

South Australia

## **Statutes Amendment (New Rules of Civil Procedure) Bill 2006**

A BILL FOR

An Act to amend the *Supreme Court Act 1935*, the *District Court Act 1991* and the *Magistrates Court Act 1991* to make certain procedural changes, and changes in terminology, that have become desirable in the light of the proposed new rules of civil procedure for the Supreme Court and the District Court; and to make related amendments to various other Acts.

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258 Substitution of heading to Part 6 Division 10

259 Amendment of section 86A—Reference of question of law

260 Amendment of section 95—Costs

**The Parliament of South Australia enacts as follows:****Part 1—Preliminary****1—Short title**

This Act may be cited as the *Statutes Amendment (New Rules of Civil Procedure) Act 2006*.

**5 2—Commencement**

- (1) This Act will come into operation on a day to be fixed by proclamation.
- (2) Section 7(5) of the *Acts Interpretation Act 1915* does not apply in relation to the commencement of this Act or any provision of this Act.

**3—Amendment provisions**

10 In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

**Part 2—Amendment of *Supreme Court Act 1935*****4—Amendment of section 5—Interpretation**

- (1) Section 5(1), definition of *petitioner*—delete the definition

- (2) Section 5(1), definition of *plaintiff*—delete the definition and substitute:

*plaintiff* means a person who brings any form of proceeding in the court (other than an appeal)—

(a) asserting a right to any form of relief against another; or

(b) asking the court to exercise a power or discretion,

and includes a defendant making a claim against another by way of counterclaim or third-party claim;

- (3) Section 5(1), definition of *pleading*—delete "petition or"

### **5—Amendment of section 21—Equities of plaintiff**

Section 21—delete "or petitioner" wherever occurring

### **6—Amendment of section 22—Equitable defences**

Section 22—delete "or petitioner" wherever occurring

### **7—Amendment of section 23—Counter-claims and third parties**

Section 23(1)(a)—delete "or petitioner" wherever occurring

### **8—Amendment of section 39—Vexatious proceedings**

Section 39(1)(a)—delete "leave" and substitute:

permission

### **9—Amendment of section 48—Jurisdiction of Full Court, single judge and master**

- (1) Section 48(2)(a)(i)—delete "motions" and substitute:

applications

- (2) Section 48(2)(a)(iv)—delete "special cases and points and"

### **10—Amendment of section 49—Questions of law reserved for Full Court**

Section 49(1)—delete subsection (1) and substitute:

- (1) The court constituted of a single judge or a master may reserve a question of law for the consideration of the Full Court.

### **11—Substitution of section 50**

Section 50—delete the section and substitute:

#### **50—Appeals**

- (1) Subject to this section—

(a) an appeal lies to the Full Court against a judgment of the court constituted of a single judge; and

(b) an appeal lies against a judgment of the court constituted of a master.

(2) An appeal against a judgment of a master lies, if the rules so provide, to the Full Court and otherwise to the court constituted of a single judge.

(3) No appeal lies against—

5           (a) an order allowing an extension of time to appeal from a judgment; or

             (b) an order giving unconditional permission to defend an action; or

10           (c) a judgment that is, by statute, under the rules, or by agreement of the parties, final and without appeal.

(4) An appeal lies only with the permission of the court—

             (a) from a judgment of any of the following classes:

                 (i) a judgment given by consent of the parties;

15           (ii) a judgment given by a single judge on appeal from a judgment of the Magistrates Court; or

             (b) if the rules provide that the appeal lies by permission of the court.

(5) The rules cannot, however, require the court's permission for an appeal if the judgment under appeal—

20           (a) denies, or imposes conditions on, a right to defend an action; or

             (b) deals with the liberty of the subject or the custody of an infant; or

25           (c) grants or refuses relief in the nature of an injunction or the appointment of a receiver; or

             (d) is a declaration of liability or a final assessment of damages under section 30B; or

             (e) makes a final determination of a substantive right.

**Exception—**

30                               If a judgment is given by a single judge on appeal from some other court or tribunal, the rules may require the court's permission for a further appeal to the Full Court even though the judgment makes a final determination of a substantive right.

35           (6) In this section—

***judgment*** includes—

             (a) an order or direction; and

             (b) a decision not to make an order or direction.

## **12—Repeal of section 51**

40           Section 51—delete the section

**13—Amendment of section 62E—Reference of matters involving question of valuation**

Section 62E(1)—delete "of his own motion" and substitute:  
on his or her own initiative

**14—Amendment of section 72—Rules of court**

Section 72(1)—after paragraph (e) insert:

- (ea) for empowering the court—
- (i) to order the carrying out of a biological or other scientific test that may be relevant to the determination of a question before the court; and
  - (ii) to include in such an order directions about the carrying out of the test and, in particular, directions requiring a person (including a party to the proceedings) to submit to the test or to have a child or other person who is not of full legal capacity submit to the test; and
  - (iii) if a party is required to submit to the test, or to have another submit to the test—to include in the order a stipulation that, if the party fails to comply with the order, the question to which the test is relevant will be resolved adversely to the party;

**15—Section 117—Orders to bring prisoners for examination**

Section 117(1)—delete "or special referee"

**Part 3—Amendment of *District Court Act 1991***

**16—Amendment of section 43—Right of appeal**

Section 43(3)—delete subsection (3) and substitute:

- (3) The appeal lies as of right, or by permission, according to the rules of the appellate court but, in the case of an appeal against a final judgment of the Court in its Administrative and Disciplinary Division, permission is required to appeal on a question of fact.

**17—Amendment of section 51—Rules of Court**

Section 51(1)—after paragraph (d) insert:

- (da) empowering the Court—
- (i) to order the carrying out of a biological or other scientific test that may be relevant to the determination of a question before the Court; and

- 5
- (ii) to include in such an order directions about the carrying out of the test and, in particular, directions requiring a person (including a party to the proceedings) to submit to the test or to have a child or other person who is not of full legal capacity submit to the test; and
  - (iii) if a party is required to submit to the test, or to have another submit to the test—to include in the order a stipulation that, if the party fails to comply with the order, the question to which the test is relevant will be resolved adversely to the party; and
- 10

## **Part 4—Amendment of *Magistrates Court Act 1991***

### **18—Amendment of section 40—Right of appeal**

Section 40(2)—delete "by leave" and substitute:  
with the permission

### **19—Amendment of section 49—Rules of Court**

Section 49(1)—after paragraph (d) insert:

(da) empowering the Court—

- 20
- (i) to order the carrying out of a biological or other scientific test that may be relevant to the determination of a question before the Court; and
  - (ii) to include in such an order directions about the carrying out of the test and, in particular, directions requiring a person (including a party to the proceedings) to submit to the test or to have a child or other person who is not of full legal capacity submit to the test; and
  - (iii) if a party is required to submit to the test, or to have another submit to the test—to include in the order a stipulation that, if the party fails to comply with the order, the question to which the test is relevant will be resolved adversely to the party; and
- 25
- 30

## **Part 5—Amendment of *Administration and Probate Act 1919***

### **20—Amendment of section 18—Administration guarantees may be required before administration sealed**

(1) Section 18(7)—delete "leave" and substitute:

permission

(2) Section 18(11)—delete "*ex parte*" and substitute:

without notice to any other interested person

**21—Amendment of section 25—Order to produce any instrument purporting to be testamentary**

- (1) Section 25(1)—delete "on motion or petition, or otherwise, in a summary way,"
- (2) Section 25(4)—delete "motion, petition, or other"

