



ANNO VICESIMO QUARTO

ELIZABETHAE SECUNDAE REGINAE

No. 23 of 1975

**An Act to amend the Magistrates Courts Act 1921–1974
for the purpose of facilitating the hearing and
determination of actions for small debts and to provide
for matters related thereto**

[ASSENTED TO 15TH MAY, 1975]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. **Short title and citation.** (1) This Act may be cited as the *Magistrates Courts Act Amendment Act 1975*.

(2) The *Magistrates Courts Act 1921–1974* is in this Act referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *Magistrates Courts Act 1921–1975*.

2. Commencement. This Act shall commence on a day to be fixed by Proclamation.

3. Amendment of s. 2. Section 2 of the Principal Act is amended by inserting after the term "Action" and its meaning the following term and meaning:—

“ “ Action for a small debt ”—An action—

(a) in which the plaintiff seeks to recover a debt or liquidated demand in money payable by the defendant with or without interest which, inclusive of interest, does not exceed the sum of \$450 whether on a balance of account or after an admitted set-off, a reduction on account of any sum paid by or credited to the defendant or an abandonment of excess or otherwise; and

(b) which the plaintiff by his plaint elects to have heard and determined as an action for a small debt;”.

4. Repeal of and new s. 7. The Principal Act is amended by repealing section 7 and substituting the following section:—

“ **7. Constitution of Court.** Every action, including an action for a small debt, within the jurisdiction of the Court for hearing and determination shall be heard and determined by a stipendiary magistrate sitting alone provided that, where the Rules of Court permit, an action, other than an action for a small debt, may be heard and determined by a registrar, not being a member of the Police Force, who shall, subject to and in accordance with the Rules of Court, have the jurisdiction and powers a stipendiary magistrate has for the purpose.”.

5. New s. 7A. The Principal Act is amended by inserting after section 7 the following section:—

“ **7A. Actions for small debts.** (1) An action in which a plaintiff seeks to recover a debt or liquidated demand in money payable by a defendant with or without interest which, inclusive of interest, does not exceed the sum of \$450 whether on a balance of account or after an admitted set-off, a reduction on account of any sum paid by or credited to the defendant or an abandonment of excess or otherwise may at the election of the plaintiff be heard and determined as an action for a small debt in accordance with this Act, and a Court, within its district and otherwise in accordance with this Act, has power and authority to hear and determine such action.

(2) The Court when hearing and determining an action for a small debt is called a Small Debts Court.”.

6. Amendment of s. 10. Section 10 of the Principal Act is amended by, in subsection (1), omitting the proviso and substituting the following proviso:—

“ Provided that the hearing and determination of an action for a small debt and of any other action in which the sum sued for is less than \$150 shall be guided by equity, good conscience and the substantial merits of the case without regard to technicalities or any rules of evidence, and upon the hearing of any action for a small debt or other action as aforesaid a record of evidence given or received is not required to be made.”

7. Amendment of s. 11. Section 11 of the Principal Act is amended by inserting after subsection (5) the following subsection:—

“(6) The judgment of the Magistrates Court upon an action for a small debt shall be final and binding on all parties to the action and no appeal shall lie in respect thereof. No prerogative writ, whether certiorari, prohibition or otherwise shall issue and no declaratory judgment shall be given in respect of an action for a small debt or in respect of an order or judgment therein unless the court before which such writ or judgment is sought is satisfied that the Magistrates Court had no jurisdiction in respect of the action or that there has occurred a denial of natural justice to a party to the action.”

8. New s. 11A. The Principal Act is amended by inserting after section 11 the following section:—

“ **11A. Settlement.** If upon the hearing of an action for a small debt it appears to the Court that there are reasonable prospects of settling any matter in dispute by conciliation, the Court may, at any stage of the proceedings, do all such things and take all such steps as may be likely to effect a settlement of the action, but if no such settlement can be reached, the Court may complete the hearing and determination of the action unless, in his absolute discretion, the stipendiary magistrate constituting the Court considers that he is or may be biased or likely to be biased by any statement or admission made by any party to or before him, in which case the action shall be heard and determined by the Court constituted by another stipendiary magistrate.”

9. New s. 11B. The Principal Act is amended by inserting after section 11A as inserted by this Act the following section:—

“ **11B. Closed hearing of actions for small debts.** The hearing of an action for a small debt shall take place and the determination in respect thereof shall be made in a closed court or in chambers.”

10. New s. 11C. The Principal Act is amended by inserting after section 11B as inserted by this Act the following section:—

“ 11C. Publication of particulars of actions for small debts.

(1) A registrar shall, in accordance with directions given by the Attorney-General, cause to be published periodically in the Gazette the following particulars relating to actions for small debts in the district in respect of which he is the registrar:—

- (a) the name of the plaintiff;
- (b) the name of the defendant;
- (c) the nature of the action;
- (d) the nature of the judgment of the Court.

(2) The Attorney-General may give directions to every such registrar concerning times when such particulars are to be published, and such directions may be given to registrars generally or to any particular registrar.”.