

Notes

¹ This is a compilation of the *District Court of Western Australia Act 1969* and includes the amendments made by the other written laws referred to in the following table ^{1a}.

Compilation table

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>District Court of Western Australia Act 1969</i>	84 of 1969	17 November 1969	Proclaimed 1 April 1970 (see section 2 and <i>Gazette</i> 26 March 1970 p.903)	Section 4: repeal and saving; Section 90: saving
<i>District Court of Western Australia Act Amendment Act 1970</i>	14 of 1970	29 April 1970	Section 3(b) proclaimed 18 May 1970 (see section 2 and <i>Gazette</i> 18 May 1970 p.1331); balance on assent	
<i>District Court of Western Australia Act Amendment Act (No. 2) 1970</i>	100 of 1970	8 December 1970	8 December 1970	
<i>District Court of Western Australia Act Amendment Act 1972</i>	40 of 1972	16 June 1972	Sections 3-6, 8, 9 and 12: 13 July 1972 (see section 2(2) and <i>Gazette</i> 30 June 1972 p.2098); section 11 proclaimed 13 July 1972 (see section 2(3) and <i>Gazette</i> 30 June 1972 p.2098); balance on assent	
<i>Acts Amendment (Judicial Salaries and Pensions) Act 1972, Part II</i>	91 of 1972	4 December 1972	1 January 1973 (see section 2)	
<i>Acts Amendment (Judicial Salaries and Pensions) Act 1974, Part II</i>	23 of 1974	23 October 1974	Deemed operative 1 July 1974 (see section 2)	
<i>Acts Amendment (Judicial Salaries and Pensions) Act 1975, Part II</i>	45 of 1975	18 September 1975	Deemed operative 8 August 1975 (see section 2)	

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>District Court of Western Australia Act Amendment Act 1975</i>	58 of 1975	24 October 1975	Proclaimed 1 January 1976 (see section 2 and <i>Gazette</i> 7 November 1975 p.4125)	
<i>Acts Amendment (Jurisdiction of Courts) Act 1976, Part I</i>	69 of 1976	6 October 1976	Proclaimed 1 January 1977 (see section 2 and <i>Gazette</i> 24 December 1976 p.5028)	
<i>Acts Amendment (Expert Evidence) Act 1976, Part III</i>	111 of 1976	25 November 1976	25 November 1976	
<i>Acts Amendment (Supreme Court and District Court) Act 1978, Part III</i>	112 of 1978	12 December 1978	Deemed operative 1 April 1970 (see section 2)	
<i>Acts Amendment (Jurisdiction of Courts) Act 1981, Part II</i>	118 of 1981	14 December 1981	Proclaimed 1 February 1982 (see section 2 and <i>Gazette</i> 22 January 1982 p.175)	
<i>Acts Amendment (Judicial Appointments) Act 1982, Part III</i>	7 of 1982	6 May 1982	6 May 1982	
<i>Acts Amendment (Abolition of Capital Punishment) Act 1984, Part VIII</i>	52 of 1984	5 September 1984	3 October 1984	
<i>District Court of Western Australia Amendment Act 1984</i>	122 of 1984	27 December 1984	Sections 1-7, 12 and 13: 24 January 1985 (see section 2(1)); sections 8-11 proclaimed 1 March 1985 (see section 2 and <i>Gazette</i> 1 March 1985 p.777)	
<i>Acts Amendment (Sexual Assaults) Act 1985, Part V</i>	74 of 1985	20 November 1985	Proclaimed 1 April 1986 (see section 2 and <i>Gazette</i> 28 February 1986 p.605)	

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Acts Amendment (Financial Administration and Audit) Act 1985, section 3</i>	98 of 1985	4 December 1985	1 July 1986 (see section 2 and <i>Gazette</i> 30 June 1986 p.2255)	
<i>Commercial Arbitration Act 1985, section 3</i>	109 of 1985	7 January 1986	Proclaimed 1 April 1986 (see section 2 and <i>Gazette</i> 28 February 1986 p.605)	
<i>Acts Amendment (Penalties for Contempt of Court) Act 1986, Part II</i>	71 of 1986	4 December 1986	4 December 1986	
<i>Acts Amendment (Legal Practitioners, Costs and Taxation) Act 1987, Part IV</i>	65 of 1987	1 December 1987	Proclaimed 12 February 1988 (see section 2(2) and <i>Gazette</i> 12 February 1988 p.397)	
<i>Judges' Salaries and Pensions Amendment Act 1987, section 8</i>	82 of 1987	1 December 1987	1 December 1987	
<i>Supreme and District Courts (Miscellaneous Amendments) Act 1991, Part 3</i>	14 of 1991	21 June 1991	21 June 1991	
<i>Acts Amendment (Sexual Offences) Act 1992, section 6(8)</i>	14 of 1992	17 June 1992	Proclaimed 1 August 1992 (see section 2 and <i>Gazette</i> 28 July 1992 p.3671)	
<i>Acts Amendment (Jurisdiction and Criminal Procedure) Act 1992, Part 3</i>	53 of 1992	9 December 1992	Proclaimed 1 March 1993 (see section 2 and <i>Gazette</i> 26 January 1993 p.823)	
<i>Financial Administration Legislation Amendment Act 1993, Part 4</i>	6 of 1993	27 August 1993	Deemed operative 1 July 1993 (see section 2(1))	

