal does not operate as a stay of the order appealed against unless a magistrate orders otherwise.

"32. Other appeals to be made after final order of magistrate

"(1) A party to proceedings may appeal to the Supreme Court on one or both of the following grounds:

(a) that an order made in those proceedings by a magistrate is wrong on a question of law;

(b) that the conduct of the proceedings was unfair.

"(2) A party may not make an appeal under subsection (1) until a magistrate has made the final order in the proceedings.

"(3) An appeal under subsection (1) is to be made within 28 days after the day on which the magistrate made the final order in the proceedings.

"33. Matters relating to appeals to Supreme Court

"(1) An appeal from proceedings to the Supreme Court is to be brought in accordance with the Rules of the Supreme Court.

"(2) After hearing and determining the appeal, the Supreme Court may make any order it thinks just, including an order remitting the case for re-hearing to the Court with or without directions on the law.

"(3) An order made by the Supreme Court on an appeal from proceedings, other than an order remitting the case for re-hearing to the Court, may be enforced as an order of the Supreme Court."

7. Repeal

Sections 45 and 49 of the Principal Act are repealed.

8. New section

The Principal Act is amended by adding at the end the following:

"51. Regulations

"(1) The Administrator may make regulations, not inconsistent with this Act, prescribing matters –

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

"(2) Without limiting the generality of subsection (1), the Regulations may –

- (a) prescribe fees and charges payable in respect of a proceeding in the Court or any other matter or thing under this Act, including for inspection and copies of documents relating to proceedings;
 - (b) prescribe the time for the payment of fees and charges;
 - (c) provide for the waiver of the payment of a fee or charge, in whole or in part, or the exemption of specified persons from the payment of a fee or charge;
 - (d) provide for the recovery of a fee or charge, including a fee or charge that has been waived or that a person is exempt from paying;
 - (e) provide for payment to the Court of an amount equal to a fee or charge that has been waived, or that a person is exempt from paying, on the recovery of the fee or charge; and
 - (f) provide for the recovery of disbursements."
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