



# Magistrates Courts Act 1921

Current as at 1 August 2025

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## Queensland

# Magistrates Courts Act 1921

## Contents

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|               |  | Page |
|---------------|--|------|
| <b>Part 1</b> | <b>Preliminary</b>   |      |
| 1             | Short title .....  | 5    |
| 2             | Definitions .....  | 5    |
| 3             | Registrars .....   | 6    |
| 3A            | Principal clerk of courts is principal registrar .....                               | 6    |
| 3B            | Delegation by registrar .....  | 6    |
| 3C            | Appointment of bailiffs and bailiff's assistants .....                               | 7    |
| <b>Part 2</b> | <b>Jurisdiction</b>  |      |
| 4             | Jurisdiction of Magistrates Courts .....   | 7    |
| 4AAA          | Calculating whether amount, value, damage or sum is more than prescribed limit ..... | 8    |
| 4AA           | Proceeding commenced in central registry .....                                       | 9    |
| 4AB           | Preliminary disclosure orders .....  | 9    |
| 4A            | Consent jurisdiction .....   | 10   |
| 5             | Abandonment of excess etc. ....  | 10   |
| 6             | Splitting debt by giving bills etc. ....   | 11   |
| 7             | Title to land etc. ....  | 11   |
| 8             | Infants .....  | 11   |
| 9             | Executors etc. ....  | 11   |
| 10            | Corporations .....   | 12   |
| 11            | Plaint when equitable claim .....  | 12   |
| <b>Part 3</b> | <b>Magistrates Court</b>   |      |
| 14            | Magistrates Courts to be courts of record .....                                      | 12   |
| 14A           | Business of Magistrates Court .....  | 12   |
| 14B           | Process returnable in registry where issued but effective throughout State .....     | 13   |
| 15            | In what Magistrates Courts actions to be brought .....                               | 13   |

Contents

---

|                      |  |    |
|----------------------|--|----|
| 16                   | Constitution of Magistrates Courts .....                                       | 13 |
| <b>Part 4</b>        | <b>Practice and procedure</b>  |    |
| 18                   | Court appearance .....   | 13 |
| 19                   | Laws of evidence .....   | 14 |
| 20                   | Evidence .....   | 14 |
| <b>Part 5A</b>       | <b>Processes for employment claims</b>   |    |
| <b>Division 1</b>    | <b>Preliminary</b>   |    |
| 42A                  | Object of pt 5A .....  | 14 |
| 42B                  | Application of pt 5A .....   | 15 |
| 42C                  | Decision of Magistrates Court about whether claim is an employment claim ..... | 15 |
| <b>Division 2</b>    | <b>Conciliation of disputes</b>  |    |
| <b>Subdivision 1</b> | <b>What is conciliation</b>  |    |
| 42D                  | Meaning of conciliation process .....  | 16 |
| 42E                  | Functions of conciliator .....   | 16 |
| <b>Subdivision 2</b> | <b>Starting conciliation process</b>   |    |
| 42F                  | Registrar must appoint conciliator .....                                       | 17 |
| 42G                  | Requirement for conciliator to start conciliation process .....                | 17 |
| <b>Subdivision 3</b> | <b>Conduct of conciliation process</b>   |    |
| 42H                  | Attendance at and participation in conciliation process .....                  | 18 |
| 42I                  | Procedure for conciliation process .....                                       | 18 |
| 42J                  | Limited right to representation .....  | 18 |
| 42K                  | No fee or costs payable to conciliator by parties .....                        | 19 |
| <b>Subdivision 4</b> | <b>Procedure for finishing conciliation process</b>                            |    |
| 42L                  | Conciliator to file certificate .....  | 19 |
| 42M                  | Conciliation agreements .....  | 19 |
| 42N                  | Orders giving effect to conciliation agreement .....                           | 20 |
| <b>Subdivision 5</b> | <b>Confidentiality, protection and immunity</b>                                |    |
| 42O                  | Conciliators to maintain secrecy .....   | 20 |
| 42P                  | Ordinary protection and immunity allowed .....                                 | 21 |
| 42Q                  | Admission made in conciliation process .....                                   | 21 |
| 42R                  | No official record of conciliation process .....                               | 21 |
| <b>Subdivision 6</b> | <b>Approval of conciliators</b>  |    |
| 42S                  | Approval of members of industrial relations commission .....                   | 22 |
| 42T                  | Approval of other persons by Chief Magistrate .....                            | 22 |
| 42U                  | Revocation of approval .....   | 22 |

