

1970

c 120 The Division Courts Amendment Act, 1970

Ontario

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CHAPTER 120

**An Act to amend
The Division Courts Act**

*Assented to November 13th, 1970
Session Prorogued November 13th, 1970*

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The title to *The Division Courts Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 110,
title
re-enacted

The Small Claims Courts Act.

(2) A reference to *The Division Courts Act* in any statute, regulation or document shall be deemed to be a reference to *The Small Claims Courts Act.* References

2. Sections 3 and 4 of *The Division Courts Act* are repealed and the following substituted therefor: R.S.O. 1960,
c. 110,
ss. 3, 4,
re-enacted

3. Subject to this Act and the rules, the division courts existing on the day section 2 of *The Division Courts Amendment Act, 1970* comes into force are continued and shall be known as small claims courts. Small
claims
courts

4. The court in each division shall be called "The First Name
(or as the case may be) Small Claims Court of the County of

3.—(1) After this section comes into force, the division courts and division court judges, clerks and bailiffs shall be known and referred to as small claims courts, and small claims court judges, clerks and bailiffs, and nothing in section 1 or 2 shall be construed to affect the continuance of any action, proceeding or other matter or any process commenced in or issued from a division court before this section comes into force, under the name as changed to the small claims court. Designation
of courts

(2) Every reference to division courts or to any judge, officer, office or process thereof in any statute, regulation or document shall be deemed to be a reference to the small claims court for the same division or to a judge, officer, office or process thereof, as the case may be. References

R.S.O. 1960,
c. 110,
s. 11a
(1961-62,
c. 35, s. 2),
re-enacted

4. Section 11a of *The Division Courts Act*, as enacted by section 2 of *The Division Courts Amendment Act, 1961-62*, is repealed and the following substituted therefor:

Appoint-
ment of
judges

11a.—(1) The Lieutenant Governor in Council may appoint small claims court judges.

Idem

(2) Division court judges who are in office when section 3 of *The Division Courts Amendment Act, 1970* comes into force shall continue in office as small claims court judges.

R.S.O. 1960,
c. 110, s. 19,
re-enacted

5. Section 19 of *The Division Courts Act* is repealed and the following substituted therefor:

Holiday
defined

19.—(1) In this section, “holiday” means,

R.S.O. 1960,
c. 191

(a) a holiday as defined in *The Interpretation Act*;

(b) Saturday;

(c) the day proclaimed as Civic Holiday in the municipality in which the small claims court office is located;

(d) the 26th day of December in a year in which Christmas Day falls on a day other than Saturday, or the 27th day of December in a year in which Christmas Day falls on a Saturday.

Office
hours

(2) Except on holidays when they shall be closed, every small claims court office shall be kept open from 9.30 o'clock in the forenoon until 4.30 o'clock in the afternoon.

R.S.O. 1960,
c. 110, s. 31
(1968, c. 31,
s. 4),
amended

6. Section 31 of *The Division Courts Act*, as re-enacted by section 4 of *The Division Courts Amendment Act, 1968*, is amended by striking out “and emoluments” in the first line, so that the section shall read as follows:

Fees for
sittings

31. Where the gross fees earned by a clerk or bailiff are less than \$1,000 a year, there shall be paid to the clerk and bailiff, respectively, out of the moneys appropriated by the Legislature for the administration of justice the sum of \$4 for attending each sitting of the court.

7.—(1) *The Division Courts Act* is amended by adding thereto the following sections: R.S.O. 1960,
c. 110,
amended

31a. Where the gross fees earned by a clerk in a year are less than \$13,333.33, there shall be paid to the clerk an additional allowance amounting to 10 per cent of such gross fees less 40 per cent of such gross fees that are in excess of \$10,000. Additional
allowance
for clerks

31b. Where the gross fees earned by a bailiff in a year are less than \$20,000, there shall be paid to the bailiff an additional allowance of 10 per cent of such gross fees, less 20 per cent of such gross fees that are in excess of \$10,000. Additional
allowance
for bailiffs

(2) The moneys required for the purposes of this section in respect of the period from the 1st day of January, 1969 to the 31st day of March, 1970 shall be paid out of the Consolidated Revenue Fund and thereafter the moneys required for the purposes of this section shall be paid out of the moneys appropriated by the Legislature for the purpose. Moneys

8.—(1) Section 108 of *The Division Courts Act*, as amended by section 3 of *The Division Courts Amendment Act, 1964*, is further amended by striking out "Court of Appeal" in the first and second lines and inserting in lieu thereof "Supreme Court", so that the section, exclusive of the clauses, shall read as follows: R.S.O. 1960,
c. 110,
s. 108,
amended

108. Subject to section 107, an appeal lies to the Supreme Court from the decision of the judge at or after the trial or upon an application for a new trial, except in cases where a new trial has been granted, Appeal to
Supreme
Court

(2) Clause *d* of the said section 108 is amended by striking out "Court of Appeal" in the fourth line and inserting in lieu thereof "Supreme Court", so that the clause shall read as follows: R.S.O. 1960,
c. 110,
s. 108,
cl. *d*,
amended

(*d*) where the effect of the decision is to determine that a general assessment made by a mutual insurance company is invalid, but the company, unless the Supreme Court otherwise directs, shall pay the respondent's costs of the appeal between solicitor and client on the county court scale in any event.

9. Section 111 of *The Division Courts Act* is amended by striking out "Osgoode Hall" in the third line. R.S.O. 1960,
c. 110,
s. 111,
amended

R.S.O. 1960,
c. 110,
s. 112,
subs. 1,
amended

10. Subsection 1 of section 112 of *The Division Courts Act* is amended by striking out "and shall be heard and determined by one justice of appeal" in the second and third lines, so that the subsection shall read as follows:

Appeal,
when and
how made

(1) The appeal shall be made in the time and manner prescribed by the rules of court.

R.S.O. 1960,
c. 110,
s. 113,
amended

11. Section 113 of *The Division Courts Act* is amended by striking out "Court of Appeal" in the first line and in the second line and inserting in lieu thereof in each instance "Supreme Court", so that the section shall read as follows:

Powers and
duties of
Supreme
Court
R.S.O. 1960,
c. 76

113. On an appeal to the Supreme Court under this Act, the Supreme Court has the same powers and duties as in an appeal coming before it under *The County Courts Act* and the practice and procedure applicable thereto applies *mutatis mutandis* to appeals under this Act.

R.S.O. 1960,
c. 110,
ss. 179-181,
repealed

12. Sections 179, 180 and 181 of *The Division Courts Act* are repealed.

R.S.O. 1960,
c. 110,
s. 215,
subs. 1,
re-enacted

13. Subsection 1 of section 215 of *The Division Courts Act* is repealed and the following substituted therefor:

Appeal

(1) An appeal lies to the Supreme Court from a judgment under section 214.

Application
of ss. 8, 10,
11, 13

14. Sections 8, 10, 11 and 13 do not apply to actions commenced before those sections come into force.

Commence-
ment

15.—(1) This Act, except sections 1, 2, 3, 4, 6, 7, 8, 10, 11, 13 and 14, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1, 2, 3 and 4 come into force on the 1st day of January, 1971.

Idem

(3) Sections 6 and 7 shall be deemed to have come into force on the 1st day of January, 1969.

Idem

(4) Sections 8, 10, 11, 13 and 14 come into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

16. This Act may be cited as *The Division Courts Amendment Act, 1970*.