

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

House of Representatives,

19th October, 1927.

Hon. Mr. Rolleston.

MAGISTRATES' COURTS AMENDMENT.

ANALYSIS.

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1. Short Title.	8. Section 145 of principal Act amended.
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A BILL INTITLED

AN ACT to amend the Magistrates' Courts Act, 1908.

Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the Magistrates' Courts Amendment Act, 1927, and shall be read together with and deemed part of the Magistrates' Courts Act, 1908 (hereinafter referred to as the principal Act).

Short Title.

2. The powers by the principal Act conferred on the Court or on any Magistrate or Justices in respect of the attachment of debts shall be limited in the case of any debt to the sum of *three* hundred pounds :

Limitation of powers as to attachment of debts.

Provided that where application is made for an attachment order in respect of any debt exceeding *three* hundred pounds, an order may be made for the attachment of a portion of such debt, but not exceeding the said sum.

3. Section six of the Magistrates' Courts Amendment Act, 1913, is hereby amended as follows :—

Extension of jurisdiction of Magistrate's Court.

(a) By omitting the words "two hundred pounds" wherever they occur in paragraphs (a), (b), (c), (e), (g), and (j), and in each case substituting the words "*three* hundred pounds" :

(b) By repealing paragraph (d), and substituting the following paragraph :—

"(d) The attachment of debts in accordance with the provisions of the principal Act in that behalf."

(c) By omitting from subparagraph (ii) of paragraph (f) the words "value of the tenement does not exceed two hundred pounds," and substituting the words "capital value of the tenement, as appearing in the district valuation roll for the time being in

force, does not exceed *one thousand two hundred and fifty pounds.*"

Service of summons
or other process by
registered letter.
Cf. 1926, No. 7, s. 15

4. (1) Notwithstanding anything to the contrary in the principal Act, any summons (other than a judgment summons, or a summons for recovery of possession of a tenement), or any statement of claim, counter-claim, order, notice, or other document under that Act may be served on any person by sending the same, or a duplicate thereof, by registered letter addressed to him at his last known or most usual place of abode. 5

(2) The production of a receipt for such letter given to a Post officer, and signed or purporting to be signed by the person to whom the letter was addressed, shall be sufficient proof of such service. 10

(3) Service effected in the manner prescribed by this section shall be deemed to be personal service.

Section 96 of
principal Act
amended.

5. Section ninety-six of the principal Act is hereby amended by inserting, after subsection one, the following subsection:— 15

"(1A) In any case where the relief claimed by the plaintiff is payment of a liquidated demand in money and the defendant neither files notice of intention to defend within the time limited in that behalf by section three of the Magistrates' Courts Amendment Act, 1909, nor subsequently obtains leave to defend the action, the Court, on application by the plaintiff or his solicitor made in the prescribed form and lodged in the Court before or at the time appointed for the hearing, together with the prescribed fee, may, at the time appointed for the hearing, enter judgment by default, and it shall not be necessary for the plaintiff or his solicitor to be present when judgment is so entered." 20 25

Section 120 of
principal Act
amended.

6. Section one hundred and twenty of the principal Act is hereby amended by omitting from paragraph (a) the words "the bedclothes, bedding," and substituting the words "furniture and household effects"; and also by omitting from that paragraph the words "twenty-five pounds," and substituting the words "fifty pounds." 30

Section 136 of
principal Act
amended.

7. Section one hundred and thirty-six of the principal Act is hereby amended by adding thereto the following subsection:—

"(3) Nothing in this section shall apply in any case where the amount of the debt alleged to be due by the sub-debtor to the judgment debtor exceeds three hundred pounds." 35

Section 145 of
principal Act
amended.

8. Section one hundred and forty-five of the principal Act is hereby amended as follows:—

(a) By inserting in subsection one, after the words "Magistrate's Court," the words "such judgment may be removed into the Supreme Court, and for that purpose": 40

(b) By adding to the said subsection the words, "Every such certificate shall bear on the face thereof a statement to the effect that it has been granted for the purposes of this section, and it shall not be available for any other purpose": 45

(c) By repealing subsection three, and substituting the following subsection:—

"(3) After any such certificate has been filed in the Supreme Court pursuant to the next succeeding subsection, no further proceeding shall be had or taken in such action in the Magistrate's Court." 50

9. Subsection one of section one hundred and fifty-three of the principal Act is hereby amended as follows:—

Section 153 of principal Act amended.