---

|                   |  |    |
|-------------------|--|----|
| 42V               | Appeal against refusal to approve as, or revocation of approval of, conciliator .....                        | 22 |
| 42W               | Payment of conciliators .....  | 23 |
| 42X               | Conciliation register .....  | 23 |
| <b>Division 3</b> | <b>Special provisions for proceedings heard in Magistrates Court</b>   |    |
| 42Z               | Application of div 3 .....   | 23 |
| 42ZA              | Representation of parties .....  | 23 |
| 42ZB              | No inference may be drawn from failure to settle .....   | 24 |
| 42ZC              | Limitation on awarding of costs .....  | 24 |
| <b>Part 6</b>     | <b>Judgments, new trials, appeals and related matters</b>  |    |
| 43                | Judgments to be final .....  | 24 |
| 44                | New trial .....  | 25 |
| 45                | Appeal .....   | 25 |
| 45A               | Limitation on appeal if simplified procedures apply .....  | 26 |
| 46                | Special case stated .....  | 26 |
| 47                | Jurisdiction of the District Court .....   | 26 |
| <b>Part 7</b>     | <b>Miscellaneous</b>   |    |
| 50                | Contempt .....   | 27 |
| 51                | Transferred proceeding .....   | 28 |
| 53                | Action against officers .....  | 28 |
| 54                | Court fees .....   | 29 |
| 55                | Fees and fines to be paid to consolidated fund .....   | 29 |
| 56                | Fines, how to be enforced .....  | 29 |
| 57                | Procedure of court .....   | 29 |
| 57A               | Annual report .....  | 29 |
| 57B               | Finance .....  | 29 |
| 57C               | Rule-making power .....  | 30 |
| 58                | Regulation-making power .....  | 30 |
| <b>Part 9</b>     | <b>Validations, savings and transitional</b>   |    |
| 59                | References to Small Debts Court .....  | 30 |
| 60                | Transitional provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010 ..... | 30 |
| 61                | Outdated references .....  | 31 |
| 62                | Transitional provision for Criminal Code and Other Legislation (Wage Theft) Amendment Act 2020 .....         | 31 |

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# Magistrates Courts Act 1921

**An Act to amend the laws relating to the jurisdiction of magistrates and justices of the peace in civil matters**

## Part 1 Preliminary

### 1 Short title

This Act may be cited as the *Magistrates Courts Act 1921*.

### 2 Definitions

In this Act—

***action*** includes an action and proceedings in replevin or interpleader and garnishee proceedings.

***conciliation process*** see section 42D.

***conciliator*** means a person approved as a conciliator under section 42S or 42T.

***dispute***, for part 5A, means a dispute that is the subject of an employment claim.

***district*** means a district appointed under the *Justices Act 1886* for the purposes of a Magistrates Court.

***employment claim*** see section 42B.

***lawyer*** means an Australian lawyer who, under the *Legal Profession Act 2007*, may engage in legal practice in this State.

***party*** means a party to a dispute.

***prescribed limit*** means \$150,000.

***referring court***, for a conciliation process, means the Magistrates Court the registrar of which appointed a conciliator for the dispute.

***relevant organisation***, for a person, means an organisation within the meaning of the *Industrial Relations Act 2016*, schedule 5, of which the person is a member or is eligible to become a member.

***rules*** means the *Uniform Civil Procedure Rules 1999*.

### **3 Registrars**

A clerk of the court under the *Justices Act 1886* is the registrar of each Magistrates Court held at each place for which the clerk is appointed.

#### **3A Principal clerk of courts is principal registrar**

- (1) There is to be a principal registrar of Magistrates Courts.
- (2) The principal clerk of courts appointed under the *Justices Act 1886*, section 22D also holds appointment as the principal registrar of Magistrates Courts.
- (3) The principal registrar of Magistrates Courts may—
  - (a) discharge the powers and functions of each registrar mentioned in section 3; and
  - (b) give directions to each registrar mentioned in section 3, and to any other officer employed in a registry of a Magistrates Court, about the discharge of the functions of the registrar or other officer.

#### **3B Delegation by registrar**

- (1) A registrar of a Magistrates Court may delegate the registrar's functions to an appropriately qualified person who is a public service employee in a Magistrates Court registry.
- (2) In this section—



*appropriately qualified*, for a public service employee to whom a function may be delegated, includes having the qualifications, experience or standing appropriate for the function.

*Example of standing—*

a person's classification level in the public service

*functions* includes powers.

### **3C Appointment of bailiffs and bailiff's assistants**

- (1) A Magistrates Court shall from time to time appoint a bailiff or bailiffs for the service and execution of the process, judgments, and orders authorised by this Act.
- (2) Such bailiff or bailiffs shall receive to their own use the prescribed fees.
- (3) A bailiff may appoint an appropriate person in writing to assist the bailiff.
- (4) The bailiff is responsible for the civil acts and defaults of the assistant in the discharge or purported discharge of the assistant's duties as assistant.
- (5) A registrar of a Magistrates Court may give directions to a bailiff or bailiff's assistant appointed under this section about the discharge of the functions of the bailiff.