5 **22—Amendment of section 31—Administration guarantees**

- (1) Section 31(7)—delete "leave" and substitute:  
permission
- (2) Section 31(11)—delete "*ex parte*" and substitute:  
without notice to any other interested person

10 **23—Amendment of section 39—On return of original executor or administrator, special administration to be rescinded**

- (1) Section 39(1)—delete ", by petition,"
- (2) Section 39(2)—delete "the hearing of such petition, upon"

15 **24—Amendment of section 47—Court may make special orders as to management of undivided lands**

Section 47—delete "upon the petition" and substitute:  
on the application

**25—Amendment of section 56A—Court may order delivery of statement and account**

20 Section 56A—delete "of its own motion" and substitute:  
on its own initiative

**26—Amendment of section 60—Filing of declaration that estate insufficient to pay debts**

- (1) Section 60(5)—delete "*ex parte* or otherwise" and substitute:  
25 with or without notice
- (2) Section 60(5)—delete "leave" and substitute:  
permission

**27—Amendment of section 63—Court may order sale of infant's property**

Section 63—delete "by petition, summons, or otherwise"

30 **28—Amendment of section 64—Court may give permission to postpone realisation or carry on business**

- (1) Section 64(1)—delete "leave" and substitute:  
35 permission
- (2) Section 64(2)—delete "in pursuance of leave" and substitute:  
in accordance with permission



- (3) Section 64(3)—delete "*ex parte*" and substitute:  
without notice

**29—Amendment of section 67—Judge may dispense wholly or partially with compliance with section 65**

- 5 Section 67(3)—delete "*ex parte*" and substitute:  
without notice to any interested party

**30—Amendment of section 69—Public trustee and other persons may obtain judicial advice or direction**

- (1) Section 69(2)—delete "*ex parte*" and substitute:  
10 without notice to  
(2) Section 69(6)—after "question" insert:  
of law  
(3) Section 69(6)—delete "by way of special case"

**Part 6—Amendment of *Aged and Infirm Persons' Property Act 1940***

15

**31—Amendment of section 6—Procedure where case not provided for**

- Section 6(2)—delete "*ex parte*" and substitute:  
without notice to any other party

**32—Amendment of section 8A—Protection order on court's own initiative**

- 20 Section 8A(1)—delete "of its own motion" and substitute:  
on its own initiative

**33—Amendment of section 22—Proceedings**

- (1) Section 22(1)—delete "motion" and substitute:  
initiative  
25 (2) Section 22(1)—delete "at the suit" and substitute:  
on the application

**34—Amendment of section 24—Application to court by Public Trustee**

- (1) Section 24(1)—delete "*ex parte*"  
(2) Section 24(3)—delete "*ex parte*"

30 **35—Amendment of section 33—Application for order to perpetuate testimony**

- Section 33(2)—delete "*ex parte*" and substitute:  
without notice to any other person

**36—Amendment of section 34—Attendance at examination**

- (1) Section 34(1)—delete "by leave" and substitute:  
with the permission
- (2) Section 34(2)—delete "by leave" wherever occurring and substitute in each case:  
with the permission

**37—Amendment of section 36—Discontinuance of proceedings**

Section 36—delete "by leave" and substitute:  
with permission

**38—Amendment of section 39—Deposit of depositions and will or codicil**

- (1) Section 39(2)—delete "by leave" and substitute:  
with the permission
- (2) Section 39(2)—delete "by the special leave" and substitute:  
with the permission
- (3) Section 39(3)—delete "by leave" and substitute:  
with the permission

**Part 7—Amendment of *Anangu Pitjantjatjara Yankunytjatjara  
Land Rights Act 1981***

**39—Amendment of section 20—Mining operations on the lands**

- (1) Section 20(12)(b)—delete paragraph (b) and substitute:  
(b) may refer a question of law for the opinion of the Full Court of the  
Supreme Court.
- (2) Section 20(13)—delete subsection (13)

**Part 8—Amendment of *ASER (Restructure) Act 1997***

**40—Amendment of section 25—Appointment of administrator**

Section 25(5)—delete "by leave" and substitute:  
with the permission

**Part 9—Amendment of *Associations Incorporation Act 1985***

**41—Amendment of section 41—Winding up of incorporated associations**

Section 41(5)—delete "leave" and substitute:  
permission

**42—Amendment of section 61—Oppressive or unreasonable acts**

Section 61(13)—delete "leave" and substitute:

permission

**Part 10—Amendment of *Authorised Betting Operations Act 2000***

5 **43—Amendment of section 78—Finality of Authority's decisions**

(1) Section 78(1)(c)—delete "by leave" and substitute:

with the permission

(2) Section 78(3)—delete "leave" and substitute:

permission

10 **44—Amendment of section 85—Reasons for decision**

Section 85(2)—delete "by leave" and substitute:

with permission

**Part 11—Amendment of *Bail Act 1985***

**45—Amendment of section 6—Nature of bail agreement**

15 Section 6(4)—delete "of its own motion" and substitute:

on its own initiative

**46—Amendment of section 15A—Review of magistrate's decision by Supreme Court**

Section 15A(3)—delete "leave" and substitute:

20 the permission

**47—Amendment of section 19—Estreatment**

(1) Section 19(1)—delete "of its own motion" and substitute:

on its own initiative

(2) Section 19(3)—delete "of its own motion" and substitute:

25 on its own initiative

**Part 12—Amendment of *Business Names Act 1996***

**48—Amendment of section 17—Certain convicted offenders not to use business names**

(1) Section 17(1)(g)—delete "leave" and substitute:

30 the permission

(2) Section 17(2)—delete "leave" and substitute:

the permission

- (3) Section 17(4)—delete "leave" and substitute:  
permission

**49—Amendment of section 26—Power of court to require compliance with Act**

Section 26(1)—delete "suit or" wherever occurring

5 **Part 13—Amendment of *Casino Act 1997***

**50—Amendment of section 66—Finality of Authority's decisions**

- (1) Section 66(1)(b)—delete "by leave" and substitute:  
with the permission

- (2) Section 66(2)—delete "leave" and substitute:  
10 permission

**51—Amendment of section 68—Reasons for decision**

Section 68(2), exception—delete "by leave" and substitute:  
with permission

15 **Part 14—Amendment of *Child Protection Review (Powers and Immunities) Act 2002***

**52—Amendment of section 5—Confidentiality and disclosure of information**

- (1) Section 5(4)(a)—delete "leave" and substitute:  
the permission

- (2) Section 5(4)(b)—delete "leave" and substitute:  
20 permission

- (3) Section 5(5)—delete "leave" and substitute:  
permission

- (4) Section 5(6)—delete "leave" and substitute:  
permission

25 **Part 15—Amendment of *Children's Protection Act 1993***

**53—Amendment of section 13—Confidentiality of notification of abuse or neglect**

- (1) Section 13(3)(a)—delete "leave" and substitute:  
the permission

- 30 (2) Section 13(3)(b)—delete "leave" and substitute:  
permission

(3) Section 13(4)—delete "leave" and substitute:

permission

(4) Section 13(5)—delete "leave" and substitute:

permission

## 5 **Part 16—Amendment of *Commercial Arbitration Act 1986***

### **54—Amendment of section 3—Repeal, transitional and application provisions**

Section 3(6)—delete subsection (6) and substitute:

10 (6) If a court refers a matter to arbitration, the court may direct that this Act is to apply to the arbitration (either with or without exclusions or modifications specified by the court) and, in the absence of such a direction, this Act will not apply.