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Acts Amendment (Public Sector Management) Act 1994, section 3(2)</i>	32 of 1994	29 June 1994	Proclaimed 1 October 1994 (see section 2 and <i>Gazette</i> 30 September 1994 p.4948)	
<i>Local Government (Consequential Amendments) Act 1996, section 4</i>	14 of 1996	28 June 1996	1 July 1996 (see section 2)	
<i>Criminal Law Amendment Act 1996, Part 3</i>	36 of 1996	10 October 1996	10 October 1996	
<i>Financial Legislation Amendment Act 1996, section 64</i>	49 of 1996	25 October 1996	25 October 1996 (see section 2(1))	
<i>Acts Amendment (Auxiliary Judges) Act 1997, Part 2</i>	23 of 1997	18 September 1997	18 September 1997 (see section 2)	
<i>Statutes (Repeals and Minor Amendments) Act 1997, section 48</i>	57 of 1997	15 December 1997	15 December 1997 (see section 2)	
<i>Courts Legislation Amendment Act 2000, sections 3-7</i>	27 of 2000	6 July 2000	Sections 3-5: 6 July 2000 (see section 2(1)); sections 6 and 7: 28 July 2001 (see section 2(2) and <i>Gazette</i> 27 July 2001 p. 3797)	
<i>State Records (Consequential Provisions) Act 2000, Part 3</i>	53 of 2000	28 November 2000	1 December 2001 (see section 2 and <i>Gazette</i> 30 November 2001 p.6067)	
<i>Vexatious Proceedings Restriction Act 2002 s. 13</i>	23 of 2002	18 September 2002	28 September 2002 (see section 2 and <i>Gazette</i> 27 September 2002 p.4877)	

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Acts Amendment (Equality of Status) Act 2003 Pt. 17</i>	28 of 2003	22 May 2003	1 Jul 2003 (see s. 2 and <i>Gazette</i> 30 Jun 2003 p. 2579)	
<i>Acts Amendment and Repeal (Courts and Legal Practice) Act 2003 s. 32, 111, 125</i>	65 of 2003	4 Dec 2003	1 Jan 2004 (see s. 2 and <i>Gazette</i> 30 Dec 2003 p. 5722)	
<i>Acts Amendment (Court of Appeal) Act 2004 s. 32</i>	45 of 2004	9 Nov 2004	1 Feb 2005 (see s. 2 and <i>Gazette</i> 14 Jan 2005 p. 163)	

- 1a On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in compiling the reprint. For the text of the provisions see the endnote referred to after the short title.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>State Superannuation (Transitional and Consequential Provisions) Act 2000 s. 75⁵</i>	43 of 2000	2 Nov 2000	To be proclaimed (see s. 2)
<i>Courts Legislation Amendment and Repeal Act 2004 Pt. 10 and 22⁷</i>	59 of 2004	23 Nov 2004	To be proclaimed (see s. 2)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 Pt. 7⁸</i>	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))

NB. The *District Court of Western Australia Act 1969* is affected by the *Supreme Court Amendment Act 1986* (No. 22 of 1986).

- 2 Repealed by the *Auction Sales Act 1973* (No. 73 of 1973).