## **Part 2 Jurisdiction**

### **4 Jurisdiction of Magistrates Courts**

- (1) Subject to this Act—
  - (a) every personal action in which the amount, value or damage sought to be recovered is not more than the prescribed limit, whether on a balance of account or after an admitted set-off or otherwise, including any claim for detention of goods or chattels; and

- (b) every action brought to recover a sum of not more than the prescribed limit, which is the whole or part of the unliquidated balance of a partnership account, or the amount or part of the amount of the distributive share under an intestacy or of a legacy under a will; and
- (c) every action in which a person has an equitable claim or demand against another person in respect of which—
  - (i) the only relief sought is—
    - (A) the recovery of a sum of money or of damages, whether liquidated or unliquidated; or
    - (B) the delivery of possession of goods or chattels in relation to a right, security interest, encumbrance, charge or lien; and
  - (ii) the amount, value or damage claimed is not more than the prescribed limit;

may be commenced in a Magistrates Court, and all Magistrates Courts shall within their respective districts have power and authority to hear and determine in a summary way all such actions.

- (2) For the purpose of determining whether a Magistrates Court has jurisdiction under subsection (1) for a claim for detention of goods or chattels, the amount claimed is taken to be the total of—
  - (a) the amount claimed for the value of the goods or chattels; and
  - (b) any amount claimed for damages for the detention of the goods or chattels.

#### **4AAA Calculating whether amount, value, damage or sum is more than prescribed limit**

In calculating whether, for this part, an amount, value, damage or sum claimed, or sought to be recovered, in an action is

more than the prescribed limit, the following amounts must not be considered—

- (a) an amount of interest that is payable as of right whether because of a law, agreement or otherwise; or
- (b) an amount of interest that may be awarded by a court, including, for example, an amount of interest that may be awarded under the *Civil Proceedings Act 2011*, section 58.

#### **4AA Proceeding commenced in central registry**

- (1) Despite section 4, if under the rules a proceeding that may be started in a Magistrates Court is started in a registry for a Magistrates Court that is a central registry, that Magistrates Court has jurisdiction for the proceeding.
- (2) Subsection (1) does not prevent the proceeding being transferred to another Magistrates Court under the rules.

*Examples—*

Rule 40 (Change of venue by court order) of the rules allows a proceeding to be sent for trial to, or to be dealt with by, another court if the first court is satisfied the proceeding can be more conveniently or fairly heard or dealt with in the other court. Rule 41 (Change of venue by agreement) of the rules allows the court to transfer a proceeding on the agreement of the parties.

#### **4AB Preliminary disclosure orders**

- (1) A Magistrates Court has jurisdiction to make orders under this section.
- (2) On application, the court may make, under the rules, a preliminary disclosure order for the purpose of enabling the applicant to—
  - (a) ascertain the identity or whereabouts of a prospective defendant; or
  - (b) make a decision about starting a relevant proceeding.
- (3) In this section—

***identity***, of a prospective defendant, includes the name and occupation, if any, of the prospective defendant.

***prospective defendant***, in relation to an applicant, means a person against whom the applicant intends to start a relevant proceeding.

***relevant proceeding*** means a proceeding for which a Magistrates Court has jurisdiction.

***whereabouts***, of a prospective defendant, includes a place of residence, registered office, place of business or other location of the prospective defendant.

#### **4A Consent jurisdiction**

- (1) If the parties to a proceeding in relation to an amount for which the Supreme Court or District Court has jurisdiction agree that a Magistrates Court may have jurisdiction in relation to the amount, the Magistrates Court has jurisdiction for the proceeding.
- (2) The agreement must—
  - (a) be written; and
  - (b) be signed by each of the parties or their lawyers; and
  - (c) include a statement that the parties know that the proceeding is not otherwise within the jurisdiction of a Magistrates Court; and
  - (d) be filed in accordance with the rules.

#### **5 Abandonment of excess etc.**

A Magistrates Court shall have jurisdiction in a personal action if the original claim is reduced to the prescribed limit, or less, by payment, abandonment of excess, or otherwise, or by deducting any sum for which the plaintiff gives the defendant credit upon the plaint being entered.

## **6 Splitting debt by giving bills etc.**

If a defendant has given 2 or more bills of exchange, promissory notes, bonds, or other securities, for a debt or sum originally exceeding the prescribed limit, the plaintiff may sue separately upon each of the securities not exceeding the prescribed limit as forming a distinct cause of action.

