

No. 20

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1st Session, 14th Legislature, Alberta  
8 Elizabeth II

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## **BILL 20**

A Bill to amend The Small Debts Act

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HON. MR. MANNING

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## Explanatory Note

**2.** The purpose of this amendment is to provide for a three dollar deposit on the magistrate's fees and costs, which will not be refunded to the plaintiff in respect of any unused portion. Section 7 presently reads:

"7. (1) The plaintiff shall, before the summons is issued, deposit with the magistrate an amount fixed by the magistrate and not exceeding the cost that may be taxable by way of fees to the magistrate and his bailiff, and in addition thereto where the defendant does not reside within twenty miles from the place where the trial is to be held a sum equal to ten cents per mile of the distance between the residence of the defendant and the place of trial.

(2) The amount of the deposit with the particulars thereof shall be endorsed on the summons and copy, and if it is not actually paid and so endorsed the summons and the service thereof are void.

(3) The deposit shall be retained by the magistrate until after the expiration of the time limited for appeal from the judgment and, in the event of an appeal, the deposit shall not be paid over by the magistrate but with the exception of the fees of the magistrate and the bailiff shall be sent by him to the clerk or deputy clerk of the district court with the papers in the cause.

(4) The deposit other than the fees of the magistrate and bailiff shall be paid by the clerk or deputy clerk of the district court in the case of an appeal, and by the magistrate in the case of no appeal

(a) to the plaintiff, if final judgment is given in favour of the plaintiff, or

(b) to the defendant for his personal expenses in attending upon the trial if the plaintiff discontinues, or if judgment is for any cause given in favour of the defendant."

**3.** This new section will permit appeals from magistrates under this Act to be held as trials *de novo* where the evidence available from the lower court is incomplete or inadequate.

# BILL

No. 20 of 1960

An Act to amend The Small Debts Act

(Assented to \_\_\_\_\_, 1960)

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

**1.** *The Small Debts Act*, being chapter 314 of the Revised Statutes, is hereby amended.

**2.** Section 7 is amended

(a) by striking out subsection (1) and by substituting the following:

**7.** (1) The plaintiff shall, before the summons is issued, deposit with the magistrate the sum of three dollars by way of a deposit on the taxable fees of the magistrate and his bailiff.

(1a) Where the defendant does not reside within twenty miles of the place at which the trial is to be held, the plaintiff shall, before the summons is issued, deposit with the magistrate an additional sum equal to ten cents per mile of the distance between the residence of the defendant and the place of trial.

(b) by striking out subsection (3) and by substituting the following:

(3) The deposit on the fees of the magistrate and bailiff shall be retained by the magistrate and there shall be no refund of any unused portion of the deposit.

(3a) The deposit of any additional sum by way of mileage costs for the defendant shall be retained by the magistrate until the expiration of the time limited for appeal from the judgment and, in the event of an appeal, the deposit shall not be paid over by the magistrate but shall be sent by him to the clerk or deputy clerk of the district court with the papers in the cause.

**3.** The following section is added immediately after section 45:

**4. Subsection (1) of section 48 presently reads:**

**"48. (1) Subject to the provisions of subsections (4) and (5) of section 45, upon the hearing of the appeal the evidence taken before the magistrate at the hearing and certified by the magistrate, shall be read and the matter of the appeal shall be decided upon such evidence."**

**5. This Bill comes into force on the first day of May, 1960 to provide time to set up the accounting requirements.**

**45a.** Where the court to which an appeal is made is satisfied that the evidence available from the magistrate's court is not complete or is inadequate, the court may order that the appeal be heard as a trial *de novo*.

**4.** Section 48, subsection (1) is amended by adding immediately after the figures "45" the words and figures "and section 45a".

**5.** This Act comes into force on the first day of May, 1960.

No. 20

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FIRST SESSION

FOURTEENTH LEGISLATURE

8 ELIZABETH II

1960

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## **BILL**

An Act to amend The Small  
Debts Act

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MR. MANNING

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