3 Under s.56 gazetted rates of interest —

21/2/75 —	2/6/83	10%	<i>Gazette</i>	21/2/75	p.641
3/6/83 —	2/2/84	14%	<i>Gazette</i>	3/6/83	p.1679
3/2/84 —	2/1/86	13%	<i>Gazette</i>	3/2/84	p.300
3/1/86 —	3/12/87	14%	<i>Gazette</i>	3/1/86	p.11
4/12/87 —	13/4/89	13%	<i>Gazette</i>	4/12/87	p.4326
14/4/89 —	27/6/91	14%	<i>Gazette</i>	14/4/89	p.1096
28/6/91 —	18/5/92	12%	<i>Gazette</i>	28/6/91	p.3120
19/5/92 —	30/7/92	8.5%	<i>Gazette</i>	19/5/92	p.2107
31/7/92 —	11/9/97	8%	<i>Gazette</i>	31/7/92	p.3743
12/9/97 —		6%	<i>Gazette</i>	12/9/97	p.5159

- 4 No longer applicable.

5 On the date as at which this compilation was prepared, the *State Superannuation (Transitional and Consequential Provisions) Act 2000* s. 75 had not come into operation. It reads as follows:

“

75. Various provisions repealed

The provisions listed in the Table to this section are repealed.

Table of provisions repealed

Act	Provision
.....
<i>District Court of Western Australia Act 1969</i>	s. 15
.....

”

6 Footnote no longer applicable.

7 On the date as at which this compilation was prepared, the *Courts Legislation Amendment and Repeal Act 2004* Pt. 10 and 22 had not come into operation. They read as follows:

“

**Part 10 — *District Court of Western Australia Act 1969*
amended**

81. Act amended by this Part

The amendments in this Part are to the *District Court of Western Australia Act 1969*.

82. Jurisdiction of the Court increased

- (1) Section 6 is amended by inserting in the appropriate alphabetical position the following definition —

“

“jurisdictional limit” means \$500 000 and, on and after 1 January 2009, means \$750 000;

”

- (2) Section 50(1) is amended as follows:

- (a) by deleting “\$250 000” in each place it occurs and in each place inserting instead —
“ the jurisdictional limit ”;
- (b) by deleting “\$125 000” in each place it occurs and in each place inserting instead —
“ one half of the jurisdictional limit ”;
- (c) in paragraph (d) by deleting “the sum of”.

- (3) Section 51(1) is amended by deleting “\$250 000” in each place it occurs and in each place inserting instead —

“ the jurisdictional limit ”.

- (4) Section 60 is amended by deleting “\$250 000” in each place it occurs and in each place inserting instead —

“ the jurisdictional limit ”.

83. Section 74 replaced

Section 74 is repealed and the following section is inserted instead —

“

74. Court may transfer case to Magistrates Court

- (1) If an action or matter in the Court —
 - (a) is within the Magistrates Court’s jurisdiction;
 - (b) becomes within the Magistrates Court’s jurisdiction because the claim in the action or matter is reduced by a payment into court, an admitted set-off, a judgment on part of the claim, or otherwise; or
 - (c) becomes within the Magistrates Court’s jurisdiction because its jurisdiction is increased,the Court may order that the action or matter be transferred to the Magistrates Court.
- (2) An order under subsection (1) may be made on the application of a party to the action or matter or by the Court on its own initiative.
- (3) If the Court makes an order under subsection (1) it may also make any other necessary orders including orders as to —
 - (a) the registry of the Magistrates Court in which the action or matter is to be conducted;
 - (b) the payment of fees in the Magistrates Court; and
 - (c) the costs in the action or matter that relate to proceedings in the Court.
- (4) If the Court makes an order under subsection (1) the Principal Registrar is to send the Court’s file to the registry of the Magistrates Court in which the action or matter is to be conducted.
- (5) If an action or matter is transferred to the Magistrates Court under an order made under subsection (1) that court is to deal with the action or matter as if it had been commenced in that court.

”

84. Section 89A replaced

Section 89A is repealed and the following section is inserted instead —

“

89A. Fees, regulations may prescribe

- (1) The Governor may make regulations providing for or prescribing the fees to be paid —
 - (a) when commencing a cause or matter;
 - (b) when entering a cause or matter for trial or at any other stage of proceedings in a cause or matter;
 - (c) when lodging a document with the Court;
 - (d) for the issue of any document by the Court;
 - (e) for the service of any document;
 - (f) in respect of the conduct of the business of any office of or connected with the Court; and

- (g) for the carrying out of any order or warrant of the Court.
- (2) Without limiting subsection (1), regulations may prescribe the fees and expenses to be paid to mediators and experts.
- (3) If a question arises as to the fee payable or applicable in a particular case, the question is to be decided by the Principal Registrar.
- (4) A person affected by a decision of the Principal Registrar made under subsection (3) may have it reviewed by a District Court Judge in a summary way.
- (5) All fees received by the Court are to be credited to the Consolidated Fund.

”.