(7) This Act does not apply to—

15 (a) an arbitration under the *Fair Work Act 1994*; or

(b) an arbitration or class of arbitrations prescribed by the regulations as an arbitration, or class of arbitrations, to which this Act does not apply.

### **55—Amendment of section 4—Interpretation**

Section 4(1), definition of *the Court*, (c)—delete paragraph (c) and substitute:

(c) if—

20 (i) the dispute referred or sought to be referred to arbitration would, but for the arbitration agreement, be justiciable by the Magistrates Court; or

25 (ii) the parties have (either in the arbitration agreement or some collateral agreement) agreed that the Magistrates Court should have jurisdiction in relation to matters arising under the arbitration agreement,

the Magistrates Court;

### **56—Amendment of section 33—Enforcement of award**

(1) Section 33—delete "by leave" and substitute:

30 with the permission

(2) Section 33—delete "leave" second occurring and substitute:

permission

### **57—Amendment of section 38—Judicial review of awards**

(1) Section 38(4)(b)—delete "leave" and substitute:

35 permission

(2) Section 38(5)—delete "leave" and substitute:

permission

(3) Section 38(6)—delete "leave which it grants" and substitute:

permission granted

5 **58—Amendment of section 39—Determination of preliminary point of law by Supreme Court**

Section 39(2)(b)—delete "leave" and substitute:

permission

10 **59—Amendment of section 40—Exclusion agreements affecting rights under sections 38 and 39**

Section 40(1)(a)—delete "grant leave" and substitute:

give permission

**60—Amendment of section 53—Relationship between judicial and arbitral powers**

15 (1) Section 53(1)(c)(ii)—delete "by leave" and substitute:

with the permission

(2) Section 53(2)(c)(ii)—delete "by leave" and substitute:

with the permission

**61—Repeal of Schedule**

20 Schedule—delete the Schedule

**Part 17—Amendment of *Commission of Inquiry (Children in State Care) Act 2004***

**62—Amendment of section 15—Further provision relating to mandatory notification**

25 (1) Section 15(1)(a)—delete "leave" and substitute:

the permission

(2) Section 15(1)(b)—delete "leave" and substitute:

permission

(3) Section 15(2)—delete "leave" and substitute:

30 permission

(4) Section 15(3)—delete "leave" and substitute:

permission

## **Part 18—Amendment of *Community Titles Act 1996***

### **63—Amendment of section 142—Resolution of disputes etc**

Section 142(3)—delete "leave" and substitute:

the permission

### **5 64—Amendment of Schedule—Transitional provisions**

Schedule, clause 3(4)(b)—delete "leave" and substitute:

permission

## **Part 19—Amendment of *Co-operatives Act 1997***

### **65—Amendment of section 92—Changes to rules**

10 Section 92(b)—delete "leave" and substitute:

permission

### **66—Amendment of section 94—Bringing, or intervening in, proceedings on behalf of a co-operative**

Section 94(1)(c)—delete "leave" and substitute:

15 permission

### **67—Amendment of section 95—Applying for and granting permission**

(1) Section 95(1)—delete "leave" and substitute:

permission

(2) Section 95(2)—delete "leave" wherever occurring and substitute in each case:

20 permission

### **68—Amendment of section 96—Substitution of another person for the person granted permission**

(1) Section 96(1)—delete "leave" and substitute:

permission

25 (2) Section 96(4)(a)—delete "leave" and substitute:

permission

### **69—Amendment of section 97—Effect of ratification by members**

(1) Section 97(1)—delete "leave" wherever occurring and substitute in each case:

permission

30 (2) Section 97(2)—delete "leave" wherever occurring and substitute in each case:

permission

**70—Amendment of section 98—Permission to continue, compromise or settle proceedings brought, or intervened in, with permission**

Section 98—delete "leave" wherever occurring and substitute in each case:

permission

5 **71—Amendment of section 99—General powers of Supreme Court**

Section 99(1)—delete "leave" wherever occurring and substitute in each case:

permission

**72—Amendment of section 100—Power of Supreme Court to make costs order**

Section 100—delete "leave" wherever occurring and substitute in each case:

10 permission

**73—Amendment of section 209—Disqualified persons**

(1) Section 209(1)(b)—delete "leave" and substitute:

permission

(2) Section 209(2)(a)—delete "leave" and substitute:

15 the permission

(3) Section 209(4)—delete "leave" and substitute:

the permission

(4) Section 209(5)—delete "leave" and substitute:

permission

20 (5) Section 209(6)—delete "leave" and substitute:

permission

(6) Section 209(7)—delete "leave" and substitute:

permission

**74—Amendment of section 325—Stay of proceedings**

25 (1) Section 325(1)—delete "leave" wherever occurring and substitute in each case:

permission

(2) Section 325(2)—delete "leave" and substitute:

the permission

**75—Amendment of section 338—Persons disqualified from administering compromise**

30 Section 338(1)—delete "leave" and substitute:

permission



**76—Amendment of section 342—Power of Supreme Court to restrain further proceedings**

Section 342(1)—delete "by leave" and substitute:  
with the permission

5 **77—Amendment of Schedule 3—Registration etc of charges**

(1) Schedule 3, Part 2, Division 5, clause 33(1)(b)—delete "leave" and substitute:  
permission

(2) Schedule 3, Part 2, Division 5, clause 34—delete "leave" and substitute:  
permission

10 **78—Amendment of Schedule 4—Receivers, and other controllers, of property of co-operatives**

(1) Schedule 4, clause 13(3)—delete "of its own motion" and substitute:  
on its own initiative

(2) Schedule 4, clause 27(5)—delete "leave" and substitute:  
15 permission

**Part 20—Amendment of *Correctional Services Act 1982***

**79—Amendment of section 45—Procedure at inquiries under this Division**

Section 45(b)—delete "*ex parte*" and substitute:  
in the prisoner's absence

20 **Part 21—Amendment of *Criminal Assets Confiscation Act 2005***

**80—Amendment of section 36—Application to exclude property from a restraining order after notice of the order**

Section 36—delete "leave" wherever occurring and substitute in each case:  
permission

25 **81—Amendment of section 40—Ancillary orders**

Section 40(2)(d)—delete "leave" and substitute:  
permission

**82—Amendment of section 49—Additional application for a forfeiture order**

Section 49—delete "leave" wherever occurring and substitute in each case:  
30 permission

**83—Amendment of section 60—Applying for exclusion orders**

(1) Section 60(2)—delete "leave" and substitute:  
the permission

(2) Section 60(3)—delete "leave" wherever occurring and substitute in each case:  
permission

**84—Amendment of section 62—Applying for compensation orders**

Section 62—delete "leave" wherever occurring and substitute in each case:  
5 permission

**85—Amendment of section 80—Applying for orders under sections 78 and 79**

Section 80—delete "leave" wherever occurring and substitute in each case:  
permission

**86—Amendment of section 91—When the Crown can begin dealing with  
property specified in a forfeiture order**

Section 91(2)—delete "leave" and substitute:  
10 permission

**87—Amendment of section 92—When the Crown can begin dealing with  
property forfeited under section 74**

Section 92(3)—delete "leave" and substitute:  
15 permission

**88—Amendment of section 96—Additional application for a pecuniary penalty  
order**

Section 96—delete "leave" wherever occurring and substitute in each case:  
20 permission

