

## CROWN SUITS.

11° GEO. VI., No. XI.

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No. 11 of 1947.

**AN ACT to Repeal the Crown Suits Act, 1898, and to make Better Provision for Suits by and against the Crown and for other purposes relative thereto and to the Constitutional Powers of the Crown.**

[Assented to 1st November, 1947.]

**BE** it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Crown Suits Act, 1947.* Short title.
  
2. The Crown Suits Act, 1898 (62° Victoriae No. 9), is hereby repealed. Repeal of Act of 1898.
  
3. In this Act, the term "Crown" means the Crown in right of the Government of Western Australia. Interpretation of "Crown."
  
4. This Act shall apply to any cause of action which accrues after the commencement of this Act. Application of this Act.

Crown to  
sue and be  
sued as sub-  
ject.

5. (1) Subject to this Act, the Crown may sue and be sued in any Court or otherwise competent jurisdiction in the same manner as a subject.

Proceedings  
to be under  
title "the State  
of Western  
Australia."

(2) Every proceeding shall be taken by or against the Crown under the title "the State of Western Australia."

Limitation  
of time for  
giving  
notice.

6. No right of action shall lie against the Crown, unless—

(a) within three months after the date when the cause of action arose notice in writing has been given to the Crown Solicitor by the party proposing to take action, stating the date when the cause of action arose and the grounds on which it is proposed to take action; and

(b) action is brought not less than three months after the giving of such notice and within twelve months after the cause of action arose.

Limitation  
of time for  
taking  
action.

Provided that where the party proposing to take action was unaware of the facts constituting the cause of action and could not by reasonable diligence have discovered the same within the period of three months hereinbefore prescribed, then such notice may be given at any time within three months after the time when such party discovered or could by reasonable diligence have discovered the facts constituting the cause of action, and the action shall be brought within twelve months after such time.

Provided further that if the person entitled to enforce such cause of action dies without giving notice of action and before the time for giving notice expires, or having given notice of action dies before the time for commencing an action expires, such periods shall respectively be extended by the period elapsing between the death and the grant of representation to his estate or the period of six months whichever is the shorter.

Statutory  
rights  
preserved  
where  
already given.

7. Nothing in this Act shall affect—

(a) the rights or liabilities of any corporate body or instrumentality of the Crown created by any Act of Parliament.

(b) any right of action which is conferred on the subject by any Act of Parliament against any corporate body or instrumentality of the Crown or any official or person nominated as a defendant on behalf of the Crown;

(c) any right or liability by law or custom established of His Majesty's Attorney General to sue or be sued on behalf of the Crown.

Right of Attorney General to sue and be sued preserved.

8. (1) When in any action cause or proceeding between litigants in any civil Court in Western Australia in which the Crown is not a party it appears to the Court that the constitutional rights of the Crown may be directly or indirectly affected, or any question arises as to the constitutional validity of any Act of Parliament of the State, the Crown may obtain leave by its Attorney General to intervene, or the Court may order that the Crown be joined as a party.

Joinder of the Crown in proceedings between subject and subject.

(2) Where any such question arises in any civil Court, except the Supreme Court, the Supreme Court or a judge thereof may, on the application of a party or of the Attorney General, remove the proceedings into the Supreme Court for trial and determination.

Removal of proceedings from inferior court to Supreme Court.

(3) Every such intervention or joinder or removal shall be on such terms and conditions as the Court shall deem just.

Court to settle terms and conditions of joinder or removal.

(4) In this section "Act of Parliament" includes an ordinance passed before the grant of responsible government to the State.

Interpretation of "Act of Parliament."

9. Subject to this Act, the same process shall be available both to the Crown and to the subject for the determination and enforcement of claims in His Majesty's civil Courts.

Same process available to Crown and subject.

10. (1) No execution or other process in the nature of execution shall be issued out of any Court against the Crown, but after any judgment has been given against the Crown the Registrar of the Supreme Court shall give to the party in whose favour the judgment is given a certificate of such judgment in the prescribed form and sealed with the seal of the Supreme Court.

Method of recovering judgment against the Crown.

(2) On the receipt of such certificate the Governor shall cause to be paid out of the Consolidated Revenue Fund the amount of such judgment and costs to the person entitled to recover the same.

11. The writ of extent and the writ of *capias ad satisfaciendum* shall no longer be available at the instance of the Crown for the recovery of debts and judgments and the same are hereby abolished.

Writs of Extent and Ca. Sa. abolished.

Rules of  
Court.

12. The Judges of the Supreme Court or any two of them may make rules governing practice or procedure which in their opinion requires to be specially prescribed for the purpose hereof, and subject thereto the Rules of the Supreme Court or of any competent Court in which an action is brought by or against the Crown shall apply as far as applicable to the practice and procedure to be observed in such action.

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