

Section ¹5. Subsection (c) of section 51 of the act, amended September 28, 1951 (P. L. 1561), is amended to read:

Section 51. * * *

(c) Only [section] sections twenty-one, forty-seven and fifty of this act shall apply to agencies of the Commonwealth not enumerated in subsections (a) or (b) of this section. Such agencies shall not be required to have their regulations approved by the Department of Justice.

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Section ²6. The last sentence of subsection (c) of section 51 of the act shall expire July 1, 1969.

Section ³7. All acts and parts of acts are repealed insofar as they provide that there shall be no appeal from an order, decision or other action of an agency, or that the order, decision or other action of an agency shall be final or conclusive, or shall not be subject to review.

Section 8. This act shall take effect January 1, 1969.

APPROVED—The 2d day of December, A. D. 1968.

RAYMOND P. SHAFER.

No. 355

AN ACT

SB 1757

Implementing the provisions of section 9 of Article V of the Constitution of the Commonwealth of Pennsylvania by providing for a right of appeal in all cases from decisions of the minor judiciary; and providing the procedure therefor.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title.—This act shall be known and may be cited as the “Minor Judiciary Court Appeals Act.”

Section 2. Definitions.—As used in this act:

(1) “Issuing authority” means any public official having the power and authority of a justice of the peace, alderman, magistrate or judge of a minor judiciary court.

(2) “Minor judiciary court” means a justice of the peace court, alderman’s court, Municipal Court and Traffic Court of the City of Philadelphia, police magistrate’s court of a city of the second class, including such city’s traffic court, housing court and city court, third-class city traffic court, community court, mayor’s court and all courts not of record heretofore or hereafter established by law.

(3) “Summary proceeding” or “summary case” means a case in which the issuing authority exercises summary criminal jurisdic-

¹ “6.” in original.

² “7.” in original.

³ “5.” in original.

tion, including those cases arising under the act of April 29, 1959 (P. L. 58), known as "The Vehicle Code," and all cases arising out of statutes, ordinances and the common law which define offenses and provide for a fine or imprisonment, or both, or a civil penalty.

Section 3. Summary Proceedings.—(a) In all cases of summary proceedings, the defendant, upon conviction by an issuing authority, may appeal to the court of common pleas of the judicial district in which the minor judiciary court is held.

(b) The defendant shall upon conviction pay to the issuing authority the fine and costs imposed or execute a bail undertaking in the amount of the fine and costs imposed plus twenty-five dollars (\$25).

(c) The appeal from a summary conviction shall be taken within ten days of said conviction by filing with the officer of the common pleas court designated by rule of said court to receive such papers, a notice of appeal and by depositing bail with said officer in the amount of twenty-five dollars (\$25), if the fine and costs were paid upon conviction. A dated receipt of the issuing authority bearing his seal shall be evidence of the date of conviction and payment of the fine and costs or entry of bail. The notice of appeal shall be signed by the defendant or his attorney and shall contain the following information:

- (1) The name and address of the defendant,
- (2) The name and address of the issuing authority,
- (3) The name or nature of the charge,
- (4) The date of conviction,
- (5) The fine and costs imposed and if paid, shall so state,
- (6) The amount of bail furnished to the issuing authority, if any, and
- (7) The name and address of the attorney, if any, filing the notice of appeal.

A copy of the notice of appeal shall within ten days after filing be served upon the issuing authority and the district attorney, or if the summary case was prosecuted privately or by another public official, upon his counsel or such person.

(d) The issuing authority shall within twenty days after service upon him of a notice of appeal file with the officer of the court his transcript of proceedings, the amount of fines and costs and bail received in said case, if any, the summons or warrant issued by him, the original copy of the complaint and the bail undertaking executed by the defendant, if any; he shall also serve personally or by certified mail a copy of his transcript upon the attorney for the defendant, or if none, upon the defendant.

(e) The failure of the issuing authority to file the transcript and other papers of the proceeding as required above shall result in rendering the conviction a nullity and the officer of court with whom the notice of appeal was filed shall, upon praecipe of the defendant, enter a judgment of non pros; upon presentation of a certificate of

¹ "notice of" not in original.

a judgment of non pros issued by the officer of the court, the issuing authority shall refund to the defendant the fine and costs previously paid and make the appropriate entry upon his records.

(f) Upon the filing of the transcript and other papers of the proceeding by the issuing authority, the case shall be heard de novo by the appropriate division of the court of common pleas as the president judge shall direct.

Section 4. Waiver of Summary of Proceedings in Courts Not of Record.—Any person charged with a summary proceeding may waive the hearing before the minor judiciary court by filing in the court of common pleas on or before the day set for said hearing, notice of waiver of hearing and by executing a bail undertaking and depositing bail in the amount of the maximum fine which could be imposed plus twenty-five dollars (\$25); the notice of waiver shall be sworn to by the defendant and shall contain the matters required to be set forth in a notice of appeal; a copy of the notice shall be served on the issuing authority and the district attorney; thereafter, the provisions of section 3 relating to appeals shall apply in so far as they are applicable.

Section 5. Civil Proceedings.—(a) Except in the case of an appeal from the Municipal Court of Philadelphia, an appeal from any final judgment, verdict, decision or order of an issuing authority, other than one in a summary proceeding, may be taken to the court of common pleas of the judicial district in which the minor judiciary court is held, by any party adversely affected by such action.