5 (a) By omitting the words "Either party may appeal to the Supreme Court against any final determination or direction of the Magistrate's Court in any action," and substituting the words "Either party may appeal to the Supreme Court against any nonsuit or final determination or direction of the Magistrate's Court (other than a judgment given upon confession or by consent of the parties) in any action";

10 (b) By inserting in paragraph (b), after the words "Magistrate's Court," the words "or a Magistrate"; and

(c) By inserting in paragraph (d), after the word "Court," the words "or a Magistrate."

10. Section one hundred and fifty-six of the principal Act is hereby amended by adding the following as subsection two thereof:—

Section 156 of principal Act amended.

20 (2) If in the opinion of the Supreme Court the justice of the case so requires, that Court may, on application of either party, enlarge the time appointed by this section for doing any act or taking any proceeding, on such terms (if any) as it thinks fit; and any such enlargement may be ordered although the application for the same is not made until after the expiration of the time appointed."

Cf. 1908, No. 89, Second Schedule, Rule 594

25 11. Subsection two of section one hundred and sixty-nine of the principal Act is hereby amended by inserting, after the words "the Court may," the words "make an order that possession of the premises be given by the defendant to the plaintiff, either forthwith or on or before such day as the Court thinks fit to name; and if such order is not obeyed any Magistrate or Justice may, at the instance of the plaintiff"; and by omitting the words "on or before a day named in the warrant."

Section 169 of principal Act amended.

30 12. Section one hundred and seventy of the principal Act is hereby amended as follows:—

Section 170 of principal Act amended.

35 (a) By omitting the words "days' rent" wherever they occur in subsection one, and in each case substituting the word "days";

40 (b) By inserting in subsection three, after the words "the Court may," the words "make an order that possession of the premises be given by the defendant to the plaintiff, either forthwith or on or before such day as the Court thinks fit to name; and if such order is not obeyed any Magistrate or Justice may, at the instance of the plaintiff"; and by omitting from the same subsection the words "on or before a day named in the warrant."

45 13. Subsection one of section one hundred and seventy-one of the principal Act is hereby amended by omitting the words "for two months' rent," and substituting the words "for two months."

Section 171 of principal Act amended.

14. Section five of the Magistrates' Courts Amendment Act, 1922, is hereby amended as follows:—

Section 5 of Amendment Act, 1922, amended.

50 (a) By omitting the words "statement of defence," and substituting the words "notice of intention to defend."

(b) By adding the following paragraph:
" (e) No fee shall be payable in respect of any order for the payment of moneys out of Court made under this section."

Third-party
process.
Cf. 1908, No. 89,
Second Schedule,
Rules 95-99

15. (1) Where a defendant in any action claims to be entitled to contribution, indemnity, or other remedy or relief over against any person not a party to the action, the defendant may, by leave of the Court, issue a notice to that effect in the prescribed form.

(2) A copy of such notice shall be filed with the Clerk of the Court and served on such person seven clear days, at least, before the date on which the hearing is to be proceeded with. The notice shall state the nature and grounds of the claim, and the date on which the hearing is to be proceeded with, and there shall be served with it a copy of the statement of claim.

(3) If a person not a party to the action who is served as aforesaid desires to dispute the plaintiff's claim in the action as against the defendant on whose behalf the notice has been given, he shall, within five clear days after service of such notice, file a notice of intention to defend. In default of his so filing such a notice of intention to defend such person shall not be allowed to defend except by leave of the Court granted on special grounds, and on such terms as to costs and otherwise as the Court thinks fit, and where he does not defend he shall be deemed to admit the validity of the judgment obtained against such defendant, whether obtained by consent or otherwise.

(4) If a person not a party to the action who is served as aforesaid files a notice of intention to defend pursuant to the notice, the party giving the notice may apply to the Court for directions as to the mode of having the question in the action determined; and the Court on the hearing of such application may, if it appears desirable so to do, give the person so served liberty to defend the action upon such terms as seem just, and may direct such amendments to be made in the statement of claim, or such fresh statement to be delivered, and generally may direct such proceedings to be taken and give such directions as the Court thinks proper for having the question conveniently determined, and as to the mode and extent in or to which the person so served shall be bound or made liable to the decision of the question.