**Part 22—Amendment of *Criminal Law Consolidation Act 1935***

**89—Amendment of section 246—Confidentiality of jury deliberations and  
identities**

Section 246(8)(a)—delete "leave" and substitute:  
25 permission

**90—Amendment of section 269Y—Appeals**

Section 269Y(3)—delete "by leave" and substitute:  
with the permission

**91—Amendment of section 281—Objections to informations, amendments and  
postponement of trial**

Section 281(1)—delete "thereof shall be taken by demurrer, or motion" and substitute:  
30 of the information must be made by application

**92—Amendment of section 285C—Notice of certain evidence to be given**

(1) Section 285C(5)—delete "by leave" and substitute:

with the permission

(2) Section 285C(6)—delete "Leave" and substitute:

Permission

(3) Section 285C(6)—delete "leave" and substitute:

permission

**93—Substitution of heading to Part 11**

Heading to Part 11—delete the heading and substitute:

**Part 11—Appellate proceedings**

**94—Substitution of section 350**

Section 350—delete the section and substitute:

**350—Reservation of relevant questions**

(1) In this section—

*relevant question* means a question of law and includes a question about how a judicial discretion should be exercised or whether a judicial discretion has been properly exercised.

(2) A court by which a person has been, is being or is to be tried or sentenced for an indictable offence may reserve for consideration and determination by the Full Court a relevant question on an issue—

(a) antecedent to trial; or

(b) relevant to the trial or sentencing of the defendant,

and the court may (if necessary) stay the proceedings until the question has been determined by the Full Court.

(3) Unless required to do so by the Full Court, a court must not reserve a question for consideration and determination by the Full Court if reservation of the question would unduly delay the trial or sentencing of the defendant.

(4) A court before which a person has been tried and acquitted of an offence must, on application by the Attorney-General or the Director of Public Prosecutions, reserve a question antecedent to the trial, or arising in the course of the trial, for consideration and determination by the Full Court.

(5) The Full Court may, on application under subsection (6), require a court to refer a relevant question to it for consideration and determination.

(6) An application for an order under subsection (5) may be made by—

(a) the Attorney-General or the Director of Public Prosecutions;  
or

(b) a person who—

(i) has applied unsuccessfully to the primary court to have the question referred for consideration and determination by the Full Court; and

(ii) has obtained the permission of the primary court or the Supreme Court to make the application.

(7) If a person is convicted, and a question relevant to the trial or sentencing is reserved for consideration and determination by the Full Court, the primary court or the Supreme Court may release the person on bail on conditions the court considers appropriate.

**95—Amendment of section 352—Right of appeal in criminal cases**

(1) Section 352(1)—delete "leave" wherever occurring and substitute in each case:  
permission

(2) Section 352(2)—delete subsection (2)

**96—Amendment of section 355—Revesting and restitution of property on conviction**

Section 355(1)(b)—delete "leave" and substitute:  
permission

**97—Amendment of section 357—Appeal to Full Court**

Section 357(1)—delete "leave" and substitute:  
permission

**98—Amendment of section 361—Right of appellant to be present**

Section 361(1)—delete "leave" wherever occurring and substitute in each case:  
permission

**99—Amendment of section 364—Admission of appellant to bail and custody when attending Court**

Section 364(4)—delete "case is stated" and substitute:  
question is reserved

**100—Amendment of section 366—Notes of evidence on trial**

Section 366(1)—delete "leave" and substitute:  
permission

**101—Amendment of section 367—Powers that may be exercised by a judge of the Court**

Section 367—delete "leave" wherever occurring and substitute in each case:  
permission

5 **Part 23—Amendment of *Criminal Law (Sentencing) Act 1988***

**102—Amendment of section 70I—Court may remit or reduce pecuniary sum or make substitute orders**

Section 70I(2)—delete "of its own motion" and substitute:  
on its own initiative

10 **Part 24—Amendment of *Crown Proceedings Act 1992***

**103—Amendment of section 9—Right of Attorney-General to appear in proceedings**

Section 9(2)(c)—delete "leave" and substitute:  
permission

15 **104—Amendment of section 14—Permission to issue certain subpoenas etc**

(1) Section 14(1)—delete "leave" and substitute:

permission

(2) Section 14(2)—delete "Leave" and substitute:

Permission

20 (3) Section 14(3)—delete "leave" and substitute:

permission

**Part 25—Amendment of *Crown Rates and Taxes Recovery Act 1945***

**105—Amendment of section 14—Application of purchase money**

25 Section 14—delete "petition, claim, suit, or" wherever occurring

**Part 26—Amendment of *Dental Practice Act 2001***

**106—Amendment of section 63—Powers of Tribunal**

(1) Section 63(5)—delete "(either *ex parte* or on notice)"

(2) Section 63—after subsection (5) insert:

(5a) The Supreme Court may require that notice be given of an application under subsection (5) to the person against whom the order is sought or any other person (but an order may be made, if the Court thinks fit, although no notice has been given of the application).

## **Part 27—Amendment of *Development Act 1993***

### **107—Amendment of section 85—Applications to Court**

(1) Section 85(4)—delete "*ex parte*" and substitute:

without notice to any person

(2) Section 85(4)—delete "leave" and substitute:

permission

(3) Section 85(11)(a)—delete "an *ex parte* application" and substitute:

an application without notice to any person

## **Part 28—Amendment of *Domestic Violence Act 1994***

### **108—Amendment of section 12—Variation or revocation of domestic violence restraining order**

Section 12(1a)—delete "leave" wherever occurring and substitute in each case:

permission

### **109—Amendment of section 16—Complaints or applications on behalf of child**

Section 16(a)—delete "leave" and substitute:

permission

## **Part 29—Amendment of *Environment Protection Act 1993***

### **110—Amendment of section 104—Civil remedies**

(1) Section 104(7)(c)—delete "leave" and substitute:

permission

(2) Section 104(8)—delete "leave" and substitute:

permission

(3) Section 104(11)—delete "*ex parte*" and substitute:

without notice to any person

(4) Section 104(11)—delete "leave" and substitute:

permission

- (5) Section 104(14)(a)—delete "*ex parte* application" and substitute:  
application without notice to any person

### **Part 30—Amendment of *Environment, Resources and Development Court Act 1993***

5 **111—Amendment of section 17—Parties**

- Section 17(3)—delete "*ex parte* application" and substitute:  
application without notice to any person

**112—Amendment of section 30—Right of appeal**

- 10 Section 30(2)—delete "by leave" and substitute:  
with permission

### **Part 31—Amendment of *Evidence Act 1929***

**113—Amendment of section 27—How far a party may discredit his or her own witness**

- 15 Section 27(b)—delete "by leave" and substitute:  
with the permission

**114—Amendment of section 34I—Evidence in sexual cases**

- (1) Section 34I(1)(b)—delete "leave" and substitute:  
permission
- (2) Section 34I(2)—delete "leave" wherever occurring and substitute in each case:  
20 permission
- (3) Section 34I(3)—delete "Leave" and substitute:  
Permission
- (4) Section 34I(4)—delete "leave" and substitute:  
permission

25 **115—Amendment of section 34K—Admissibility of depositions at trial**

- (1) Section 34K(1)—delete "by leave" and substitute:  
with the permission
- (2) Section 34K(2)—delete "Leave" and substitute:  
Permission

30 **116—Amendment of section 60—Sufficiency of notice of action**

- Section 60—delete ", suit,"

