

Queensland



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ELIZABETHAE SECUNDAE REGINAE

No. 7 of 1988

An Act to provide for the venue of appeals to and cases stated for District Courts, to amend the Justices Act 1886-1985, the Magistrates Courts Act 1921-1982 and the District Courts Act 1967-1985 each in certain particulars and for related purposes

[ASSENTED TO 7TH APRIL, 1988]

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:—

PART I—PRELIMINARY

1. Short title. This Act may be cited as the *District Courts (Venue of Appeals) Act 1988*.

2. Commencement. (1) Section 1 and this section shall commence on the day this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1), the provisions of this Act shall commence on a day appointed by Proclamation.

The day so appointed is, in this Act, referred to as the commencement of this Act.

3. Arrangement. This Act is arranged in Parts as follows:—

PART I—PRELIMINARY (ss. 1-3);

PART II—VENUE OF APPEALS (ss. 4-8);

PART III—AMENDMENT OF JUSTICES ACT (ss. 9-12);

PART IV—AMENDMENT OF MAGISTRATES COURTS ACT (ss. 13-14);

PART V—AMENDMENT OF DISTRICT COURTS ACT (ss. 15-18);

PART VI—GENERAL PROVISIONS (s. 19).

PART II—VENUE OF APPEALS

4. Interpretation. In this Part—

“appeal” includes any special case or other case stated for the opinion of a District Court;

“Central District” means the Central District within the meaning of *The Supreme Court Act of 1895*;

“court” means a tribunal constituted with the title “Court” under any Act;

“decision” includes any conviction, determination, judgment or order recorded or made by a court;

“Northern District” means the Northern District within the meaning of *The Supreme Court Act of 1895*;

“party” includes a prospective party to a proposed appeal;

“prescribed place” means a place for the time being appointed under section 5 to be a place at which jurisdiction of a District Court to hear and determine appeals may be exercised, in respect of all appeals or in respect of appeals of a particular description.

5. Appointment of prescribed places. (1) The Governor in Council may, from time to time by Order in Council, appoint any place at which a District Court may be held, other than the cities of Brisbane, Townsville and Rockhampton, to be a place at which jurisdiction of a District Court to hear and determine appeals may be exercised, in respect of all appeals or in respect of appeals of a particular description referred to in the order.

(2) An appointment of any place declared under subsection (1) may be terminated at any time by Order in Council.

6. District Court's jurisdiction. (1) Where pursuant to any Act an appeal may be brought in a District Court, jurisdiction to hear and determine any appeal so brought may be exercised by a District Court—

(a) at any place at which the appeal may be heard and determined in accordance with this Part;

or

(b) at any place to which the appeal has been duly transferred in accordance with this Part.

(2) The provisions of subsection (1) have effect without prejudice to the pronouncement of judgment by a District Court, by way of determining an appeal, at any place at which a District Court may be held.

7. Venue of appeals. (1) Except where the place at which an appeal to a District Court may be heard and determined is prescribed by any other Act, an appeal to a District Court shall be heard and determined—

(a) in the District Court at Townsville or at a place within the Northern District that is a prescribed place in respect of the appeal, if the appeal relates to a decision of or a matter before any court that has exercised or is exercising jurisdiction within that district;

(b) in the District Court at Rockhampton or at a place within the Central District that is a prescribed place in respect of the appeal, if the appeal relates to a decision of or a matter before any court that has exercised or is exercising jurisdiction within that district;

(c) in the District Court at Brisbane or at a place within that part of Queensland not within a district referred to in paragraph (a) or (b) that is a prescribed place in respect of the appeal, if the appeal relates to a decision of or a matter before any court that has exercised or is exercising jurisdiction within that part:

Provided that, with the consent of all parties to the appeal or to the proceedings to which the appeal will relate, the appeal may be heard and determined at Brisbane, Townsville or Rockhampton or any place that is a prescribed place in respect of the appeal.

(2) No provision of this section shall be construed to prejudice the provisions of any other Act that prescribe the procedure for instituting an appeal or the provisions of section 6.