85. Other amendments

The Act is amended as set out in the Table to this section.

Table

s. 5(2)	Delete “ <i>Justices Act 1902</i> ” and insert instead — “ <i>Criminal Procedure (Summary) Act 1902</i> ”. Delete “sections 39 and 115 and”.
s. 6	Delete the definition of “Local Court”. Delete the definition of “bailiff”. Insert, in the appropriate alphabetical position — “ “Sheriff” means the Sheriff of Western Australia and any deputy sheriff appointed by the Sheriff of Western Australia; ”.
s. 24(1)	Delete “stipendiary magistrate appointed under or deemed to have been appointed under the <i>Stipendiary Magistrates Act 1957</i> ,” and insert instead — “ magistrate ”.
Part II Division 5	Delete the heading to Division 5 and insert instead — “ Division 5 — Registrars ”.
s. 28 s. 29 s. 30 s. 31 s. 32 s. 33 s. 34 s. 35 s. 38	Repeal the sections.
s. 53(1)	Delete “, bailiff”.
s. 56 s. 62	Repeal the sections.
s. 63(1)	In paragraph (a), delete “the bailiff” and insert instead — “ the Sheriff ”. Delete “a bailiff,” and insert instead — “ the Sheriff, a ”.
s. 73	Repeal the section.
s. 75	Repeal the section.
s. 86A	Repeal the section.
s. 88(2)(e)	Delete the paragraph.

Part 22 — Transitional provisions

Division 1 — Provisions about enforcing judgments

143. Interpretation

- (1) In this Part —
 - “**commencement**” means the commencement of this Part;
 - “**court fee**”, for an application, does not include any fee payable in connection with serving the application to the Sheriff or any other person;
 - “**enforcement process**” means any writ, warrant, order, or other process, issued by a court for or in connection with enforcing a judgment or order of the court.
- (2) This Part does not limit the operation of the *Interpretation Act 1984* Part V.

144. Judgments not satisfied before commencement

If immediately before commencement a judgment of the Supreme Court, District Court or Local Court is unsatisfied, then on commencement —

- (a) if proceedings to enforce the judgment are pending or any process for the enforcement of the judgment is in force, section 145 applies;
- (b) otherwise, the judgment may be enforced under and subject to the *Civil Judgments Enforcement Act 2004*.

145. Pending proceedings to enforce a judgment

- (1) If immediately before commencement proceedings for or in connection with enforcing a judgment are pending in a court, then on commencement either —
 - (a) the proceedings may be continued under the law in force immediately before commencement, despite the enactment of the *Civil Judgments Enforcement Act 2004*;
 - or
 - (b) the person entitled to the benefit of the judgment may discontinue the proceedings and commence proceedings under the *Civil Judgments Enforcement Act 2004* to enforce the judgment.
- (2) If proceedings are continued under subsection (1)(a) —
 - (a) no enforcement process may be issued under the law in force immediately before commencement for or in connection with enforcing the judgment; but
 - (b) subject to the *Civil Judgments Enforcement Act 2004*, the court may make any order under that Act that substantially corresponds with any order that the court could have made in the proceedings under the law in force immediately before commencement.
- (3) If proceedings under the *Supreme Court Act 1935* section 126(2) or the *Local Courts Act 1904* section 130 are continued under subsection (1)(a), they are to be taken to be a means inquiry held

under the *Civil Judgments Enforcement Act 2004* for the purposes of subsection (2)(b).

- (4) Subsection (2)(a) does not prevent the issue of any warrant or writ in connection with conducting any proceedings that are continued under subsection (1)(a).
- (5) No court fee shall be payable for commencing proceedings as permitted by subsection (1)(b) by a person who has discontinued proceedings as permitted by that subsection.