**117—Amendment of section 67F—Evidence of protected communications**

(1) Section 67F(1)(b)(i)—delete "leave" and substitute:

permission

(2) Section 67F(2)—delete "leave" wherever occurring and substitute in each case:

5 permission

(3) Section 67F(5)—delete "leave" and substitute:

permission

(4) Section 67F(7)—delete "leave" and substitute:

permission

10 (5) Section 67F(8)—delete "leave" and substitute:

permission

**118—Amendment of section 69A—Suppression orders**

(1) Section 69A(5)(a)—delete "by leave" and substitute:

with the permission

15 (2) Section 69A(9)—delete "by leave" and substitute:

with the permission

**Part 32—Amendment of *Fair Trading Act 1987***

**119—Amendment of section 86—Sequestration orders**

Section 86(3)—delete "*ex parte* application" and substitute:

20 application without notice to the person

**120—Amendment of section 88—Defences**

Section 88(3)—delete "leave" and substitute:

permission

**Part 33—Amendment of *Fair Work Act 1994***

25 **121—Amendment of section 153—Intervention**

Section 153(2)—delete "leave" and substitute:

permission

**122—Amendment of section 171—Service**

Section 171(3)—delete "by leave" and substitute:

30 with the permission



**123—Amendment of section 191—Appeal to Supreme Court**

(1) Section 191(1)(b)—delete "leave" and substitute:  
permission

(2) Section 191(4)—delete "leave" wherever occurring and substitute in each case:  
5 permission

**124—Amendment of section 203—Representation at voluntary or compulsory conference**

(1) Section 203(1)—delete "by leave" and substitute:  
with the permission

10 (2) Section 203(2)—delete "leave" wherever occurring and substitute in each case:  
permission

(3) Section 203(3)—delete "Leave" and substitute:  
Permission

(4) Section 203(3)—delete "leave" wherever occurring and substitute in each case:  
15 permission

**125—Amendment of section 207—Right of appeal**

(1) Section 207(2)—delete "by leave" wherever occurring and substitute in each case:  
with the permission

(2) Section 207(3)—delete "leave" and substitute:  
20 permission

(3) Section 207(4)(b)—delete "leave" and substitute:  
permission

**Part 34—Amendment of *Family and Community Services Act 1972***

25 **126—Amendment of section 112—Provision for blood tests**

Section 112(13)—delete "of its own motion" and substitute:  
on its own initiative

**127—Amendment of section 157—Attachment may be pleaded**

Section 157(2)—delete ", suit,"

30 **Part 35—Amendment of *Food Act 2001***

**128—Amendment of section 104—Power of court to order further analysis**

Section 104(1)—delete "motion" and substitute:  
initiative

## **Part 36—Amendment of *Foreign Judgments Act 1971***

### **129—Amendment of section 7—Registration of judgment**

Section 7(6)—delete "*ex parte*" and substitute:

without notice to any person

## **5 Part 37—Amendment of *Freedom of Information Act 1991***

### **130—Amendment of section 40—Appeal to District Court**

Section 40(1)—delete "by leave" and substitute:

with the permission

## **10 Part 38—Amendment of *Guardianship and Administration Act 1993***

### **131—Amendment of section 14—Powers and procedures of Board**

Section 14(9)(c)—delete "leave" and substitute:

permission

### **132—Amendment of section 39—Powers and duties of administrator**

15 Section 39(2)(j)—delete ", suit" wherever occurring

### **133—Substitution of heading to Part 6**

Heading to Part 6—delete the heading and substitute:

## **Part 6—Appeals and references of questions of law**

### **134—Substitution of heading to Part 6 Division 1**

20 Heading to Part 6 Division 1—delete the heading and substitute:

## **Division 1—Review of Registrar's decisions and references of questions of law**

### **135—Amendment of section 65—Question of law may be referred to Supreme Court**

25 Section 65—delete "state a case on" and substitute:

refer

### **136—Amendment of section 67—Appeal from decisions of Board**

(1) Section 67(1)(g)—delete "leave" and substitute:

permission

30 (2) Section 67(3)—delete "leave" wherever occurring and substitute in each case:

permission

(3) Section 67(7)—delete "leave" and substitute:

permission

(4) Section 67(12)(b)—delete "leave" and substitute:

permission

5 **137—Amendment of section 70—Appeals from decisions of ADD**

(1) Section 70(1)—delete "leave" and substitute:

permission

(2) Section 70(2)(a)—delete "leave" and substitute:

permission

10 **138—Amendment of section 71—Method of conducting appeal**

Section 71—delete "leave" and substitute:

permission

**139—Amendment of section 73—Representation on appeals**

Section 73(1)—delete "leave" and substitute:

15 permission

**140—Amendment of section 74—Board may give advice, direction or approval**

Section 74(2)(b)—delete "*ex parte*" and substitute:

in the absence of any person who may be affected by the Board's decision

**Part 39—Amendment of *Heritage Places Act 1993***

20 **141—Amendment of section 38A—ERD Court orders**

Section 38A(6)(c)—delete "leave" and substitute:

permission

**Part 40—Amendment of *Housing Improvement Act 1940***

25 **142—Amendment of section 71—Dispossession of occupiers failing to vacate premises when required to do so**

Section 71—delete "*ex parte*" and substitute:

in the absence of the occupier

**Part 41—Amendment of *Juries Act 1927***

30 **143—Amendment of section 60A—Jury may consist of men or women only**

Section 60A(2)—delete "of its own motion" and substitute:

on its own initiative

**Part 42—Amendment of *Jurisdiction of Courts (Cross-vesting) Act 1987***

**144—Amendment of section 5—Transfer of proceedings**

Section 5(7)—delete "of its own motion" and substitute:

5                                   on its own initiative

**145—Amendment of section 8—Orders by Supreme Court**

Section 8(1)—delete "of its own motion" and substitute:

                                  on its own initiative

**146—Amendment of section 10—Transfer of matters arising under Division 1 or 1A of Part V of Trade Practices Act (Commonwealth)**

10

Section 10—delete "of its own motion" and substitute:

                                  on its own initiative

**Part 43—Amendment of *Landlord and Tenant Act 1936***

**147—Amendment of section 9—Relief against forfeiture for non-payment of rent**

15

Section 9(1)—delete "motion or"

**148—Amendment of section 21—Duty of landlord after being served with declaration**

Section 21—delete "at the suit" and substitute:

20                                   on the application

**149—Amendment of section 32—Distress may be secured and sold on premises**

Section 32(3)—delete "of suit"

**150—Amendment of section 37—Double damages against wrongful distrainer**

Section 37—delete "of suit"

**151—Amendment of section 39—Damages or pound breach or rescue**

25

Section 39—delete "of suit"

**Part 44—Amendment of *Law of Property Act 1936***

**152—Amendment of section 49—Conveyance on sale**

Section 49(2)(c)—delete "leave" and substitute:

30                                   permission

**153—Amendment of section 66—Right of recovering apportioned parts**

Section 66—delete "suit"

**154—Amendment of section 114—Power of Court to sell interest of Crown in real estate**

5 Section 114(1)—delete ", *ex parte* or otherwise,"

**Part 45—Amendment of *Legal Practitioners Act 1981***

**155—Amendment of section 84—Powers of Tribunal**

(1) Section 84(5)—delete "(either *ex parte* or on notice)"

(2) Section 84—after subsection (5) insert:

10 (6) The Court may require that notice be given of an application under subsection (5) to the person against whom the order is sought or any other person (but an order may be made, if the Court thinks fit, although no notice has been given of the application).