## **7 Title to land etc.**

- (1) Except as by this Act provided, a Magistrates Court shall not have jurisdiction to try any case in which the title to land, or the validity of a devise, bequest, or limitation under a will or settlement, is in question.
- (2) If the title to land incidentally comes in question in an action, the court shall have power to decide the claim which it is the immediate object of the action to enforce, but the judgment of the court shall not be evidence of title between the parties or their privies in another action in that court or in any proceedings in any other court.

## **8 Infants**

Any person under the age of 18 years to whom any wages or any other sum whatsoever, whether liquidated or unliquidated, not exceeding the amount in respect of which a Magistrates Court has jurisdiction, is due may sue for and recover such sum in the court in the same manner as if the person were of full age.

## **9 Executors etc.**

- (1) Executors and administrators may sue and are liable to be sued in a Magistrates Court.
- (2) A judgment obtained by a plaintiff but not satisfied previous to the plaintiff's death and also all causes of action shall survive to the plaintiff's personal representative, who may sue out execution in his or her own name in the same way that the plaintiff, if living, might have done.

## **10 Corporations**

Corporations and joint stock companies which have an office or place of business at which they carry on business in Queensland shall be amenable to the jurisdiction of Magistrates Courts.

## **11 Complaint when equitable claim**

In an action in which a plaintiff seeks to enforce an equitable claim under this Act, the plaintiff or so much of it as relates to the equitable claim shall express that the plaintiff is suing upon equitable grounds.

# **Part 3 Magistrates Court**

## **14 Magistrates Courts to be courts of record**

- (1) Each Magistrates Court shall be a court of record, and the judgment thereof may be set up as a defence in any action brought in any court of law in Queensland.
- (2) The entry of the judgment on the cause list of a Magistrates Court shall be deemed to be a record of such judgment.

## **14A Business of Magistrates Court**

- (1) The business of a Magistrates Court—
  - (a) is taken to be conducted in court wherever it is conducted; and
  - (b) is to be conducted in open court.
- (2) However, subject to any Act, a Magistrates Court may, if the public interest or the interests of justice require, by order limit the extent to which the business of the court is open to the public.

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**14B Process returnable in registry where issued but effective throughout State**

- (1) A process issued out of the registry of any Magistrates Court is returnable in that registry.
- (2) However, each process has effect, and may be enforced, at any place within the State.

**15 In what Magistrates Courts actions to be brought**

The districts and Magistrates Courts respectively in which proceedings may be brought and heard and determined shall be as prescribed by rules of court.

**16 Constitution of Magistrates Courts**

Every action within the jurisdiction of a Magistrates Court for hearing and determination shall be heard and determined by a magistrate sitting alone provided that, where the rules permit, an action may be heard and determined by a registrar, not being a police officer, who shall, subject to and in accordance with the rules, have the jurisdiction and powers a magistrate has for the purpose.

## **Part 4 Practice and procedure**

**18 Court appearance**

- (1) In a proceeding, a party may appear in person or by—
  - (a) a lawyer; or
  - (b) with the leave of the court, another person.
- (2) In this section—

*party* includes a person served with notice of or attending a proceeding although not named in the record.

## **19 Laws of evidence**

The laws of evidence that apply in the Supreme Court apply in the trial of all questions of fact in the court.

## **20 Evidence**

- (1) In any legal proceedings whatsoever the books of a Magistrates Court and any entries therein, or copies of the said books or entries, under the seal of the court and purporting to be signed and certified by the registrar, shall, upon production and on proof of the identity of the parties concerned, be evidence of the contents of the books or of the judgments or other entries, and of the proceedings referred to in them, and of the regularity of the proceedings.
- (2) All process of a Magistrates Court purporting to be sealed shall be received in evidence without further proof thereof.

# **Part 5A Processes for employment claims**

## **Division 1 Preliminary**

### **42A Object of pt 5A**

- (1) The object of this part is to reduce the cost of proceedings brought in a Magistrates Court by low income employees against employers for breaches of contracts of employment.
- (2) The object is achieved by—
  - (a) prescribing, under section 54, lower court fees for the proceedings; and
  - (b) providing for awards of costs in limited circumstances; and
  - (c) allowing parties to be represented, without leave, by relevant organisations; and



- (d) providing for compulsory conciliation before the hearing of the proceedings.