146. Pending process to enforce a judgment

- (1) If immediately before commencement any enforcement process is in force, then on commencement the process continues in force under the law in force immediately before commencement until —
 - (a) the process ceases to be in force under that law;
 - (b) the process ceases to be in force under subsection (6)(a); or
 - (c) the expiry of 12 months after commencement,whichever happens first, and may be served, dealt with, or executed, under the law in force immediately before commencement which continues to apply to and in respect of the process.
- (2) If —
 - (a) on commencement a copy of a writ of *fiери facias* is in the Register maintained under the *Transfer of Land Act 1893*, having been served on the Registrar and entered in that Register under section 133 of that Act; or
 - (b) after commencement a copy of a writ of *fiери facias* is entered in that Register under section 133 of that Act, having been served on the Registrar under that section,then —
 - (c) despite subsection (1) the *Transfer of Land Act 1893* section 133 (as inserted by this Act) applies to and in respect of the writ as if the writ were a property (seizure and sale) order that had been —
 - (i) issued under the *Civil Judgments Enforcement Act 2004*; and
 - (ii) registered under the *Transfer of Land Act 1893* section 133 (as inserted by this Act) at the time when the copy of the writ was so served;
 - (d) if the sale period referred to in the *Transfer of Land Act 1893* section 133 (as inserted by this Act) in respect of the writ expires at a time after the writ ceases to be in force under the law in force immediately before commencement, the writ is to be taken to remain in force until the sale period expires, despite that law; and
 - (e) subject to paragraphs (c) and (d), subsection (1) applies to and in respect of the writ.
- (3) In subsection (2), a reference to a writ of *fiери facias* includes a reference to a warrant of execution issued out of a Local Court under the *Local Courts Act 1904*.

- (4) If immediately before commencement any enforcement process is in force but unexecuted, the person for whose benefit the process was issued may apply for an order under the *Civil Judgments Enforcement Act 2004* to enforce the judgment or order.
- (5) No court fee shall be payable on making an application under subsection (4) for an order under the *Civil Judgments Enforcement Act 2004*.
- (6) If on an application made under subsection (4) an order is made under the *Civil Judgments Enforcement Act 2004* —
 - (a) the unexecuted process referred to in subsection (4) ceases to be in force; and
 - (b) the order made under the *Civil Judgments Enforcement Act 2004* has the same priority as the unexecuted process referred to in subsection (4) has immediately before it ceases to be in force under paragraph (a).

147. Existing bailiffs and their assistants, termination of appointment etc.

- (1) On commencement the following offices are abolished and the persons holding them cease to do so —
 - (a) a bailiff appointed under the *District Court of Western Australia Act 1969* section 28(1);
 - (b) a person appointed under the *District Court of Western Australia Act 1969* section 28(2) by a bailiff to assist the bailiff;
 - (c) a bailiff appointed under the *Local Courts Act 1904* section 16;
 - (d) a person appointed under the *Local Courts Act 1904* section 16 by a bailiff to assist the bailiff.
- (2) If immediately before commencement a person who is not a police officer is a bailiff appointed under the *Local Courts Act 1904* section 16, then on commencement the person is entitled to be appointed as a bailiff under the *Civil Judgments Enforcement Act 2004* section 107 for a term of 5 years as from commencement.
- (3) If immediately before commencement a person who is a police officer is —
 - (a) a bailiff appointed under the *District Court of Western Australia Act 1969* section 28(1); or
 - (b) a bailiff appointed under the *Local Courts Act 1904* section 16,

then on commencement the person is taken to have been appointed as a bailiff under the *Civil Judgments Enforcement Act 2004* section 107.

Division 2 — General

148. Transitional regulations

- (1) If this Act does not provide sufficiently for a matter or issue of a transitional nature that arises as a result of the repeal or amendment of any Act by this Act and the coming into operation of any of the Acts referred to in section 3, the Governor may make regulations prescribing all matters that are required, necessary or convenient to be prescribed for providing for the matter or issue.

- (2) Regulations made under subsection (1) may be expressed to have effect before the day on which they are published in the *Gazette*.
- (3) To the extent that a provision of regulations made under subsection (1) has effect before the day on which it is published in the *Gazette*, it does not —
 - (a) affect in a manner prejudicial to any person (other than the State or an agency of the State) the rights of that person existing before the day of publication; or
 - (b) impose liabilities on any person (other than the State or an agency of the State) in respect of anything done or omitted to be done before the day of publication.

”

8

On the date as at which this compilation was prepared, the *Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004* Pt. 7 had not come into operation. It reads as follows:

“

Part 7 — *District Court of Western Australia Act 1969* amended

32. The Act amended in this Part

The amendments in this Part are to the *District Court of Western Australia Act 1969*.

33. Section 5 amended

Section 5(2) is repealed.

34. Section 43 replaced

Section 43 is repealed and the following section is inserted instead —

“

43. Exercise of criminal jurisdiction

- (1) The jurisdiction referred to in section 42 is to be exercised subject to —
 - (a) *The Criminal Code*; and
 - (b) the *Criminal Procedure Act 2004*.
- (2) This Act does not affect the operation of the *Criminal Appeals Act 2004* in respect of decisions and judgments of the Court.

”

35. Sections 46 to 49 repealed

Sections 46, 47, 48 and 49 are repealed.

”