**156—Amendment of section 89A—Court may order interim suspension of legal practitioner or impose interim conditions**

15

Section 89A—delete "of its own motion" and substitute:  
on its own initiative

**157—Amendment of section 93—Power of Court to strike off notary's name**

Section 93(1)—delete "of its own motion" and substitute:

20

on its own initiative

**Part 46—Amendment of *Liquor Licensing Act 1997***

**158—Amendment of section 20—Representation**

Section 20(1)(e)—delete "by leave" and substitute:  
with the permission

25

**159—Amendment of section 25—Representation**

Section 25(1)(e)—delete "by leave" and substitute:  
with the permission

**160—Amendment of section 27—Appeal from orders and decisions of the Court**

30

Section 27(1)—delete "by leave" and substitute:  
with the permission

**161—Amendment of section 28—Reference of question of law**

(1) Section 28(1)—delete "state a case on" and substitute:

refer

(2) Section 28(2)—delete "arising on a case stated" and substitute:

referred

5

**Part 47—Amendment of *Local Government (Elections) Act 1999***

**162—Substitution of section 77**

Section 77—delete the section and substitute:

**77—Reference of question of law**

The Court may, on its own initiative or on the application of a party to proceedings, refer a question of law for the opinion of the Full Court of the Supreme Court.

10

**Part 48—Amendment of *Lottery and Gaming Act 1936***

**163—Amendment of section 92—Receiving money for betting**

Section 92(3)—delete "of suit"

15

**Part 49—Amendment of *Maralinga Tjarutja Land Rights Act 1984***

**164—Amendment of section 21—Mining operations on the lands**

(1) Section 21(14)(b)—delete paragraph (b) and substitute:

(b) may refer a question of law for the opinion of the Full Court of the Supreme Court.

20

(2) Section 21(15)—delete subsection (15)

**Part 50—Amendment of *Medical Practice Act 2004***

**165—Amendment of section 60—Powers of Tribunal**

(1) Section 60(5)—delete "(either *ex parte* or on notice)"

(2) Section 60—after subsection (5) insert:

(5a) The Court may require that notice be given of an application under subsection (5) to the person against whom the order is sought or any other person (but an order may be made, if the Court thinks fit, although no notice has been given of the application).

25

30

## **Part 51—Amendment of *Mines and Works Inspection Act 1920***

### **166—Repeal of sections 25 and 26**

Sections 25 and 26—delete the sections

## **Part 52—Amendment of *Mining Act 1971***

### **5 167—Amendment of section 63N—What happens when there are no registered native title parties with whom to negotiate**

Section 63N(1)—delete "*ex parte*" and substitute:

without notice to any person

### **10 168—Amendment of section 63O—Expedited procedure where impact of operations is minimal**

Section 63O(2)—delete "*ex parte*" and substitute:

without notice to any person

### **169—Amendment of section 67—Jurisdiction relating to tenements and monetary claims**

15 Section 67(1)—delete "suits" and substitute:

actions

### **170—Amendment of section 73A—Lodging of caveats**

Section 73A(4)—delete "by leave" and substitute:

with the permission

## **20 Part 53—Amendment of *Native Vegetation Act 1991***

### **171—Amendment of section 31A—Application to ERD Court for enforcement**

Section 31A(4)—delete "grant leave to the applicant" and substitute:

grant the applicant permission

## **25 Part 54—Amendment of *Natural Resources Management Act 2004***

### **172—Amendment of section 201—Orders made by ERD Court**

(1) Section 201(5)(d)—delete "leave" and substitute:

permission

(2) Section 201(6)—delete "leave" and substitute:

30 permission

- (3) Section 201(9)—delete "leave" and substitute:  
permission

## **Part 55—Amendment of *Nurses Act 1999***

### **173—Amendment of section 18—Proceedings before Board etc**

- 5 (1) Section 18(6)—delete "(either *ex parte* or on notice)"  
(2) Section 18—after subsection (6) insert:  
(6a) The Court may require that notice be given of an application under  
subsection (6) to the person against whom the order is sought or any  
10 other person (but an order may be made, if the Court thinks fit,  
although no notice has been given of the application).

## **Part 56—Amendment of *Occupational Health, Safety and Welfare Act 1986***

### **174—Amendment of section 49—Appeals**

- 15 Section 49(4)—delete "leave" and substitute:  
the permission

### **175—Amendment of section 58—Offences**

- Section 58(5a)(c)—delete "leave" and substitute:  
permission

### **176—Amendment of section 69—Regulations**

- 20 Section 69(8)—delete "leave" and substitute:  
the permission

## **Part 57—Amendment of *Opal Mining Act 1995***

### **177—Amendment of section 26—Caveats**

- 25 Section 26(5)—delete "by leave" and substitute:  
with the permission

### **178—Amendment of section 56—What happens when there are no registered native title parties with whom to negotiate**

- Section 56(1)—delete "*ex parte*" and substitute:  
without notice to any person

### **179—Amendment of section 57—Expedited procedure where impact of operations is minimal**

- 30 Section 57(2)—delete "*ex parte*" and substitute:  
without notice to any person



**180—Amendment of section 72—Jurisdiction relating to tenements and monetary claims**

Section 72(1)—delete "suits" and substitute:  
actions

5 **181—Amendment of section 75—Forfeiture of tenement**

Section 75(6)(b)—delete "leave" and substitute:  
the permission

**Part 58—Amendment of *Optometrists Act 1920***

**182—Repeal of sections 42 to 44**

10 Sections 42 to 44 (inclusive)—delete the sections

**Part 59—Amendment of *Partnership Act 1891***

**183—Amendment of section 74—Certain convicted offenders not to carry on business as general partners**

- 15 (1) Section 74(1)—delete "leave of" and substitute:  
permission from
- (2) Section 74(2)—delete "leave of" and substitute:  
permission from
- (3) Section 74(4)—delete "leave" and substitute:  
permission

20 **Part 60—Amendment of *Police (Complaints and Disciplinary Proceedings) Act 1985***

**184—Amendment of section 40—Proceedings before the Tribunal**

Section 40(5)(b)—delete "by leave" and substitute:  
with the permission

25 **185—Amendment of section 43—Reference of question of law**

Section 43—delete "state a case on any" and substitute:  
refer a

## **Part 61—Amendment of *Powers of Attorney and Agency Act 1984***

### **186—Amendment of section 9—Donee may not renounce power during incapacity of donor except with permission of Supreme Court**

5           Section 9—delete "leave" and substitute:  
                    permission

## **Part 62—Amendment of *Public Trustee Act 1995***

### **187—Amendment of section 9—Administration of deceased estate**

10           Section 9(4)—delete "*ex parte*" and substitute:  
                    without notice

### **188—Amendment of section 14—Appointment as executor or trustee**

- (1)   Section 14(2)—delete "leave" and substitute:  
                    permission
- (2)   Section 14(3)—delete "leave" and substitute:  
15           permission

### **189—Amendment of section 32—Public Trustee's duties with respect to unclaimed money or land**

                    Section 32(2)—delete "by leave" and substitute:  
                    with the permission

### **190—Amendment of section 34—Appointment as manager of unclaimed property**

20           Section 34(2)—delete "*ex parte*" and substitute:  
                    without notice to any person

### **191—Amendment of section 37—Public Trustee may apply to Court for directions**

25           Section 37(1)—delete "*ex parte*" and substitute:  
                    without notice to any person

## **Part 63—Amendment of *Racing (Proprietary Business Licensing) Act 2000***

### **192—Amendment of section 43—Finality of Authority's decisions**

- (1)   Section 43(1)(c)—delete "by leave" and substitute:  
                    with the permission