#### **42B Application of pt 5A**

- (1) This part applies to a claim (an *employment claim*)—
  - (a) made in a proceeding started under this part by a person—
    - (i) who is or was an employee of an employer; and
    - (ii) whose annual wages at the time the breach of contract mentioned in paragraph (b) happened are less than the amount of the high income threshold under the *Fair Work Act 2009* (Cwlth), section 333; and
  - (b) arising out of a breach of a contract of employment between the employee and employer.
- (2) However, a claim is not an employment claim if the cause of action to which the claim relates is within the jurisdiction of the industrial relations commission.
- (3) A claim under the *Fair Work Act 2009* (Cwlth), section 539 is not an employment claim.

#### **42C Decision of Magistrates Court about whether claim is an employment claim**

- (1) In a proceeding started under this part in a Magistrates Court, the court may, on the application of a party to the proceeding, decide whether the claim made in the proceeding is or is not an employment claim.
- (2) Subsection (3) applies if—
  - (a) a Magistrates Court decides a claim is not an employment claim because of section 42B(2); and
  - (b) the plaintiff discontinues or withdraws the proceeding in the Magistrates Court; and

- (c) the plaintiff later starts a proceeding based on the claim in the industrial relations commission.
- (3) For the *Industrial Relations Act 2016*—
  - (a) if there is a time limit under that Act for starting the proceeding mentioned in subsection (2)(c), the period starting on the day the proceeding was started in the Magistrates Court and ending on the day the court's decision is made must be disregarded; and
  - (b) any conciliation of the dispute under this part is taken to be conciliation of the dispute by the industrial relations commission.

## Division 2                      Conciliation of disputes

### Subdivision 1              What is conciliation

#### 42D      Meaning of *conciliation process*

- (1) A *conciliation process* is a process of conciliation under which the parties to a dispute are helped and encouraged by a conciliator to resolve the dispute.
- (2) In subdivision 5, a *conciliation process* includes all the steps involved in the process of conciliation, including, for example, each of the following—
  - (a) telephone conferencing;
  - (b) joint sessions;
  - (c) private sessions.

#### 42E      Functions of conciliator

The functions of a conciliator include each of the following—

- (a) encouraging the settlement of a dispute by arranging, and helping to conduct, negotiations between the parties;

- (b) promoting the open exchange by the parties of information relevant to the dispute;
- (c) giving the parties information about the operation of this Act and other laws relevant to the settlement of the dispute;

*Example of other laws that may be relevant—*

*Uniform Civil Procedure Rules 1999*

- (d) informing the parties about the conciliator's assessment of the merits of the employment claim and the possible consequences if the claim is heard by a Magistrates Court, including the orders that may be made by the court;
- (e) helping in the settlement of the dispute in any other appropriate way.

## **Subdivision 2      Starting conciliation process**

### **42F      Registrar must appoint conciliator**

The registrar of a Magistrates Court in which an employment claim is filed must, as soon as practicable—

- (a) appoint a conciliator for the dispute; and
- (b) ensure the parties are notified of the name and contact details of the conciliator appointed for the dispute.

### **42G      Requirement for conciliator to start conciliation process**

A conciliator appointed for a dispute must start conciliating the dispute as soon as practicable after being appointed.

## **Subdivision 3      Conduct of conciliation process**

### **42H      Attendance at and participation in conciliation process**

- (1) A conciliator may, by written notice, require the parties to a dispute to participate in a conciliation process in a particular way.

*Examples of ways of participating in a conciliation process—*

- attending before the conciliator at a stated time and place to participate in the conciliation process
  - participating in a telephone conference
- (2) The parties must comply with a requirement made by the conciliator under subsection (1).
- (3) If a party does not comply with a requirement made by the conciliator under subsection (1), a Magistrates Court may, subject to this part, impose sanctions against the party, including, for example, by ordering that any claim for relief by the defaulting party is stayed until further order.

### **42I      Procedure for conciliation process**

- (1) For a conciliation process, the conciliator—
- (a) must decide the procedure to be used; and
  - (b) may adopt any procedure that will, in the conciliator's opinion, enable the conciliator to perform the conciliator's functions.

*Example of a procedure that may be used—*

a conciliation conference

- (2) A Magistrates Court may, at any time of its own initiative or on the application of a party or the conciliator, give directions about the procedure to be used for a conciliation process.

### **42J      Limited right to representation**

- (1) For a conciliation process, a party may be represented by a relevant organisation.

- 
- (2) Also, a party may be represented by a person other than a relevant organisation if—
- (a) either—
    - (i) the other party agrees to the party being represented by the person; or
    - (ii) the conciliator is satisfied the party should be permitted to be represented by the person; and
  - (b) the person is appointed as the party's representative in writing.

**42K No fee or costs payable to conciliator by parties**

The parties are not liable to pay any fee or costs for a conciliation process to the conciliator.