8. Transfer of appeal hearings. (1) If at any time after the institution of an appeal that is to be heard and determined at a place in accordance with this Part it appears to a Judge of District Courts that—

(a) it is in the interests of justice that the appeal be heard at another place;

or

(b) the appeal may be more conveniently heard at another place at which a District Court may be held and no party to the appeal or to the proceedings to which the appeal relates objects,

the judge may, upon application by any party to the appeal or to such proceedings, or, if he is the judge hearing the appeal, of his own motion, order that the appeal be transferred into a District Court at that other place, whereupon the appeal may be heard or continued at that other place.

(2) Where an order is made under subsection (1) the officer having custody of the appeal record shall transmit the record and all appropriate exhibits to the appropriate officer at the place where the appeal is to be heard or continued.

PART III—AMENDMENT OF JUSTICES ACT

9. Citation. (1) In this Part the *Justices Act 1886-1985* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Justices Act 1886-1988*.

10. Amendment of heading preceding s. 222. The Principal Act is amended by omitting from the heading immediately preceding section 222 the words “THE SUPREME COURT” and substituting the words “DISTRICT COURTS”.

11. Amendment of s. 222. Appeal to a single Judge. Section 222 of the Principal Act is amended—

(a) in subsection (1), by omitting the words “the Supreme Court” and substituting the words “District Courts”;

(b) in subsection (2), by—

(i) inserting after the words “the appeal”, where they occur in subparagraph (a) of paragraph (i), the words “and stating the place where the appellant desires the appeal to be heard and determined in accordance with the *District Courts (Venue of Appeals) Act 1988*”;

(ii) omitting from paragraph (ii) all words from and including “the Supreme Court at—” to the end of the paragraph and substituting the

words “the District Court at the place where the appeal is to be heard in accordance with the *District Courts (Venue of Appeals) Act 1988* and as stated in the notice of appeal.”;

(c) in subsection (3), by omitting the words “the Supreme Court” where they secondly occur and substituting the words “District Courts”.

12. Amendment of s. 227. Judge may state case. Section 227 of the Principal Act is amended by inserting after the words “opinion of” the words “the Supreme Court sitting as”.

PART IV—AMENDMENT OF MAGISTRATES COURTS ACT

13. Citation. (1) In this Part the *Magistrates Courts Act 1921-1982* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Magistrates Courts Act 1921-1988*.

14. Amendment of s. 11. Section 11 of the Principal Act is amended—

(a) in subsection (3) (Appeal) by—

(i) omitting the words “the Supreme Court” where they firstly and secondly occur and substituting the words “a District Court” in each case;

(ii) omitting the words “a judge of the Supreme Court” and substituting the words “a Judge of District Courts”;

(b) in subsection (4) (Special case stated by Court) by omitting the words “the Supreme Court” and substituting the words “a District Court”;

(c) in subsection (5) (Jurisdiction of Supreme Court) by—

(i) omitting the note appearing in and at the beginning of the subsection and substituting the note “**Jurisdiction of District Courts**”;

(ii) omitting the words “the Supreme Court” where they firstly occur and substituting the words “a District Court”;

(iii) omitting from paragraph (e) the word “Supreme” and substituting the word “District”.

PART V—AMENDMENT OF DISTRICT COURTS ACT

15. Citation. (1) In this Part the *District Courts Act 1967-1985* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *District Courts Act 1967-1988*.

16. Amendment of s. 37 (1). Minutes of proceedings to be kept. Section 37 of the Principal Act is amended in subsection (1) by omitting

the words “books belonging to the Court, which shall be” and substituting the words “a register maintained by the Court and”.

17. Amendment of s. 95. Section 95 of the Principal Act is amended by omitting subsection (4).

18. Amendment of s. 96. Other appeals. (Compare 50 Vic. No. 17, ss. 222 to 232.) Section 96 of the Principal Act is amended—

(a) by omitting the first paragraph and the proviso thereto ending with the words “so heard and determined.” and substituting the following paragraph:—

“Where in any Act provision is made for an appeal—

to a Court of general or quarter sessions;

to a Judge of the Supreme Court on circuit;

or

from a decision of justices and no other court of appeal is designated,

the appeal shall lie to a District Court.”;

(b) omitting the last paragraph.

PART VI—GENERAL PROVISIONS

19. Saving pending appeals. The provisions of Part II and the amendments provided for by Part III have no operation or effect in relation to an appeal instituted to a District Court or a case stated for the opinion of a District Court before the commencement of this Act and not disposed of at the commencement of this Act.