(2) Section 43(3)—delete "leave" and substitute:  
permission

**193—Amendment of section 47—Reasons for decision**

Section 47(2)—delete "by leave" and substitute:  
with permission

5

**Part 64—Amendment of *Real Property Act 1886***

**194—Amendment of section 3—Interpretation**

Section 3(1), definition of *Court*, (c)—delete ", Part 17 and Schedule 21" and substitute:

10

and Part 17

**195—Amendment of section 24—Registrar-General not to be liable for acts done *bona fide***

Section 24—delete ", suit"

**196—Amendment of section 45—Lapse of caveat**

15

Section 45—delete "by leave" and substitute:  
with the permission

**197—Amendment of section 80F—Caveats**

Section 80F(6)—delete "by leave" and substitute:  
with the permission

20

**198—Amendment of section 181—Proceedings when executor etc refuse to transfer**

Section 181—delete "may, by motion or summons before the Court, apply" and substitute:

may apply to the Court

25

**199—Amendment of section 191—Caveats**

(1) Section 191(d)—delete paragraph (d) and substitute:

(d) **Persons interested may summon caveator**

the registered proprietor or any other person claiming estate or interest in the land may, by summons, call on any caveator, including the Registrar-General, to attend before the Court to show cause why the caveat should not be removed; and the Court may, after allowing the parties a reasonable opportunity to be heard, make such order as appears just in the circumstances; (if the caveator does not appear in response to the summons, the Court may, if satisfied that the summons was duly served, proceed to hear and determine the application in the caveator's absence);

(2) Section 191—after paragraph (f) insert:

(fa) **Action to establish validity of claim**

a caveator may bring an action in the Court to establish the validity of the claim on which the caveat is based;

(3) Section 191(g)—delete paragraph (g) and substitute:

(g) **Caveator may apply to Court for order to extend time**

the Court may, on the caveator's application, extend the period of 21 days until an action under paragraph (fa) is determined or for any other period;

(4) Section 191(k), heading—delete "leave" and substitute:

permission

(5) Section 191(k)—delete "leave" and substitute:

permission

**200—Substitution of section 223**

Section 223—delete the section and substitute:

**223—Registrar-General may refer question of law**

(1) The Registrar-General may refer a question of law arising with regard to the exercise of the Registrar-General's powers and functions under this Act for the opinion of the Court.

(2) The Court's decision on a question referred under this section is binding on the Registrar-General.

**201—Repeal of sections 224 and 225**

Sections 224 and 225—delete the sections

**202—Amendment of section 260—Valuable consideration may be proved by prior instruments**

Section 260—delete ", suit" wherever occurring

**203—Repeal of Schedule 21**

Schedule 21—delete the Schedule

**Part 65—Amendment of *Recreational Greenways Act 2000***

**204—Amendment of section 19—Enforcement of agreement**

5           Section 19(3)(a)—delete "an *ex parte* application" and substitute:  
                  an application without notice to the other party

**Part 66—Amendment of *Renmark Irrigation Trust Act 1936***

**205—Amendment of section 105—Power of sale**

- (1)   Section 105(1)—delete "by petition"
- 10    (2)   Section 105(2)(a)—delete "comprised in the petition" and substitute:  
                  to which the application relates

**206—Amendment of section 107—Properties comprised in different assessments may be included in one application**

15           Section 107—delete "petition" and substitute:  
                  application

**207—Amendment of section 111—Application of proceeds**

              Section 111—delete "petition" and substitute:  
                  application

**208—Amendment of section 114—Power to lease property for arrears of rates**

20           Section 114(8)—delete "motion" and substitute:  
                  application

**209—Amendment of section 162—No action against candidate for costs or expenses of election**

              Section 162—delete ", suit,"

25    **210—Amendment of section 168—Incomplete works**

              Section 168—delete "made without action and either by summons or by motion upon notice to the claimant,"

**211—Amendment of section 212—Actions against members**

              Section 212(3)—delete "of suit"

**212—Substitution of Schedule 9**

Schedule 9—delete the Schedule and substitute:

**Schedule 9—Notice to owners etc**

Renmark Irrigation Trust

To AB *[here set out address appearing in register book]*

Take notice that there is now due to the above trust in respect of *[here describe property]* the sum of \$ ....., for rates up to the year ending ....., and unless the amount so due is paid to the secretary of the trust within 1 month from the posting of this notice an application will be made to the Supreme Court for an order for sale of the said land.

Dated this ..... day of ..... 20.....

.....  
*Secretary of the Renmark Irrigation Trust*

5 **Part 67—Amendment of *Royal Commissions Act 1917***

**213—Repeal of sections 26 and 27**

Sections 26 and 27—delete the sections

**Part 68—Amendment of *Settled Estates Act 1880***

10 **214—Amendment of section 22—Application to exercise powers conferred by Act**

Section 22—delete "by petition in a summary way"

**215—Amendment of section 28—Application may be granted without consent, saving rights of non-consenting parties**

Section 28—delete "petition" and substitute:

15 application

**216—Amendment of section 30—Notice of application to be given in newspapers if Court directs**

Section 30—delete "by summons or motion for leave" and substitute:

for permission

20 **217—Amendment of section 34—Payment and application of money arising from sales, or set aside out of rent, etc, reserved on mining leases**

Section 34(1)—delete "*ex parte*" and substitute:

without notice to

**218—Amendment of section 35—Trustees may apply money in certain cases without application to Court**

Section 35—delete "upon the petition" and substitute:  
on the application

5 **219—Amendment of section 37—Court may direct application of money in respect of leases or reversions as may appear just**

Section 37—delete "petition" and substitute:  
application

**Part 69—Amendment of *Sewerage Act 1929***

10 **220—Amendment of section 94—Lands may be sold when rates etc in arrear**

Section 94(2)(b)—delete "petition" and substitute:  
application

**221—Amendment of section 105—Tender of amends**

15 Section 105(2)—delete "by leave" and substitute:  
with the permission

**Part 70—Amendment of *South Australian Co-operative and Community Housing Act 1991***

**222—Amendment of section 74—Winding up**

20 Section 74(7)—delete "leave" and substitute:  
permission

**Part 71—Amendment of *Strata Titles Act 1988***

**223—Amendment of section 41A—Resolution of disputes etc**

Section 41A(3)—delete "leave" and substitute:  
the permission

25 **224—Amendment of Schedule 2—Transitional provisions**

Schedule 2, clause 5(4)(b)—delete "leave" and substitute:  
permission

**Part 72—Amendment of *Summary Offences Act 1953***

**225—Amendment of section 33—Indecent or offensive material**

30 Section 33(9)—delete "of its own motion" and substitute:  
on its own initiative

**226—Amendment of section 74BB—Fortification removal order**

Section 74BB(3)—delete "an *ex parte* application" and substitute:  
an application made without notice to any person

**Part 73—Amendment of *Summary Procedure Act 1921***

5 **227—Amendment of section 57—Issue of summons**

Section 57(2)(a)—delete "*ex parte*" and substitute:  
in the absence of the defendant

**228—Amendment of section 62—Proceedings on non-appearance of defendant**

10 Section 62—delete "*ex parte*" wherever occurring and substitute in each case:  
in the absence of the defendant

**229—Amendment of section 62A—Power to proceed in absence of defendant**

Section 62A(1)—delete "*ex parte*" and substitute:  
in the absence of the defendant