**Subdivision 4 Procedure for finishing conciliation process**

**42L Conciliator to file certificate**

- (1) As soon as practicable after a conciliation process is finished, the conciliator must file with the registrar of the referring court a certificate about the conciliation process in the form prescribed under the rules.
- (2) A Magistrates Court must not hear and decide a dispute that is not entirely or partly resolved during the conciliation process unless the conciliator has filed a certificate about the conciliation process under subsection (1).
- (3) Subsection (2) does not stop the court making a decision under section 42C.

**42M Conciliation agreements**

- (1) This section applies if, in a conciliation process, the parties agree on a resolution of all or part of the dispute.

- (2) The agreement must be written down and signed by or for each party and by the conciliator.
- (3) The agreement has the same effect as any other compromise.

#### **42N Orders giving effect to conciliation agreement**

- (1) A party may apply to a Magistrates Court for an order giving effect to an agreement reached in a conciliation process.
- (2) However, a party may apply for the order only after the conciliator's certificate about the conciliation process is filed with the registrar of the referring court.
- (3) The court may make any order giving effect to an agreement reached in a conciliation process the court considers appropriate in the circumstances.

### **Subdivision 5 Confidentiality, protection and immunity**

#### **42O Conciliators to maintain secrecy**

- (1) A conciliator must not, without reasonable excuse, disclose information coming to the conciliator's knowledge during a conciliation process.

Maximum penalty—50 penalty units.

- (2) It is a reasonable excuse to disclose information if the disclosure is made—
  - (a) with the agreement of all parties to the dispute; or
  - (b) for this part; or
  - (c) for statistical purposes without revealing, or being likely to reveal, the identity of a person about whom the information relates; or
  - (d) for an inquiry or proceeding about an offence happening during the conciliation process; or

- (e) for a proceeding founded on fraud alleged to be connected with, or to have happened during, the conciliation process; or
- (f) under a requirement imposed under this or another Act.

#### **42P Ordinary protection and immunity allowed**

- (1) A conciliator has, in performing the conciliator's functions, the same protection and immunity as a magistrate performing the functions of a magistrate.
- (2) A person who is a party, or a party's representative, participating in the conciliation process for a dispute has the same protection and immunity the person would have if the dispute were being heard before a Magistrates Court.
- (3) A document produced during, or used for, a conciliation process has the same protection during the process it would have if produced before a Magistrates Court.

#### **42Q Admission made in conciliation process**

- (1) Evidence of anything done or said, or an admission made, during the conciliation process for a dispute is admissible at the trial of the dispute or in another civil proceeding in a Magistrates Court or elsewhere only if all the parties to the dispute agree.
- (2) In subsection (1)—  
*civil proceeding* does not include a civil proceeding founded on fraud alleged to be connected with, or to have happened during, the conciliation process.

#### **42R No official record of conciliation process**

- (1) A person must not make an official record of anything said for the purposes of a conciliation process.  
Maximum penalty—20 penalty units.

- (2) A conciliator does not commit an offence against subsection (1) merely by making notes of the conciliation process or complying with section 42L(1).

## **Subdivision 6      Approval of conciliators**

### **42S      Approval of members of industrial relations commission**

- (1) A person who is a member of the industrial relations commission is approved as a conciliator.
- (2) In this section—  
*member*, of the industrial relations commission, does not include the president of the commission.

### **42T      Approval of other persons by Chief Magistrate**

The Chief Magistrate may approve, or refuse to approve, a person as a conciliator.

### **42U      Revocation of approval**

- (1) The Chief Magistrate may revoke the approval under section 42T of a person as a conciliator.
- (2) The Chief Magistrate must give the person a statement of reasons for the revocation.

### **42V      Appeal against refusal to approve as, or revocation of approval of, conciliator**

An appeal lies to the District Court against—

- (a) a refusal to approve a person as a conciliator under section 42T; or
- (b) the revocation of approval of a person as a conciliator under section 42U.



#### **42W Payment of conciliators**

A person approved as a conciliator under section 42T is entitled to be paid the fees prescribed under a regulation.

#### **42X Conciliation register**

- (1) A registrar of a Magistrates Court nominated by the Chief Magistrate for the purpose must keep a register of information about conciliation processes.
- (2) The register may be kept in the form, whether or not in a documentary form, the registrar considers appropriate.
- (3) Without limiting subsection (2), the registrar may change the form in which all or part of the register is kept.
- (4) The register must contain each of the following—
  - (a) the name and contact details of each conciliator;
  - (b) other information prescribed under the rules;
  - (c) other information decided by the Chief Magistrate.

### **Division 3                      Special provisions for proceedings heard in Magistrates Court**

#### **42Z Application of div 3**

This division applies to a proceeding heard in a Magistrates Court involving an employment claim.