(b) The appeal shall be taken within twenty days of said action by filing with the prothonotary of the common pleas court, a notice of appeal which shall be sworn to and (i) if the plaintiff before the minor judiciary court is the appellant, shall be in the form of a complaint or (ii) if the defendant before the minor judiciary court is the appellant, shall consist of a praecipe requesting the prothonotary to enter a rule upon the plaintiff to file a complaint within twenty days or suffer entry of a judgment of non pros.

(c) The appeal shall be conducted and prosecuted in accordance with the law and the Pennsylvania Rules of Civil Procedure that would have been applicable if the action had been initiated in the court of common pleas.

(d) An appeal from the Municipal Court of the City of Philadelphia shall be taken as otherwise provided by law.

Section 6. Writs of Certiorari.—In addition to the right of appeal from minor judiciary courts, the judges of the courts of common pleas, within their respective judicial districts, shall have power to issue writs of certiorari to minor judiciary courts and to cause their proceedings to be brought before them, and right and justice to be done, as heretofore provided by law.

Section 7. Specific Repeals.—The following acts and parts of acts and all amendments thereof are repealed in so far as they are inconsistent herewith:

(1) Sections 3, 4 and 5, act of March 20, 1810 (P. L. 208), entitled "An Act to amend and consolidate with its Supplements, the Act entitled 'An act for the recovery of debts and demands, not exceeding one hundred dollars, before a Justice of the Peace, and for the election of Constables, and for other purposes.'"

(2) Section 3, act of March 22, 1814 (P. L. 190), entitled "An act regulating the proceedings of justices of the peace and aldermen in cases of trespass, trover and rent."

(3) Sections 2 and 3, act of March 29, 1819 (P. L. 226), entitled "An act regulating suits on promissory notes, and for taking stock in execution."

(4) Section 7, act of April 15, 1835 (P. L. 291), entitled "A further Supplement to the act, entitled 'An act to incorporate the city of Pittsburgh, and for other purposes.'"

(5) Section 34, act of July 12, 1842 (P. L. 339), entitled "An act to abolish Imprisonment for debt, and to punish Fraudulent debtors."

(6) Section 1, act of March 20, 1845 (P. L. 188), entitled "An act concerning bail and attachments."

(7) Section 2, act of May 1, 1861 (P. L. 535), entitled "An act to regulate Appeals from the Judgment of Aldermen in the city of Philadelphia."

(8) Section 5, act of April 9, 1872 (P. L. 47), entitled "An act for the better protection of the wages of mechanics, miners, laborers and others."

(9) Section 33, act of May 23, 1874 (P. L. 230), entitled "An act dividing the cities of this state into three classes, regulating the passage of ordinances, providing for contracts for supplies and work for said cities, authorizing the increase of indebtedness, and the creation of a sinking fund to redeem the same, defining and punishing certain offences in all of said cities, and providing for the incorporation and government of cities of the third class."

(10) The act of April 17, 1876 (P. L. 29), entitled "An act relating to appeals in cases of summary convictions."

(11) Section 1, act of April 20, 1876 (P. L. 43), entitled "An act regulating appeals from the judgment of justices of the peace and aldermen in this commonwealth, for the wages of manual labor, and prescribing the effect of voluntary assignments upon claims for the wages of labor, secured by an act for the better protection of the wages of mechanics, miners, laborers and others, approved April ninth, Anno Domini one thousand eight hundred and seventy-two."

(12) Section 2, act of May 8, 1876 (P. L. 154), entitled "An act to define and suppress vagrancy."

(13) Section 2, act of April 17, 1878 (P. L. 23), entitled "An act to prohibit and prevent the having or using of fire and lights on board of vessels, whilst lying at any maritime wharf, on or near to which petroleum is stored or kept for export."

(14) Section 20, act of May 10, 1927 (P. L. 866), known as the "Magistrates' Courts Act, one thousand nine hundred twenty-seven."

(15) Section 1210, act of June 3, 1937 (P. L. 1225), known as "The Game Law."

(16) Section 506, act of April 6, 1951 (P. L. 69), known as "The Landlord and Tenant Act of 1951."

(17) The act of May 17, 1956 (P. L. 1626), entitled "An act limiting in certain cases the right of appeal to the court of common pleas from decisions of magistrates, aldermen and justices of the peace."

(18) Section 278, act of December 15, 1959 (P. L. 1779), known as "The Fish Law of 1959."

Section 8. General Repeal.—All other acts and parts of acts, general, local, and special, are repealed in so far as they are inconsistent herewith.

Section 9. Effective Date.—This act shall take effect January 1, 1969.

APPROVED—The 2nd day of December, A. D. 1968.

RAYMOND P. SHAFER.

No. 356

AN ACT

SB 1762

Amending the act of June 16, 1836 (P. L. 715), entitled "An act relating to Reference and Arbitration," implementing Article V of the Constitution of the Commonwealth of Pennsylvania and increasing the amount of arbitration by the Courts of Common Pleas in Allegheny and Philadelphia Counties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 8.1, act of June 16, 1836 (P. L. 715), entitled "An act relating to Reference and Arbitration," amended July 31, 1968 (P. L. 888), is amended to read:

Section 8.1. The several courts of common pleas [, and the County Court of Allegheny County], other than those in Allegheny and Philadelphia Counties, may, by rules of court, provide that all cases which are at issue where the amount in controversy shall be two thousand dollars (\$2,000) or less, except those involving title to real estate, shall first be submitted to and heard by a board of three (3) members of the bar within the judicial district. [The County Court of Philadelphia may also by such rules fix any amount not more than three thousand dollars (\$3,000) as the amount in controversy up to which such submissions shall be required.] The Court of Common Pleas of