15 **230—Amendment of section 62BA—Proceedings where defendant neither  
appears nor returns written plea of guilty**

Section 62BA(1)—delete "*ex parte* to adjudicate upon the complaint" and substitute:  
to adjudicate on the complaint in the absence of the defendant

**231—Amendment of section 62C—Proceedings in absence of defendant**

20 Section 62C(1)—delete "an *ex parte* hearing" and substitute:  
a hearing in his or her absence

**232—Amendment of section 99F—Variation or revocation of restraining order**

Section 99F(1a)—delete "leave" wherever occurring and substitute in each case:  
permission

25 **233—Amendment of section 99J—Complaints or applications by or on behalf  
of child**

Section 99J(a)—delete "leave" and substitute:  
permission

**234—Amendment of section 106—Taking of evidence at preliminary  
examination**

30 (1) Section 106(1)(b)(ii)—delete "leave" and substitute:  
permission

(2) Section 106(1)(c)—delete "by leave" and substitute:  
with the permission



- (3) Section 106(3)—delete "leave" wherever occurring and substitute in each case:  
permission

## **Part 74—Amendment of *Supported Residential Facilities Act 1992***

5 **235—Amendment of section 20—Associated provisions relating to exercise of jurisdiction by Court**

- Section 20(1)(b)—delete "by leave" and substitute:  
with the permission

## **Part 75—Amendment of *Trade Standards Act 1979***

10 **236—Amendment of section 37—Defences**

- Section 37(2)—delete "leave" and substitute:  
permission

## **Part 76—Amendment of *Trustee Act 1936***

15 **237—Amendment of section 25B—Power of Court to authorise alterations and repairs**

- (1) Section 25B(1)—delete "*ex parte* or otherwise"  
(2) Section 25B—after subsection (1) insert:  
(1a) The Supreme Court may require that notice be given of an application under subsection (1) to any person who has, in the opinion of the Court, a proper interest in the matter (but an order may be made, if the Court thinks fit, although no notice has been given of the application).

20 **238—Amendment of section 29—Distribution of estate after notice by representative or trustee**

- 25 (1) Section 29(4)—delete "*ex parte* or otherwise,"  
(2) Section 29—after subsection (4) insert:  
(5) The Supreme Court may require that notice be given of an application under subsection (4) to any person who has, in the opinion of the Court, a proper interest in the matter (but an order may be made, if the Court thinks fit, although no notice has been given of the application).

30 **239—Amendment of section 49—Power for Court to authorise purchase of trust property by trustee**

- (1) Section 49—delete ", *ex parte* or otherwise,"

- (2) Section 49—after its present contents as amended by this section (now to be designated as subsection (1)) insert:

(2) The Supreme Court may require that notice be given of an application under subsection (1) to any person who has, in the opinion of the Court, a proper interest in the matter (but an order may be made, if the Court thinks fit, although no notice has been given of the application).

#### **240—Amendment of section 60—Applications to Supreme Court**

- (1) Section 60(1)—delete "present a petition" and substitute:

apply

- (2) Section 60(1)—delete "praying" and substitute:

seeking

- (3) Section 60(2)—delete "A petition may be presented" and substitute:

An application may be made

#### **241—Substitution of sections 61 and 62**

Sections 61 and 62—delete the sections and substitute:

##### **61—Application to be accompanied by affidavit**

An application must be accompanied by an affidavit made by 1 of the persons making the application or a person who can swear positively to the facts, verifying the application and the grounds on which the proposed relief is sought.

##### **62—Application to be heard in open court**

An application must be heard in open court.

#### **242—Amendment of section 63—Evidence may be brought by affidavit or otherwise**

- (1) Section 63(1)—delete "Any petitioner" and substitute:

An applicant

- (2) Section 63(1)—delete "petition" wherever occurring and substitute in each case:

application

- (3) Section 63(1)—delete "upon any petitioner" and substitute:

on an applicant

#### **243—Amendment of section 64—Service of application and copy of affidavit**

Section 64—delete "petition" wherever occurring and substitute in each case:

application

**244—Amendment of section 65—Attorney-General may address court at hearing**

Section 65—delete "petition" and substitute:

application

5 **245—Amendment of section 66—Person may address court with permission of Judge**

(1) Section 66—delete "leave" and substitute:

permission

(2) Section 66—delete "petition" wherever occurring and substitute in each case:

10 application

**246—Amendment of section 67—Powers of court in dealing with application**

Section 67—delete "upon the petition" and substitute:

on the application

**247—Amendment of section 68—Court may order costs**

15 Section 68—delete "any petitioner" and substitute:

an applicant

**248—Amendment of section 84C—Appointment of inspector**

Section 84C(1)—delete "of its own motion" and substitute:

on its own initiative

20 **249—Amendment of section 85—Commission concerning person of unsound mind**

(1) Section 85—delete "Upon any petition" and substitute:

On an application

(2) Section 85—delete "such petition" and substitute:

25 the application

**250—Amendment of section 90—Parties entitled may apply to Court by summons**

(1) Section 90(1)—delete "or upon petition"

(2) Section 90(1)—delete "or petition"

30 **251—Amendment of section 92—Power to make order in action or matter**

Section 92—delete "either upon the hearing of the action or any petition or motion in the action or matter,"

## **Part 77—Amendment of *Unauthorised Documents Act 1916***

### **252—Repeal of sections 9 to 11**

Sections 9 to 11(inclusive)—delete the sections

## **Part 78—Amendment of *Upper South East Dryland Salinity and Flood Management Act 2002***

### **253—Amendment of section 29—Civil remedies**

(1) Section 29(6)—delete "*ex parte*" and substitute:

without notice to the respondent

(2) Section 29(6)—delete "leave" and substitute:

permission

(3) Section 29(8)(a)—delete "*an ex parte* application" and substitute:

an application made without notice to the respondent

### **254—Amendment of section 30—Interim restraining orders to prevent environmental harm**

Section 30(4)—delete "*ex parte*" and substitute:

without notice to the person in relation to whom the order is sought

## **Part 79—Amendment of *Waterworks Act 1932***

### **255—Amendment of section 59—Waste material from gasworks**

Section 59—delete "of suit"

### **256—Amendment of section 98—Power to sell land**

Section 98(2)(b)—delete "petition" and substitute:

application

## **Part 80—Amendment of *Wills Act 1936***

### **257—Amendment of section 7—Will of person lacking testamentary capacity pursuant to permission of court**

(1) Section 7(1)—delete "leave" and substitute:

permission

(2) Section 7(7)(b)—delete "leave" and substitute:

permission

## **Part 81—Amendment of *Workers Rehabilitation and Compensation Act 1986***

### **258—Substitution of heading to Part 6 Division 10**

Heading to Part 6 Division 10—delete the heading and substitute:

5 **Division 10—Appeals and references of questions of law**

### **259—Amendment of section 86A—Reference of question of law**

(1) Section 86A(1)—delete subsection (1) and substitute:

(1) A Full Bench of the Tribunal may refer a question of law for the opinion of the Full Court of the Supreme Court.

10 (2) Section 86A(2)—delete subsection (2)

(3) Section 86A(3)—delete "case stated" and substitute:

reference

(4) Section 86A(3)(b)—delete "case" and substitute:

matter

### **15 260—Amendment of section 95—Costs**

Section 95(1)(b)—delete "case stated" and substitute:

a reference of a question of law