#### **42ZA Representation of parties**

- (1) A relevant organisation may appear for a party to the proceeding without special leave of the court.
- (2) This section applies despite section 18.

#### **42ZB No inference may be drawn from failure to settle**

No inference may be drawn against a party to the proceeding because of the failure to resolve all or part of the dispute during a conciliation process.

#### **42ZC Limitation on awarding of costs**

- (1) The court may order a party to the proceeding (the *paying party*) to pay the costs of another party to the proceeding, including costs incurred for a conciliation process, only if the court is satisfied—
  - (a) if the paying party is the plaintiff—the employment claim is frivolous or vexatious or is an abuse of the process of the court; or
  - (b) an unreasonable act or omission of the paying party connected with the conduct of the proceeding caused the other party to incur costs.
- (2) This section applies despite any other provision in this or another Act.

## **Part 6 Judgments, new trials, appeals and related matters**

### **43 Judgments to be final**

- (1) Subject to this Act, all judgments and orders made by a Magistrates Court shall be final and conclusive.
- (2) Except as provided by this Act, or by or pursuant to any other Act now in force or hereafter to be passed, a judgment given by a Magistrates Court, or an action brought before it or depending therein, shall not be removed by appeal, motion, writ of error or certiorari, or otherwise into any other court.

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#### **44 New trial**

- (1) Subject to this Act, any party dissatisfied with any decision of a Magistrates Court may, at any time within 7 clear days from such decision, apply to the court for a new trial.
- (2) The court may grant the same upon such terms as to costs or otherwise as it thinks fit, or, in its discretion, may refuse the same with or without reasonable costs.

#### **45 Appeal**

- (1) Subject to this Act, any party who is dissatisfied with the judgment or order of a Magistrates Court—
  - (a) in an action in which the amount, value or damage involved is more than the minor civil dispute limit; or
  - (b) in an action for the recovery of possession of land if—
    - (i) the value of the land is more than the minor civil dispute limit; or
    - (ii) the annual rental of the land is more than the minor civil dispute limit; or
  - (c) in proceedings in interpleader in which the amount or damages claimed, or the value of the goods in question, is more than the minor civil dispute limit;may appeal to the District Court as prescribed by the rules.
- (2) Provided that—
  - (a) where in any of the cases above referred to in subsection (1) the amount, damage or value is not more than the minor civil dispute limit, an appeal shall lie by leave of the District Court or a District Court judge, who shall not grant such leave to appeal unless the court or judge is satisfied that some important principle of law or justice is involved;
  - (b) an appeal shall not lie from the decision of the Magistrates Court if, before the decision is pronounced, both parties agree, in writing signed by themselves or

their lawyers or agents, that the decision of the court shall be final.

- (3) Within the time and in the way prescribed by the rules, the appellant must give to the other party or the other party's lawyer notice of the appeal, briefly stating the grounds of the appeal.
- (4) Notice of appeal shall not operate as a stay of execution upon the judgment, but the execution may proceed unless the magistrate or a District Court judge otherwise orders.
- (5) In this section—

*minor civil dispute limit* means the amount that is, for the time being, the prescribed amount under the *Queensland Civil and Administrative Tribunal Act 2009*.

#### **45A Limitation on appeal if simplified procedures apply**

If the parties agree in writing, no appeal lies from a judgment in a proceeding to which any of the simplified procedures prescribed by the rules apply.

#### **46 Special case stated**

A Magistrates Court may state in the form of a special case for the opinion of the District Court any question of law arising in any case.

#### **47 Jurisdiction of the District Court**

On the hearing of an appeal or special case, the District Court may do any of the following—

- (a) draw inferences of fact from facts found by the Magistrates Court, or from admitted facts or facts not disputed;
- (b) order a new trial on such terms as it thinks just;
- (c) order judgment to be entered for any party;

- (d) make any other order, on such terms as it thinks proper, to ensure the determination on the merits of the real questions in controversy between the parties;
- (e) as regards any special case, remit the matter to the Magistrates Court with the opinion of the District Court thereon;
- (f) make such order with respect to the costs of the appeal or special case as it thinks proper.

## **Part 7                      Miscellaneous**

### **50              Contempt**

- (1) A person is in contempt of a Magistrates Court if the person—
  - (a) without lawful excuse, fails to comply with an order of the court, other than an order mentioned in paragraph (e), or an undertaking given to the court; or
  - (b) wilfully insults a magistrate or a registrar, bailiff, or other court officer during the person's sitting or attendance in court, or in going to or returning from the court; or
  - (c) wilfully interrupts the proceedings of the court or otherwise misbehaves himself or herself in court; or
  - (d) unlawfully obstructs or assaults someone in attendance in court; or
  - (e) without lawful excuse, disobeys a lawful order or direction of the court at the hearing of any proceeding; or
  - (f) commits any other contempt of the court.
- (2) A contempt under subsection (1) must be dealt with in the way prescribed under the rules.
- (3) However—

- (a) a contempt mentioned in subsection (1)(a) may be punished by a maximum penalty of 200 penalty units or 3 years imprisonment; and
  - (b) a contempt mentioned in subsection (1)(b) to (f) may be punished by a maximum penalty of 84 penalty units or 1 year's imprisonment.
- (4) Without limiting the court's power to punish for contempt, the court may order a person committing a contempt to be excluded from the room or other place in which the court is sitting.
- (5) A bailiff or other court officer acting under the court's order may, using necessary and reasonable help and force, take the person into custody and detain the person until the court rises.
- (6) Before the court rises, the court may—
  - (a) ask the person to explain why the person should not be punished; or
  - (b) adjourn the matter to be dealt with on a stated date.
- (7) If the court acts under subsection (6)(a), the court may deal with the person immediately.

## **51 Transferred proceeding**

A court to which a proceeding is transferred has jurisdiction to hear and decide the proceeding and enforce any decision given in the proceeding as if the proceeding had been started in the court.

## **53 Action against officers**

If an action is brought against a person for anything done under a warrant or judgment or a certified copy thereof issued or made under this Act, the production of the warrant or judgment or a certified copy thereof under the seal of a Magistrates Court shall be sufficient proof of the authority of the court, and such person is hereby indemnified for whatsoever is done by the person in obedience thereto.

**54 Court fees**

There shall be payable in respect of every proceeding in a Magistrates Court the prescribed fees.

**55 Fees and fines to be paid to consolidated fund**

All fees payable in respect of any proceedings to the registrar, except such part of them as the bailiff is entitled to receive and retain for the bailiff's own use under this Act, and all fines imposed under this Act and received by the registrar, shall be paid into the consolidated fund.

**56 Fines, how to be enforced**

Payment of any fine imposed by a Magistrates Court under the authority of this Act may be enforced upon the order of the court in like manner as payment of any debt adjudged in the court.

**57 Procedure of court**

The procedure for appeal to a Magistrates Court is, in the absence of relevant rules, as directed by a magistrate.

**57A Annual report**

- (1) As soon as practicable after the end of each financial year, but within 4 months after the end of the financial year, the Chief Magistrate must prepare and give to the Minister a written report about the operation of Magistrates Courts during the year.
- (2) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving the report.

**57B Finance**

The Magistrates Courts are part of the department for the purposes of the *Financial Accountability Act 2009*.

### **57C Rule-making power**

- (1) The Governor in Council may make rules of court providing for the practices and procedure of—
  - (a) a proceeding in a court under the *Domestic and Family Violence Protection Act 2012*; or
  - (b) a registry of a court in relation to a proceeding under that Act.
- (2) A rule may only be made with the consent of the Chief Magistrate.
- (3) Rules of court made under this section are to be called the Domestic and Family Violence Protection Rules.
- (4) In this section—

*court* see the *Domestic and Family Violence Protection Act 2012*, section 6.

### **58 Regulation-making power**

The Governor in Council may make regulations under this Act.

## **Part 9 Validations, savings and transitional**

### **59 References to Small Debts Court**

A reference in another Act to a Small Debts Court is a reference to a Magistrates Court.

### **60 Transitional provision for Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010**

Sections 4, 4AA, 5, 6 and 45, as amended or inserted by the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010*, apply only to actions or proceedings commenced after the commencement of this section.



## 61 Outdated references

In an Act or document, in the context of a Magistrates Court and if otherwise appropriate, a reference to a thing mentioned in column 1 of the following table is taken to be a reference to the corresponding thing in column 2 of the table—

**Table**

| <b>column 1</b>               | <b>column 2</b>                       |
|-------------------------------|---------------------------------------|
| plaint or plaint and summons  | claim                                 |
| chambers                      | court                                 |
| action                        | proceeding                            |
| Magistrates Courts Rules 1960 | Uniform Civil<br>Procedure Rules 1999 |
| taxation                      | assessment of costs                   |
| party and party costs         | costs on the standard<br>basis        |
| solicitor and client costs    | costs on the indemnity<br>basis       |

## 62 Transitional provision for Criminal Code and Other Legislation (Wage Theft) Amendment Act 2020

- (1) Subsection (2) applies if, before the commencement, a claim under the *Fair Work Act 2009* (Cwlth), section 539 was started under part 5A.
- (2) Part 5A, as in force immediately before the commencement, continues to apply in relation to the claim.